

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL
November 2012 Public Teleconference

Meeting Summary

Approved:	<u><i>Margaret May</i></u> Margaret May, Acting Chair	<u><i>Victoria Robinson</i></u> Victoria Robinson
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The Executive Council (Council) of the National Environmental Justice Advisory Council (NEJAC) convened for its 45th public meeting on Wednesday, November 14, 2012, by teleconference. This summary presents highlights of the NEJAC members' deliberations and the issues raised during the public comment period.

Exhibit 1 lists the members of the Council who were in attendance, as well as those who were unable to attend the meeting. Appendix A presents a list of teleconference meeting attendees. Appendix B contains written statements that were submitted for the public comment period.

Exhibit 1

NEJAC Executive Council

Members in Attendance

Andrea Guajardo, Conejos County Clean Water, Inc.
Stephanie Hall, Valero Energy Corporation
Monica Hedstrom, White Earth Nation
Effenus Henderson, Weyerhaeuser
Savonala "Savi" Horne, Land Loss Prevention Project
J. Langdon Marsh, National Policy Consensus Center, Portland State University
Margaret May, Ivanhoe Neighborhood Council, and NEJAC Vice-chair
John Ridgway, Washington State Department of Ecology
Deidre Sanders, Pacific Gas & Electric
Nicky Sheats, Center for the Urban Environment, Thomas Edison State College
Paul Shoemaker, Boston Public Health Commission
Horace Strand, Chester Environmental Partnership
Nicholas Targ, American Bar Association
Javier Francisco Torres, Border Environment Cooperation Commission

Members Not in Attendance

Teri E. Blanton, Kentuckians for the Commonwealth
Peter Captain, Sr., Yukon River Intertribal Watershed Council
Vernice Miller-Travis, Maryland State Commission on Environmental Justice and Sustainable Communities
Paul Mohai, University of Michigan
Edith Pestana, Connecticut Department of Environmental Protection
Nia Robinson, SisterSong
Patricia Salkin, Albany Law School
Fateme Shafiei, Spelman College
Kenneth Smith, City of Kingsland, Georgia
Kimberly Wasserman, Little Village Environmental Justice Organization
Elizabeth Yeampierre, UPROSE, Inc., and NEJAC Chair

1.0 EPA Response to Superstorm Sandy

Ms. Judith Enck, U.S. Environmental Protection Agency (EPA) Region 2 Assistant Administrator, and Mathy Stanislaus, Assistant Administrator for EPA's Office of Solid Waste and Emergency Response, provided an overview of the Agency's role and progress in supporting the Federal Emergency Management Agency (FEMA) and other agencies in the emergency response to Superstorm Sandy. The following key points were raised during their remarks and the Council's discussion that followed:

- At the time of the teleconference, EPA was engaged in response efforts and recovery activities had not yet begun.
- EPA's response focused on dispatching field workers to check on facilities and sites where the Agency had a lead regulatory oversight role, including drinking water, wastewater, and sewage treatment facilities; and sites regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA).
- The Agency was also working with county governments to establish household hazardous waste collection sites and coordinate transport of the materials to landfills.
- More information on the Agency's response to Superstorm Sandy is available online at <http://www.epa.gov/sandy/>.
- Mr. Nicky Sheats, Director, Center for the Urban Environment, expressed concern about the health effects of untreated sewage that was being discharged from the wastewater treatment plant in Newark, New Jersey, as a result of power loss. He also expressed concern about the potential spread of contamination into residential basements, as a result of floodwaters. Mr. Sheats informed participants of plans by the New Jersey Environmental Justice Alliance to initiate discussions with EPA and FEMA about the need to update floodplain maps and integrate waterfront concerns into federal emergency response efforts.

2.0 Public Comment

Prior to the teleconference, written statements were submitted by Mr. Devawn Oberlender, Environmental Advocates of the New River Valley; Ms. Mari Eggers, Little Big Horn College; Mr. M. Kalani Souza, Olohana Foundation; and Mr. Felipe Franchini, concerned citizen from Joliet, Illinois. All submitted written statements are included in Appendix B.

The public comments expressed verbally during the teleconference are summarized below:

- Ms. Violet Yeaton, Native Village of Port Graham, asked NEJAC to clarify how the public can provide input to EPA on guiding principles for engaging with tribes and indigenous peoples. Ms. Robinson described the role of NEJAC and its work groups, as well as EPA's National Tribal Caucus, in advising the Agency on this issue. She also briefly explained the public comment process and how it works. She suggested that Ms. Yeaton follow up with Mr. Danny Goal, DFO of the NEJAC Indigenous Peoples Work Group, for more information on how to provide input.
- Mr. Edward Sarabia, Connecticut Department of Energy and Environmental Protection, made the following three points regarding the NEJAC Indigenous Peoples Work Group report:
 - EPA should use fewer acronyms and jargon that can confuse readers.
 - He supports the recommendation of greater cooperation between states and tribes.
 - Tribal Elders need to be involved in outreach efforts because they understand the history and

tradition of the community.

- Ms. Mari Eggers, Little Big Horn College, reported that existing EPA regulations made it difficult for reservation communities to upgrade water and wastewater infrastructure. She recommended that the Agency revisit its policies and seek ways to allow tribes to be more proactive in improving their water infrastructure. Ms. Eggers also recommended that Mr. John Doyle, Apsaalooke Water and Wastewater Authority for the Crow Reservation, be appointed to the National Drinking Water Advisory Council, noting his substantial expertise in water issues in Indian country.

Action Item: Ms. Robinson will forward Ms. Egger's nomination to Mr. Roy Simon, DFO of the National Drinking Water Advisory Council.

3.0 Deliberations on NEJAC Indigenous Peoples Work Group Draft Report

NEJAC Indigenous Peoples Work Group co-chairs Ms. Monica Hedstrom, White Earth Nation, and Ms. Wahleah Johns, Black Mesa Water Coalition, led a discussion about revisions to the work group's September 2012 draft report .

- Council members recommended the following:
- Delete the word "meaningful" from the title of Chapter 4, Section D, *Example of Ineffective Meaningful Public Involvement*.
- Add stronger language to Recommendation 16 (in Chapter 5, Section B, *Need for Effective EPA Coordination and Cooperation with Tribal Government to Provide for Environmental Justice*).
- Stress that EPA should also coordinate with the appropriate federal and state agencies that have statutory responsibilities to protect tribal cultural and sacred objects, and sites.

The NEJAC members in attendance adopted the proposed recommendations.

Action Item: EPA will coordinate with the work group to finalize the report, which will include a cover letter from the NEJAC Chair to the EPA Administrator.

4.0 Deliberations on NEJAC Environmental Justice in Permitting Work Group Draft Report

NEJAC Environmental Justice in Permitting Work Group Chair Mr. John Ridgway, Washington State Department of Ecology, led a discussion about the work group's draft report.

- Council members discussed the definition of "overburdened communities," and the need to add language that calls for EPA to safeguard communities during the permitting process (to the extent that EPA's regulatory authority allows). The report should also acknowledge EPA's efforts to engage stakeholders in smaller communities.
- Council members recommended adding language to the report that:
 - Emphasizes EPA's responsibility to protect communities.
 - Describes efforts undertaken by the Agency to engage communities in this process.
 - Establishes a clearer linkage between this report's recommendations to previous NEJAC recommendations.
- In addition, members suggested restructuring the report to ensure that the recommendations are clearly numbered.
- The NEJAC members agreed to the recommendations, with the understanding that language will be added to address the concerns stated.

Action Items: The work group will revise the report based on the Council's input. EPA will coordinate with the work group to finalize the report, which will include a cover letter from the NEJAC Chair to the EPA Administrator.

5.0 Deliberations on Revised NEJAC Model Guidelines for Public Participation

NEJAC Model Guidelines for Public Participation Work Group members Ms. Andrea Guajardo, Conejos County Clean Water, Inc., and Mr. Javier Francisco Torres, Border Environment Cooperation Commission, led a discussion about the work group's effort to update the NEJAC Model Plan for Public Participation, created in 1996. To facilitate the discussion, Ms. Guajardo and Mr. Torres turned the Council's attention to a PowerPoint presentation that was distributed prior to the call.

- Council members discussed situations in which site-specific public participation plans should be developed, the need to clarify in the report that existing outreach mechanisms should be retained if proven effective, and the importance of emphasizing early community involvement in the permitting process.
- Council members recommended adding language to the report that:
 - Conveys flexibility, particularly in recognition of existing efforts that have proven effective.
 - Emphasizes the need to engage communities earlier in the process (specifically in Recommendation 4).
 - Incorporates specific examples of “best practices” from New York, Connecticut, and Pennsylvania.
- The NEJAC members reached consensus to adopt the work group's proposed recommendations, with the noted language changes.

Action Items: The work group will revise the report based on the Council's input, and EPA will submit the final draft to the Council for a ballot vote. EPA will coordinate with the work group to finalize the report, which will include a cover letter from the NEJAC Chair to the EPA Administrator.

6.0 Closing Discussion

Several Council members suggested submitting the three work group reports under a single cover letter from the NEJAC chair, noting a natural overlap among the reports, particularly as they relate to community engagement. After some discussion, however, members agreed to submit separate cover letters to allow each report to “stand alone” while cross-referencing the overlapping themes in the two other reports.

Ms. Robinson announced that the next NEJAC meeting would be a public teleconference in late January 2013. Proposed agenda topics would include a farewell to members retiring from the Council.

**National Environmental Justice Advisory Council
Public Teleconference Meeting
November 14, 2012**

Appendix A: List of Attendees

Geri Aird

Sierra Club Atlantic Chapter
Gas Drilling Task Force
New York, NY

Abena Ajanaku

Georgia Department of
Natural Resources
Atlanta, GA

Gina Allery

U.S. Department of Justice
Washington, DC

Sarah Amick

Rubber Manufacturers
Association
Washington, DC

Israel Anderson

U.S. EPA
Dallas, TX

Thomas Atkinson

Western Area Power
Administration
Bismarck, ND

Melissa Barbanell

Barrick Gold of North
America
Salt Lake City, UT

Aaron L. Bell

U.S. EPA
Washington, DC

Kent Benjamin

U.S. EPA
Washington, DC

Matthew Bilsbarrow

Western Area Power
Administration
Phoenix, AZ

Christina Bonanni

U.S. EPA
Arlington, VA

Amy Braz

U.S. EPA Region 1
Boston, MA

Kristen Budden

ERM
Cranberry Township, PA

Holly Cairns

Pennsylvania Department of
Environmental Protection
Pittsburgh, PA

Candace Carraway

U.S. EPA
Research Triangle Park, NC

Kristen Carre

U.S. EPA
Portland, OR

Eileen Carroll

U.S. Department of Housing
and Urban Development
Atlanta, GA

Christine Chaisson

The LifeLine Group
Annandale, VA

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Appendix A: List of Attendees

Kathleen Clancy

New York State Department
of Health
Albany, NY

Brandi Colander

Council on Environmental
Quality
Washington, DC

Hannah Connor

The Humane Society of the
United States
Washington, DC

Brendan Corrazin

U.S. EPA
Washington, DC

Chase Crawford

Southern Company
Birmingham, AL

Matthew Cross Guillen

Bernalillo County
Albuquerque, NM

Diana Csank

Council on Environmental
Quality
Washington, DC

Corbin Darling

U.S. EPA Region 8
Denver, CO

Catherine Davis

U.S. EPA
Washington, DC

Shantray Dickens

North Carolina Department of
Transportation - Civil Rights
Raleigh, NC

April Dixon

Elmo Dowd

Illinois EPA
Springfield, IL

Roberta Duhaime

U.S. Department of
Agriculture
San Juan, TX

Sara Dunlap

Minnesota Department of
Health
St. Paul, MN

Mari Eggers

Little Big Horn College
Bozeman, MT

Judith Enck

U.S. EPA Region 2
New York, NY

Sara Everitt

Chevron
San Ramon, CA

Rebecca Fabunmi

Minnesota Department of
Transportation
St. Paul, MN

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Appendix A: List of Attendees

Gabrielle Fekete
U.S. EPA
Research Triangle Park, NC

Jim Fernandez
Texas Commission on
Environmental Quality
Austin, TX

Timothy Fields
MDB, Inc.
Washington, DC

Larry Figgs
Douglas County Health
Department
Omaha, NE

Catharine Fitzsimmons
Iowa Department of Natural
Resources
Windsor, IA

Stephanie Flaharty
U.S. EPA
Washington, DC

L. Vanessa Frazier
Howardville Community
Betterment
Howardville, MO

Tamara Y. Freeman
U.S. EPA Region 7
Lenexa, KS

Brad Frost
Illinois EPA
Springfield, IL

Cynthia Garcia
California Air Resources
Board
Sacramento, CA

**Daniel Reuben Gedlinske,
Sr.**
Western Area Power
Administration
Phoenix, AZ

Daniel Gogal
U.S. EPA
Washington, DC

Steve Gold
U.S. EPA
Washington, DC

Beth Graves
ECOS
Washington, DC

Gregory Green
U.S. EPA
Research Triangle Park, NC

Chris Griffin
U.S. EPA
Washington, DC

Andrea T. Guajardo
Conejos County Clean
Water, Inc.
Antonito, CO

Allison Guerette
NESCAUM
Boston, MA

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Appendix A: List of Attendees

Maureen Gwinn
U.S. EPA
Washington, DC

Stephanie Hall
Valero Energy Corporation
San Antonio, TX

Kevin Hamilton
Clinica Sierra Vista, Inc.
Fresno, CA

Monica Hedstrom
White Earth Nation
White Earth, MN

Effenus Henderson
Weyerhaeuser
Federal Way, WA

Katherine Heumann
Alaska Department of
Environmental Conservation
Juno, AL

Kimberly Hill
U.S. EPA Region 7
Lenexa, KS

Anhthu Hoang
U.S. EPA Region 2
New York, NY

Eric Hollins
Oxford, OH

Savonala "Savi" Horne
Land Loss Prevention Project
Durham, NC

Candis Hunter
ATSDR
Atlanta, GA

Allan Illinger
New Jersey Department of
Environmental Protection
Trenton, NJ

Sangamithra Iyer
New York City Department of
Environmental Protection
New York, NY

Lesley Jantarasami
U.S. EPA
Washington, DC

Wahleah Johns
Black Mesa Water Coalition
Flagstaff, NM

DuShawn King
Greenceed LLC
Washington, DC

Tashina King
U.S. EPA
Washington, DC

Jessica Koski
New Warriors for the Earth
L'Anse, MI

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Appendix A: List of Attendees

Jessica Laabs

Kimley-Horn and Associated,
Inc.
St. Paul, MN

Kim Lambert

U.S Fish & Wildlife Service
Arlington, VA

Lara Lasky

U.S. EPA Region 5
Chicago, IL

Caroline Lee

Council on Environmental
Quality
Washington, DC

Suzette Tay Lee

APEX Direct, Inc.
San Francisco, CA

Roseanne M. Lorenzana

American Board of
Toxicology
Seattle, WA

Tai Lung

U.S. EPA
Washington, DC

Michael J. Lythcott

Skeo Solutions
Marlboro, NJ

**Deborah R. MacKenzie-
Taylor**

Michigan Department of
Environmental Quality
Lansing, MI

J. Langdon Marsh

National Policy Consensus
Center
Portland, OR

Saima Masud

SEMCOG
Detroit, MI

Margaret J. May

Ivanhoe Neighborhood
Council
Kansas City, MO

Mary McCarron

Ohio EPA
Columbus, OH

Jennifer L. McCorkle

U.S. Air Force Academy
Colorado Springs, CO

Susan Montgomery

Montgomery & Interpreter,
PLC
Scottsdale, AZ

Susan Moore

Federal Aviation
Administration
Orlando, FL

Kelly Morgan

Colorado Department of
Public Health and
Environment
Denver, CO

Jasmin Muriel

U.S. EPA
Washington, DC

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Appendix A: List of Attendees

Mariel Murray
U.S. Forest Service
Washington, DC

Stephanie Nash
U.S. Fish and Wildlife
Service
Arlington, VA

Thomas Nelson
U.S. Department of Housing
and Urban Development
Milwaukee, WI

Leanne Nurse
U.S. EPA
Washington, DC

Joyce Olin
U.S. EPA Region 2
New York, NY

Brian Paddock
SOCM
Cookeville, TN

Janice Pare
U.S. EPA
Boston, MA

Gracie Pendleton
U.S. EPA
Washington, DC

Richelle Perez
Washington State
Department of Ecology
Olympia, WA

Yvonne Peterson
Beyond Visions Foundation
Christiansted, VI

Charles Redoor
U.S. EPA
Washington, DC

Veda Reed
U.S. EPA
Washington, DC

Dawn Reeves
Inside EPA
Washington, DC

Rebecca Rehr
U.S. EPA
Washington, DC

Deldi Reyes
U.S. EPA Region 9
San Francisco, CA

John Ridgway
Washington State
Department of Ecology
Olympia, WA

Gaylord Robb
Paiute Indian Tribe of Utah
Cedar City, UT

Nancy Roberts
U.S. Department of
Agriculture
Oklahoma City, OK

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Appendix A: List of Attendees

Victoria Robinson
U.S. EPA
Washington, DC

Freddie Romero
SYBCI Elders Council
Santa Ynez, CA

Estela Rosas
APEX Direct, Inc.
Bartlett, IL

Bennett Ross
APEX Direct, Inc.
Bartlett, IL

Charla Rudisill
NESCAUM
Boston, MA

MaKara Rumley
Greenlaw
Atlanta, AZ

Dusty Russell
MDB, Inc.
Washington, DC

Natalie Sampson
University of Michigan
Ann Harbor, MI

Deidre Sanders
Pacific Gas & Electric
San Francisco, CA

Felicia M. Sanders
Consultant
Rocky Mount, NC

Edward Sarabia
Connecticut Department of
Energy and Environmental
Protection
Hartford, CT

Daniel Savery
Maryland Department of
Labor
Baltimore, MD

Nicky Sheats
Center for the Urban
Environment
Trenton, NJ

Jacqueline Shirley
Alaska Tribal Governments
Anchorage, AK

Paul Shoemaker
Boston Public Health
Commission
Boston, MA

Jim Smalls
U.S. Forest Service
Washington, DC

Mathy Stanislaus
U.S. EPA
Washington, DC

Horace Strand
Chester Environmental
Partnership
Chester, PA

**National Environmental Justice Advisory Council
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Appendix A: List of Attendees

Amber Swain

The Solution Group, LLC
Lexington, KY

Jody TallBear

U.S. Department of Energy
Washington, DC

Nicholas Targ

American Bar Association
San Francisco, CA

Tami Thomas-Burton

U.S. EPA Region 4
Atlanta, GA

Elizabeth Titus

Davis Graham and Stubbs
Denver, CO

Javier Francisco Torres

Border Environment
Cooperation Commission
El Paso, TX

Arati Tripathi

U.S. EPA
Washington, DC

Steve Tromly

Western Area Power
Administration
Lakewood, CO

Miriah Twitchell

Alaska Department of
Environmental Conservation
Juneau, AK

Cathleen Van Osten

U.S. EPA Region 3
Philadelphia, PA

John Waffenschmidt

U.S. EPA
Washington, DC

Rita Ware

U.S. EPA Region 6
Dallas, TX

Peter Weaver

ILTA
Arlington, VA

Robert Webber

U.S. EPA Region 7
Lenexa, KS

Mattie Webster

Washington Metropolitan
Area Transit Authority
Washington, DC

Kimi Wei

The Wei
Fair Lawn, NJ

Michael Wenstrom

U.S. EPA Region 8
Denver, CO

Terry M. Wesley

U.S. EPA Region 2
New York, NY

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Appendix A: List of Attendees

LaToria Whitehead

Centers for Disease Control
Atlanta, GA

Janet Whittick

CCEEB
San Francisco, CA

James A. Williams, II

Environmental Toxicology
Council
Washington, DC

Marcia Wilson

U.S. Department of Justice
Washington, DC

Rachel Wilson-Roussel

Colorado Department of
Public Health and
Environment
Denver, CO

Cindy Wolken

Missouri Department of
Natural Resources
Jefferson City, MO

Alice Wright

Pennsylvania Department of
Environmental Protection
Norristown, PA

Tina Wurth

Lincoln University
Kansas City, MO

Violet Yeaton

Native Village of Port
Graham
Port Graham, AK

APPENDIX B

Written Public Comments

Name: Devawn Oberlender

Organization: Environmental Advocates of the New River Valley

City, State: Blacksburg, Virginia

Devawn Oberlender will be in attendance to speak during the public comment period. He also submitted the following written statement for the public record.

Why is EPA Region 3 allowing the DoD to operate an Open Burning Ground under RCRA Subpart X in a valley of Appalachia? The OBG is within 1.5 miles of an elementary school, adjacent to the New River, a source of drinking water and a Karst aquifer. The permit allows for open burning of 8,000 pounds of Munitions Constituents (MC) per day. The facility received a warning letter from VA DEQ in April of 2012 for exceeding the amount of chromium permitted in at least one "skid burn."

Why is EPA allowing this Army Ammunition Plant (RAAP) to operate the OBG, clearly endangering human health and the environment in addition to violating the CAA, CWA & EPCRA in this part of Appalachia?

<https://docs.google.com/file/d/1sQEIjOiUVfpMAotqueVQ5X4k2UJ0miegd8DK7VCrgzpN5HoqWvsxJFZWIJsV/edit>

Name: Felipe Franchini

Organization: *not specified*

City, State: Joliet, Illinois

Felipe Franchini will not be in attendance, but he submitted the following written statement for the public record.

I respectfully request that all State and federal EPA agencies be held accountable for their duties as employees of the tax payers. that all EPA and State agencies that receive Federal funding be asked to perform their jobs as it is expected of any employee in the private sector. That complainants be treated with dignity and respect by State and Federal EPA.

Name: Mari Eggers

Organization: Little Big Horn College

City, State: Bozeman, Montana

Mari Eggers will be in attendance but will not speak during the public comment period. She submitted the following written statement for the public record.

We have been conducting a community-based risk assessment of exposure to water-borne contaminants on the Crow Reservation since 2006.

We have learned that water quality is an EJ issue for Reservation communities. Upgrading and replacing failing water and wastewater infrastructure is much more challenging on Reservations not only due to limited funding, but especially because of jurisdictional conflicts and regulatory gaps. Addressing these legal and policy issues would make it far easier for Tribes to be proactive in improving their water and wastewater infrastructure. John Doyle and Larry Kindness of the Apsalooke Water and Wastewater Authority for the Crow Reservation could provide the EPA with

substantial insight into these issues, how they have managed to overcome or work around them, and what policy changes would be helpful across Indian country.

Name: M. Kalani Souza
Organization: Olohana Foundation/UH NDPTC
City, State: Paauilo, Hawaii

M. Kalani Souza will be in attendance but will not speak during the public comment period. He submitted the following written statement for the public record.

Native and traditional sensibilities can complicate processes regarding possession, ownership, relations versus resources, etc.; in particular the granting of personage status to corporations making the playing field in the eyes of many imbalanced. Keeping the issue of relationship forefront in our discussions; conversations currently are exploring the means of bestowing no less a human face, voice and rights to "nature" or "mother earth" in the course of seeking social, political and economical parity and equality. This identity or personage status of "nature" may give indigenous peoples a way to bring a more "whole community" shared existence perspective into planning, capacity building and legal or judicial proceedings; perhaps aligned more closely with shared, physical, mental and spiritual perspectives.