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NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

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FOURTEENTH MEETING OF THE :
NATIONAL ENVIRONMENTAL JUSTICE :
ADVISORY COUNCIL :
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VOLUME III

Thursday, December 2, 1999
Crystal City Hilton Hotel
2399 Jefferson Davis Highway
Arlington, Virginia

The Meeting of the NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL convened, pursuant to notice, at 9:18 a.m. on Thursday, December 2, 1999.

APPEARANCES: NEJAC Advisory Council Members:

MR. HAYWOOD TURRENTINE, Chairperson
MR. CHARLES LEE, DFO
MR. DON J. ARAGON
MS. ROSE MARIE AUGUSTINE
MS. LESLIE BECKHOFF CORMIER
MS. SUE BRIGGUM
MR. DWAYNE BEAVERS
MR. LUKE W. COLE
MR. FERNANDO CUEVAS, SR.
MS. ROSA FRANKLIN
MR. ARNOLDO GARCIA
MR. MICHEL GELOBTER
MR. BRAD HAMILTON
MS. JENNIFER HILL-KELLY
MS. ANNABELLE JARAMILLO
MS. VERNICE MILLER-TRAVIS
MS. MARINELLE PAYTON
MS. ROSA HILDA RAMOS
MS. PEGGY SHEPARD
MS. JANE STAHL
MR. GERALD TORRES
MS. MARGARET L. WILLIAMS
MR. ALBERTO SALDAMANDO (for Tseming Yang)

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1 PROCEEDINGS
2 MR. TURRENTINE: Good morning. We do have a
3 quorum, and I now declare this Fourteenth Meeting of the NEJAC in
4 session.
5 One bit of housekeeping detail. For the members of the
6 Council, the staff will be passing out a menu for lunch. What we'd
7 ask you to do is to circle the items that you want for lunch, give it
8 back to the staff with your name on it. During the lunch break you'll
9 be able to go to the lunch room and pick up your items by name and
10 you'll be able to pay for them there.
11 I think most of you might have check out of the hotel;
12 therefore, you will not be able to charge it to your room. So you will
13 go and pay for your lunch and perhaps bring it back here and we can
14 work through lunch.
15 If we do that, more than likely we should get out of here at
16 least an hour earlier than we otherwise expected to get out.
17 We have a couple of agenda items that we're going to
18 change around because we have some very important presentations
19 to make and we want to wait until Steve Herman arrives to make
20 those presentations. So we're going to move that to a different time
21 in the agenda.
22 We're going to have Charles give you a brief overview of

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how we will proceed today so that we can get through the agenda and take care of those items that have to be taken care of.

Before I do that, I would ask, however, for an indication from Council members of who has an early flight and has some scheduling problems in getting out of here. The reason I ask that question is we have to have a quorum in order to take care of Council business, and that may also dictate how we fashion the agenda for today.

Does anyone have to have a flight prior to 3:00 p.m.?

MR. HAMILTON: I have to leave before that. I mean, I have to leave to get there before then.

MR. TURRENTINE: Okay. What time do you have to leave, Brad?

MR. HAMILTON: Probably about 2:30.

MR. TURRENTINE: Okay. Does anyone else have a travel scheduling problem that would cause you to leave prior to 2:30?

(No response.)

MR. TURRENTINE: Okay. It appears, Charles, that we're okay and we can go forward with that.

Charles, why don't you give us a brief overview of how we will proceed today.

AGENDA OVERVIEW

MR. LEE: Good morning. Thank you, Haywood.

I thought that what we should do is to divide the agenda today into three basic sections. The first one is having to do with a discussion around the process to develop the recommendations that pertain to the central kind of issue focus of the meeting, which has to do with environmental justice factors and permitting.

There is a process that we at the Office of Environmental Justice and the NEJAC protocol committee has talked through that I want to make sure that you agree with and that we can therefore have the ability to move forward on that.

So I wanted to, as part of that, give a perspective and a status report on where we think, from the point of view of the office, this issue is at this point.

The second major kind of block for this meeting today is to have the subcommittee reports. In the subcommittee reports, Haywood and I had talked through, we wanted to keep as short as possible because there are a lot of business items that need to be taken care of and we want to make sure that we give ample opportunity, and a fair opportunity, to all the subcommittees, as well as the Public Participation Workgroup which has a work product that they put forward in terms of a redraft of the Public Participation Model

Plan.

Then, thirdly -- and this we put at the last -- you had not had a chance, and we have not had a chance to really hear from -- I would like to hear from each and every one of the Council members around what lessons they have gleaned from the dialogue in the panel presentations on Tuesday. So that could take a certain amount of time so we felt that it may be good to put that last when we're not so time-pressured.

Those, in my opinion, are going to be very important to add robustness to the deliberations of preparing for the recommendations around environmental justice in permitting.

So that's the three kind of basic blocks of time. We want to try to get this done as early as possible in terms of the business items so that we have time for some dialogue. Of course, we don't expect that we can finish discussing an issue as big as environmental justice in permitting all today, and so we do have a process in mind.

Having said that, I just want to give a little perspective on where I think we are in terms of this issue. I would like to start by saying -- and I think that having talked to many of you and people in attendance here that the whole idea of having issue-focused meetings is something that you all concur with and think is a very

good direction to go in.

That is, in terms of historical perspective, a very important kind of structural change for the way the NEJAC operates. It helps us move in the direction of fulfilling the real ultimate mission of the NEJAC, which is to provide strategic policy advice for the Agency. I think that we have all throughout the past several years learned and experimented with ways on how best to accomplish that. And so we are moving in that direction.

So I want everyone on the NEJAC to know that this is the first of a number of issue-focus meetings that are going to be held and that we do have, and the expanded Protocol Committee has agreed, that in the year 2000 -- I guess Damu Smith would say the beginning of the millennium, right? -- that we would be addressing in May of the year 2000 in Atlanta, Georgia a number of questions that have yet to be fully synthesized around public health and environmental justice. With the Health and Research Subcommittee and Marinelle Payton who is the chairperson, with her help and with participation by Hal Zenick who is the Deputy Assistant Administrator in the EPA's Office of Research and Development, who we've been meeting with to begin to formulate a process for having that meeting.

Some of the questions relate to is there a direct correlation between environmental pollution and disease end points, especially

in heavily contaminated, over-saturated communities; issues related to research and action to address especially sensitive populations such as children, elderly, et cetera; and in relationship to that, research and action to address things of great concern to environmental justice like toxic hot spots and methodologies and tools for developing plausible research hypothesis and considering policy actions around environmental justice situations such as the decision tree, the community decision tree that's being worked on in the Health and Research Subcommittee, community based research, and the needs of that; as well as interagency and partnerships that need to be built in order to address and promote health and health protection in environmental justice communities.

The reason why we're laying this out is because the process is going to move to a point where we're going to begin the planning in earnest. And we do have the personal commitment of people like Dr. Henry Falk who is the new director [assistant administrator] of ATSDR, Agency for Toxic Substances and Disease Registry; and Ken Olden at the National Institute of Environmental Health Sciences.

One thing that the Office of Environmental Justice is hoping may happen, and we intend to make an invitation, is to have the participation of Dr. David Satcher who is the Surgeon General of

the United States. Bob Bullard and the Clark Atlanta Environmental Justice Research Center is on board to participate in that planning, and we plan to expand that.

It's important that you know this because the preparation for the May meeting is going to begin in earnest as soon as this meeting ends. The full meeting is -- we're going to ask you to address strategies for interagency implementation of Executive Order 12898.

Of course, there are a host of questions related to that -- I'm not going to go into them in detail. I only want to say parenthetically that a lot of the public comments and questions that are raised around, say, federal facilities and things like that, are very pertinent and germane in more of a thoughtful response to Rose Marie Augustine's question of yesterday.

So I want you to have that perspective because these are the general directions we're going in.

Now, as far as this particular meeting, I would like you to turn to the section of your notebook under the heading of Permitting Issues.

Of course, I don't really need to restate the issue question; however, I do want to put that into context.

We saw this as an important way to further the dialogue

around that important question that surfaced back in 1996 around whether or not there are opportunities to incorporate environmental justice under existing EPA permitting statutes.

I would say that one thing we should realize is the import of pushing that dialogue forward is for the purpose of truly integrating environmental justice, as in Barry Hill's words "in the bowels of the bureaucracy," is that we have to move from I think a notion out there that environmental justice is just a creation of an Executive Order, but that in fact it is something that is part and parcel of the normal application of existing statutes and it's very much arguably embedded within all those authorizing statutes for the Agency.

So that gives some of the background. Like I said, at the beginning of the meeting I went over a number of the steps that we put into place to bring us to this point, and that obviously had to do with identifying all the relevant aspects of this issue and making sure that we brought experts to come to present to us so that we can create a robust policy dialogue.

We see that being translated into a comprehensive report, the first part of which was in preparation for this meeting, and for that report -- a preliminary report based on interviews by Fran Dubrowski on stakeholder views and environmental justice in permitting.

Now, what we are going to do is we're going to ask that she

and the Office cull out all the recommendations that have been made by the various panelists so that they become much more coherent for you to address to make your own recommendation on. I'll talk about the process that we envision for that in a second.

The second is that we worked with the three primary permitting offices -- offices concerned with permitting, the Office of Solid Waste and Emergency Response, Air and Radiation and Water -- to discuss this issue to come up with strategies and approaches and to make some commitments as far as areas they would focus on in terms of concrete commitments.

You heard some of that in the panel with Tim Fields, Rob Brenner, Dana Minerva and John Armstead. Now, these are in your books and these were presented to you in detail.

There are two items on there of pretty important significance. One is the idea that Rob Brenner floated by you -- this is something that Tim, Dana and Rob have been working on and wanted to bring to you as an idea to be shaped with your participation and input.

Now, we need to basically really respond to that. And like I said in my comment on Tuesday, it would be really very helpful to get that comment because we not only have to address the kind of issues and create awareness around a lot of these questions

concerned with environmental justice, but also look for opportunities where we can begin to make progress.

The second thing that was not really talked about very much is in your book. That had to do with a description of something that comes right after commitments, the Cross-Agency Workgroup on Public Participation and Permitting. Again, this is a cross-office, multimedia effort to look at public participation as a whole to bring consistency to it and to examine how environmental justice can be truly factored in.

That may lead, as it says in the write-up, to looking at stakeholder input along with implementers and make any necessary rules, changes, comments, implementations or guidelines. And that, of course, is a very long-term vision, but we do need to have your full participation in this.

I do want to say that if you were to examine the points of view of community of the states, local government, and of federal agencies around any of the issues around environmental justice, there is one in which there is, without doubt, total agreement. And that is that environmental agencies on the federal, state and local level do not do a great job in public participation and that there is a lot of opportunity there to make some progress. So I want to point that out to you.

Lastly, related to this, there is a product in your notebooks that talks about environmental justice selection criteria. The expanded Protocol Committee worked very diligently to begin this kind of initial articulation to address the questions.

You know, if there are arguably many, many, many opportunities, which ones should be focused on to address in environmental justice? They put forward this set of criteria to help. We see this as a way that EPA senior management and staff can use the help -- can help us think about how to make target priorities.

Of course, you know, this is going to be a long-term effort and being able to focus on opportunities, being able to balance areas of greatest need and possibility in order to make progress is a very important thing to keep in mind. So that's all part of this.

Now, what we see happening is that in the timeframe of sometime around February there is going to be the completion of this report. We see that it is not going to be possible to go through all this in great detail at this meeting here, so we want to -- Haywood and I, and the expanded Protocol Committee discussed the notion of setting up a special workgroup of a limited duration to kind of work through the compilation of this report and the recommendations from you that are attached to it.

We've asked Vernice Miller-Travis to chair that. I think,

Vernice, you have agreed, right?

MS. MILLER-TRAVIS: Yes, I agreed.

MR. LEE: Thank you. As far as the full composition of that, it's something that we want to think through because there are a lot of questions about size and balance and things of this nature that we have to take into consideration. It's something that I think it would do you well for us to think more a little bit about.

So that's pretty much the process. I guess -- I don't know if the one action item that grows out of this is your concurrence around the establishment of this special workgroup to compile your recommendations for the permitting report.

MR. TURRENTINE: The Chair will entertain a motion for the formulation of the workgroup with --

MR. GELOBTER: So moved.

MR. TURRENTINE: It's been moved. Is there a second?

MS. MILLER-TRAVIS: Second.

MR. TURRENTINE: Moved and properly seconded that we form the workgroup. Are there any questions on the motion?

(No audible response.)

MR. TURRENTINE: Are you ready for the vote?

(No audible response.)

MR. TURRENTINE: All in favor, let it be known by the

usual sign of aye.

(Chorus of ayes.)

MR. TURRENTINE: Opposed have the same rights.

(No audible response.)

MR. TURRENTINE: The ayes have it and so ordered.

ENVIRONMENTAL JUSTICE FACTORS IN PERMITTING

COMMENTS OF SUBCOMMITTEES

MR. LEE: Okay. Now, one thing that I neglected to add is that we spend a lot of time identifying all those panelists to come and speak, to present before you.

I think that I'm correct in saying that the NEJAC has a lot to be very proud of in terms of those presentations. The real, I think, thoughtfulness, the focus and the kind of perspective that they have shared with us is really invaluable.

The one thing to note is that we've identified those people not only to come and present to us but to serve as ongoing resource people for our process. I can tell you with no doubts that I've talked to each and every one of them and they're very excited about participating with you on this process. Just the kind of experience and perspectives and thoughtfulness and intellectual depth that they all present is going to be invaluable for us.

Of course, what that translates into is much better

conditions for implementation of any recommendations that you forward.

Part of what I realized was a real problem in terms of environmental justice, the NEJAC and the Agency is a coming together of minds of really -- I think we have all been very good at talking at each other, and we need to continue to talk at each other, but we also need to also learn how to talk with each other so that the advice that you give actually makes a difference with people that are going to have to implement them.

So part of what we're trying to do here is to continue the process of ensuring that real meaningful engagement takes place.

Now, the one area that I have not mentioned yet and I want to make sure we have some time to do this is that we asked each of the subcommittees to devote part of their agenda to addressing the environmental justice in permitting issue. Those are very important elements of the recommendations and of both the substance of the report that is to be generated, as well as the recommendations.

I know that, for example, I spent some time with the Indigenous Peoples Subcommittee which came up with at least 20 concrete recommendations in terms of environmental justice factors of relevance to tribes and indigenous populations. I also know that other subcommittees have looked at the issue.

So I would like to ask, you know, in as brief a way as possible for any of the subcommittees that have either concrete recommendations or have had discussions and some sense of direction or important substantive contributions to this dialogue to kind of present them at this point. I think we can spend maybe half an hour or forty minutes on this. I think this is a very important part of this process.

One thing that is a real issue for the NEJAC is how to ensure real meaningful coordination, communication, and cross-fertilization around what environmental justice, which is a multi-issue, multi-linkage, multi-faceted set of questions. Addressing one set is not going -- from the point of view of, say, one subcommittee is not necessarily going to address all the questions that need to be focused on with respect to some of these very complex issues.

So making sure that we not only get the Council as a whole to focus on issues, but also the relevant parts in great specificity by each of the subcommittees is also very important.

I would like you to understand that this is a very, very important part of the process. And, of course, those subcommittees are one very important way of integrating environmental justice throughout the entirety of EPA because they are supported by and sponsored by the major program offices in EPA.

Can we ask the Indigenous Peoples Subcommittee to start? Or, Michel, did you have a question?

MR. GELOBTER: No. I thought you just wanted us to report.

MR. LEE: If you want to start, you can.

MR. GELOBTER: No, that's okay.

MR. TURRENTINE: We do not want the general reports.

MR. LEE: No, we do not want the general reports. What we want is those items of discussion that focus around environmental justice factors in permitting. You can present them either as substantive -- points of substantive importance that offer a sense for the Council of direction, or areas or note, or, you know, specific recommendations.

Obviously, I don't think, Brad, we want to hear all 20 recommendations, right? But, you know, some of the most important ones.

INDIGENOUS PEOPLES SUBCOMMITTEE

MR. HAMILTON: Really, there's a large group that, as we kept formulating -- you know, what we did basically was we had a discussion on the key issues, really, the permitting and we had input from EPA and from others.

You know, there were a lot of things we came up with.

One of the things that we thought was important was to make sure that -- to recommend EPA provide the tribes direct notification of reviews of permits when an application is submitted, make sure and encourage ongoing consultation with the permitting agency throughout the process.

And then a very important factor, describe in layperson's terms what the discharge means to the community. Sometimes it's very difficult for community members to understand the non-lay terms that are used and how it relates. And by the time they get that translated, sometimes the comment periods and the time to really have meaningful dialogue is gone.

I think there are just several -- recommend that the EPA provide training for citizens and tribal governments on the permitting process itself. The training should provide participants with the ability to understand technical aspects of permits to more effectively review and provide comment on such permits. And if you're not educated on the how-tos, you can't really do the how. So that's a very important recommendation.

Also, another thing that we thought was important because it keeps cropping up in a variety of places, is to recommend that EPA educate representatives of the regulated communities, i.e., industry, state and federal government agencies, on indigenous cultural

values. Many times those things are not considered or they're not taken at the value they should be.

Those are a few -- they're all important, but I don't want to -- like you said, I don't want to get into going over all of them.

Jennifer, were there any others that you thought might --

MS. HILL-KELLY: I just want to make a general comment I think to give some context to our discussion.

Many times, you know, as you may or may not know, tribes are governments, and they do have the responsibility for their jurisdictions. So it adds another layer to the issue because sometimes the tribes are the regulators.

So within that context we had different layers of comments related to, you know, how EPA could help the tribe do that job better.

Also then we have the discussion about those indigenous traditional communities that live within those tribal governments who may have issues as well. We heard testimony from a lot of folks last night who had issues with their governments.

So I think that it's important for everyone to understand that these issues are very complex. I think we all understand that.

EPA has a specific legal relationship with tribes, and sometimes that doesn't come out and it's hard to understand. And so we had some discussion about those things.

Also the factors that Charles mentioned, that public participation is key. We identified many times that there are opportunities for EPA and states to improve their involvement in public participation for all people; so that I think is a common theme throughout. I just wanted to make that point.

MR. HAMILTON: We did have a lot of good discussion, and there are, as you say, about three pages of recommendations that we've made. Anyway, that's where we are in that process.

I do think it was very helpful to have the time yesterday to do that, and I think we're going to be able to put together, flesh out something, that's really going to be productive.

MR. LEE: Okay, good. And what we'll do is we'll make sure that Danny Gogal establishes a process where you and the workgroup can interface to make sure there's a full understanding of all those recommendations.

I do want to say that in addition to public participation and, you know, the complexities of tribal government to government issues, there are factors that are of particular importance to indigenous tribal populations that we need to articulate.

If you remember Natalie Walker's presentation, she did identify a number of factors that really pertain to cumulative impacts and health risks, and things of this nature, but it was notably absent,

in my opinion, with things like cultural, religious and historical factors. Right?

And so I really think that it is very important that we hear from you, your opinions about things of this nature.

MS. HILL-KELLY: Well, if we had more time, we certainly could have a discussion about those things.

MR. LEE: Right.

MS. HILL-KELLY: Of course, that is, I think, the predominant factor that is not taken into consideration when permits are issued adjacent to tribal lands or on tribal lands.

MR. LEE: I think that when we have time later, when we have the more broader and more expansive discussion of this issue, you know, we really can come back to that for you to kind of share with us more. Okay?

MS. HILL-KELLY: And I would like to ask if there could be -- I don't know who is making up the working group or -- I know we've made the resolution to create it -- if we could have representation from -- whether it's Tom or someone else from the subcommittee to work on that group.

MR. LEE: One of the reasons I said that we need to give some thought to the composition of that workgroup is that we do intend to have subcommittee members directly on it.

You know, we need to sit back and kind of make an assessment of which of those subcommittees will be most relevant and, you know, see from there. But I do think that from the point of view of the Indigenous Peoples Subcommittee that it would be really important that is actually factored directly into that workgroup process. Okay?

So thank you for that. I guess, Michel, you're chomping at the bit.

AIR AND WATER SUBCOMMITTEE

MR. GELOBTER: Right. Chomping. If I have a voice.

Basically I think there are two pieces of action. You know, much of what we do now, especially with the Nuclear and Water Act in Title V and stuff, is directly related to permitting in air and water. But specifically I would highlight that our Cumulative Permitting Workgroup, which has been our most active, really got a new lease on life -- an additional lease on life in this meeting based on the discussions.

I think that before this meeting we were really, you know, still casting about in the world of cumulative cross-media, cross-pollutant, you know, all that kind of stuff, permitting, which is a set of terms and concepts that the environmental justice movement has been promoting for a long time.

I think that particularly the proposal that Rob and Tim and Dana Minerva brought to the table has reinvigorated our ability to do some work around that. We're going to work very closely with at least air and water and I guess maybe the waste subcommittee with OSWER on that offset piece and seeing it put in place as quickly as possible.

They're hoping, I believe, they committed to a rollout of some form of that program in the spring, and our committee will be working closely with them on that piece of it.

I'd say the other major sort of generic piece had to do with -- we had a joint discussion with Enforcement about the overlap between Enforcement and Permitting. Specifically, I think it's important, you know, just to get on the table, the fact that they aren't that separable as issues.

In the process of permitting policy, you have to think about how enforceable that policy is going to be, and in the process of enforcement, you have to think about what the permitting dimensions of those enforcement actions -- of the permitting grounding of that enforcement action -- it could be the case of concentrated feedlots -- a concentrated animal feed -- I want to say concentrated animal feed organizations, but I'm sure that's not what the operations -- it's early in the morning, you know, and we're thinking organizationally here.

Something like animal farm. Anyway. Only those pigs could organize.

(Laughter.)

MR. GELOBTER: As an example of a situation where there is just a complete lack of permitting and a tremendous need of enforcement until there is a permitting backstop for communities where there is a permit that enables the citizens to take action as well.

So those are sort of the two big pieces. And we had a lot of -- you know, a lot of things that I'll report in our committee report.

MR. LEE: I really want to thank the Air and Water Subcommittee. We've been in conversations with Clydia Cuykendall and the Cumulative Permitting Workgroup. You know, we knew that that was going to be an important piece that fits into the overall framework.

I do want to say a couple of things. One is that this begins to move us in a direction that's trying to look at ways to be more overarching in terms of opportunities for looking at cumulative permitting and other efforts in EPA dealing with the same set of issues.

For example, we've had conversations with the NACEPT, the National Advisory Council for Environmental Policy and

Technology. They have a multimedia permitting workgroup, and I think at some point I would like to see a conversation that crosses -- that links the two.

There is a desire on the Agency's part to have the different FACAs interface with each other more.

I forgot to mention before -- and this is a parenthetical, but it's important for you to know -- that in preparation for the May meeting we are in conversations with the Children's Health Environmental Protection FACA, the Children's Health Protection FACA, in the Children's Health Office around some kind of exploration of some kind of working relationship. And also with the Science Advisory Board of EPA.

So, you know, those are two things I think that are -- that I would just like to offer up. So, as you look at how you want to proceed, we want to make sure that you understand the opportunities for cross-fertilization there.

I think, thirdly, -- I'm sorry, Jane.

MS. STAHL: Thanks. Michel, don't go anywhere for a minute.

MR. GELOBTER: I won't. One of my committee members seems to want to say something.

MS. STAHL We didn't have an opportunity to really flesh

out what Rob had put before us, and I'm just wondering if perhaps some of the subcommittees had in fact that opportunity, to hear a little bit more and can provide the rest of us with kind of the benefits of those conversations.

MR. LEE: We can do that now if we are -- I think that it is very important. We can just spend a few minutes on that now and we can come back to it later when we have the more expansive discussion.

MS. STAHL: Right. Okay.

MR. LEE: And I guess that Jane is directing that comment and question to you, Michel, right?

MR. GELOBTER: Right. So basically you want to know more about what Rob and they had to say to us?

MS. STAHL: Again, if there was a --

MR. LEE: Oh, is Rob here?

MS. STAHL: -- you know, a fleshing out of --

MR. LEE: Well, Rob, why don't you come --

MR. GELOBTER: We did. I'll give you a shorthand and I think Rob will give you more detail, but basically I think --

MR. LEE: Hey, Rob, why don't you come up here.

MR. GELOBTER: The water office -- we had not as long a discussion as we would have liked to have around the new TMDL

1 rule also, but clearly there are -- under that there is a lot of
2 cumulative and potentially cross-media stuff.
3 It seemed like everything we talked about -- we talked
4 about public utilities for quite a while -- has those kinds of cross-
5 media impacts that might require permitting across different program
6 offices to be considered.
7 But I think Rob maybe should just sort of summarize a little
8 bit more what he told us. Go ahead.
9 MR. BRENNER: Thanks and good morning.
10 We did talk some more yesterday about the concept that
11 we had briefly described here a couple of days ago. A lot has gone
12 on since then; it seems more like a week ago.
13 (Laughter.)
14 MR. BRENNER: But, anyway, what I had described was
15 a way in which we could move very quickly to try to get reductions of
16 toxics in heavily burdened areas, or, for that matter, other areas that
17 aren't as heavily burdened but are still seeing large concentrations of
18 toxics.
19 The concept was that we wanted to try to harness this
20 desire for economic development, harness it in a way where it
21 becomes a driver for reducing total loadings of toxics.
22 The thinking was that we'd be providing guidance for areas

1 that if they had a program that would reduce their total loadings of
2 toxics, that would help them with permitting new sources because as
3 environmental justice or Title VI concerns were raised, they'd be able
4 to show that this was not adding to the burden of toxics in a heavily
5 burdened area. In fact, if the offset ratio was greater than one-to-
6 one, it was actually becoming a driver for reducing the overall burden.
7 The reasons that we thought that was a promising
8 approach is that the new sources that come in tend to be pretty well
9 controlled; there are a lot of requirements when you're building a new
10 source or modifying an existing source to make sure you're using
11 good technology on it.
12 Usually the bulk of the burden for these areas is coming
13 from a combination of older existing sources and things like diesel
14 trucks and buses that tend to be big contributors to toxics.
15 And so there would be two ways in which areas could do
16 this. They could either say to new sources coming into the area, we
17 want you to go out and pay for or find some other way to arrange for
18 toxic reductions before you come in.
19 Or the area itself could be more proactive and say we have
20 a program underway to reduce our total loadings of toxics and we're
21 doing that as a way of attracting new development in the area
22 because we'll say to them, in our area we've already made some

1 strides to provide room for new growth and the permitting process
2 should be somewhat easier here than it might be in other areas
3 where these concerns have not been addressed and it would be
4 more difficult to make a demonstration that you're not causing
5 environmental justice or Title VI kinds of problems.
6 So we've put out guidance along those lines. We felt that
7 we could have the guidance developed by next spring for review by
8 NEJAC and other stakeholders, and then go final with it later on in
9 the year.
10 Accompanying that guidance would be a list of the kinds of
11 measures areas could undertake to reduce their toxics loadings.
12 In other words, what we would want to do is go to each of
13 the programs and go to programs like the design for the environment
14 folks in the Agency who have been developing a number of very
15 good pollution prevention measures, and say, here are the
16 opportunities that available, to buy new buses that are natural gas
17 based buses, instead of diesel fueled; or to convent -- or to put
18 retrofit pollution controls on existing trucks and buses; or go to new
19 coding -- solvent kinds of products that are water based instead of oil
20 based and much less toxic.
21 We'd have a whole list of these things that would
22 accompany the guidance so that we wouldn't just be saying to areas,

1 go out and reduce your toxic pollution. We'd say, here is a whole
2 menu of things you could look at, and you could pick from this menu
3 or you could develop other approaches that might be more helpful for
4 your particular community.
5 So that's the concept in a little more detail.
6 MR. LEE: Perhaps, since Rob is here, if -- you know, if
7 anyone has some --
8 MR. TURRENTINE: Charles, let me do just some
9 housekeeping.
10 MR. LEE: Okay.
11 MR. TURRENTINE: For the Council members who -- and
12 I'm not saying don't have sidebar conversations -- what I'm asking
13 you to do is to cover your mike when you are having a sidebar
14 conversation. We don't hear you, but the court reporter does hear
15 you and it becomes confusing for them.
16 So, anyone who is having a sidebar conversation, cover
17 your mike and continue to have that sidebar conversation, but
18 therefore you don't confuse and make things for difficult for the court
19 reporter.
20 MR. LEE: And keep in mind that the transcript is very
21 important because, you know, part of this whole dialogue that we're
22 having, we need to capture it properly because I see it as a real

important contribution to the literature. That would become an invaluable educational resource for not just the Agency, but for everyone involved in this issue.

So, being that Rob is here and we have this opportunity, if anyone has some initial thoughts and feedback to the concept, I mean, why don't we just entertain a short amount of discussion around this.

MR. GELOBTER: Could i just augment on one thing he said?

MR. LEE: Sure.

MR. GELOBTER: The reason -- I mean, I think the committee -- we tried to get to results fairly quickly because we have so -- we have such a broad mandate that we try to do things that actually might have a ground level impact.

The reason I think we see this as a fertile approach or a promising approach is that it enables you -- you can actually then just go out and look at what that -- I mean, there a lot of inventories now of toxic loadings; it's easy to target where the Agency should be trying to make this happen.

So it's not just the generic rule that goes out there nationally, but you can actually say, look, here is a place where there is -- where you know how millions of tons are put out every year in

water, air and hazardous waste, and this is an area where you should be trying to make this work right. So there are ways in which beyond just the guidance level you can actually say, all right, there is a toxic -- in Chicago or other places -- that you can actually say, okay, here are places that, if you can't make it work here, it's not working, and we can monitor to see if it does work because there is an increased emphasis on monitoring and inventorying toxics now.

MR. LEE: Thank you for that. And I think we have Jennifer, Vernice, Rosa Hilda and Jane.

MS. HILL-KELLY: Thank you. First of all, for Michel's comment, I do agree that there is information out there that's available that we could draw on to focus this effort. But there are areas where there's not a lot of information available, data that's not available, where there is a high burden of contamination.

I did want to make the comment that I do think that as far as health impacts and for the areas that there is data available, this seems like a good approach. It would focus and it would give incentive and it seems like a good approach.

But for areas -- in regard to siting, I guess I would want to make the comment to be careful about, you know, those cultural places because usually they're places. And so it doesn't matter if you get a reduction in pollution, the place is still going to be impacted.

So I just wanted to throw that out, the comment about that there is not complete information everywhere in the country, and that sometimes the impacts to indigenous peoples are related to a place and not actual, you know, health impacts.

MR. BRENNER: That is an important point. I think the way to think about this guidance is that it's an opportunity to do something meaningful soon. But it's not necessarily going to address all of the concerns out there. It certainly will not address all of the concerns out there with respect to permitting. It's a good point.

MR. LEE: Thank you. And Vernice.

MS. MILLER-TRAVIS: Rob, I have two questions. One is a request -- a formal request which will come through the formal channels that for the next time the subcommittees meet that you come and talk with the Waste and Facility Siting Subcommittee about the ways that you and Tim and your staff have talked about the waste and facilities siting and the air issues are going overlap.

Along with that, if you could say a little bit more about how you all saw those issues overlapping. We talked about the RCRA part of that yesterday, but we didn't have the air component, obviously, of that RCRA initiative.

MR. BRENNER: Okay, sure. There are a couple of ways in Tim and I thought that they would overlap.

One is we are doing the work on best management practices for waste transfer facilities where we're trying to provide the piece of that that deals with associated diesel emissions. One of the major concerns is, of course, the truck traffic and the idling trucks and those sorts of things.

We think there are some very good technologies for providing retrofits. There are some best practices in terms of reducing dramatically the amount of idling that goes on and that sort of thing that's so frustrating for communities and damaging to the health of communities near these facilities.

So we'll work together on the best management practices document, and you'll see a lot of our work in the truck section of that.

The other area in which we see it overlapping is when we talk about what these best opportunities are for reducing overall loadings of toxics, some of these will involve operations at these facilities in ways to make them operate more cleanly with fewer toxic emissions.

It brings up a point about this concept and this guidance that I described. It should be a living document, these examples of things that could be done. And if somebody does something that really reduces toxic emissions in one part of the country, we would put it in there as an example.

1 That would enable community groups to ask, well, if it was
2 done over here in Chicago, why can't it be done in Boston? That sort
3 of thing. It should be a good tool to use to put people a bit on the
4 defensive to explain why they can't do what's been done elsewhere.
5 MS. MILLER-TRAVIS: Thank you.
6 MR. LEE: Rosa Hilda.
7 MS. RAMOS: First of all, I want to express, as a
8 community leader, my appreciation for the effort that Mr. Brenner and
9 his office have invested in trying to incorporate environmental justice,
10 you know, concepts in the EPA actions.
11 Still, we are having some differences, but it has been great
12 to engage in this type of conversation and dialogue, open and honest
13 dialogue, that has allowed us to understand better your limitations
14 and your concerns.
15 I would encourage, you know, the NEJAC to increase this
16 level of conversation, to know each other better, and to work together
17 to resolve some of our differences. This is the way to do this, and it's
18 producing very good results.
19 I'm convinced that we need to talk more about these EIP
20 issues, especially because yesterday you made some comments that
21 have left me thinking about them. I think that we should talk more
22 about this and how to incorporate this maybe even in the resolution.

1 Thank you very much again.
2 MR. BRENNER: Thank you for those comments. I think
3 all of us at the Agency have been working hard to try to reach a point
4 with the NEJAC where we could have exactly the kind of relationship
5 you described, where we could sit down and talk substantively about
6 these issues and understand that unfortunately we may not always
7 agree, but we can talk frankly to one another and we can strategize
8 about ways to bridge gaps when they're there.
9 Certainly, we've been getting better at that, from my
10 perspective, over the last year than we had been before. Charles
11 and Barry also deserve a lot of credit for helping us figure out how
12 best to do that. But thanks.
13 MR. LEE: Jane.
14 MS. STAHL: I'd like to thank you too. I'd also like to make
15 a couple of observations.
16 One is that -- and I'm hoping that perhaps other people
17 who heard the same presentation that I did will see the same
18 connection as well -- when we talk about a geographic area and
19 areas of toxic loadings, it brings very swiftly to my mind the proposal
20 that Mr. Walter made with regard to a model out of the Philadelphia
21 endeavors that uses a health-based geographic area, if you will, to
22 identify areas that need to be treated differently under our permitting

1 process.
2 I think that there is a great opportunity to meld these two
3 approaches so that we can integrate notions of overly-stressed areas
4 in terms of their toxic loading and the health impacts in those areas
5 with either a different level of or different opportunities for permitting
6 reviews.
7 So, you know, I just wanted to put that out on the table.
8 On a way smaller geographic area, one of the things that
9 we are talking about in Connecticut, and I know has been done in a
10 few other states for different reasons, are global facility permits
11 where, again, we might be able to achieve the same kind of total
12 reductions in loads to the benefit of the community.
13 But tradeoff -- and I use that word, of course, with caution
14 because we will have discussions later about tradings and the like --
15 but that the trading is streamlined or expedited permit process. Give
16 the incentives to facilities to further reduce their toxic loads, to do
17 more environmental management systems, and the like.
18 So I think that that's another like as little satellite to the
19 proposal that might be worth some investigation.
20 I'm going to stop there.
21 MR. BRENNER: As I understand --
22 MS. STAHL: There's more out there. There's a lot out

1 there.
2 MR. BRENNER: As I understand, the next steps are for a
3 workgroup here to pursue some of these concepts. And certainly
4 we're ready at the Agency. We have a cross-office team of people
5 who have begun work on developing guidance like this, with a couple
6 of people from each of the offices involved. And Barry's staff has
7 been willing to participate in that too.
8 So ideas like this, and any other ideas, that you have as
9 you think about this over the next few weeks, we'd love to have them
10 and we'll fold them into that process.
11 MR. LEE: Luke.
12 MR. COLE: Thank you. I had a process point before
13 addressing concretely what Rob said. I'm a little confused as to what
14 we're doing right here in that we were going to be doing kind of
15 report-outs on our recommendations and then I turned around and
16 the next thing is we're getting a presentation on something else, and
17 then we're being asked to comment on it.
18 MR. LEE: The process -- yes. No, this is just -- let me --
19 you want me to address that, to clarify it?
20 MR. COLE: No, I just -- that's a preface to my remarks,
21 which are, one, I think, Rob, that whatever you hear today is kind of
22 on-the-fly comments to your three-minute presentation here.

NEJAC over the last five years has passed a number of resolutions about the operations of OAR that I think constitute much more sophisticated well thought out research advice on these various areas.

I would urge you to look back at those resolutions, particularly on the air trading issues, because they are -- the points we make in those resolutions, which have been our advice for many years to you, are just as applicable to your new program as they were to the issues we were talking about there.

My concern, just the very brief concern that I want to raise today, is, in talking about geographic areas I know in Tier II, for example, you're talking about counties as the geographic area that is kind of your bubble, and that you're reducing emissions some places in counties and increasing emissions elsewhere in counties, but because it works out over the entire county, then that's okay under Tier II in your thinking.

Looking at counties as a geographic level -- in California we have counties like San Bernadino County, that are as big Connecticut, Rhode Island, and Massachusetts put together. And so if you look at it that way, you're definitely going to have environmental justice implications. Even if you're reducing what's happening in a county as a whole, you're going to have environmental justice

implications.

I mean, even in LA County or even in small counties, if you increase emissions, you know, ten miles from the place where you're decreasing it, you're moving pollution around.

I don't need a response because I don't think we should take up our time having a colloquy about this, but I urge you to look back at previous NEJAC resolutions and the NEJAC resolutions on the EIP for our kind of well thought out researched considered opinion, rather than kind of on-the-fly comments to your three-minute presentation this morning.

(Applause.)

MR. BRENNER: Well, thanks. This is not a new EIP program. I mean, this is an effort on the part of Tim and Dana and I to respond to the concerns with respect to permitting and areas that are heavily burdened by toxics, and a way to try to make reductions quickly in those areas.

It applies to situations where it's not that an area wants to prevent any new development. I mean, it may be that there are areas where for cultural or other reasons that the area just wants to prevent new development. Well, this kind of approach may not be very helpful in that kind of case.

But in areas where people would like to see new

development and job opportunities, but they also want to see some progress in reducing toxics, this is a way to help make that happen.

Certainly separate from that in terms of how we implement the economic incentive programs and the other work we do, we will continue to look closely at what we've heard from NEJAC and continue to talk to you.

We've had many hours of discussions on it, and I hope you feel like you're seeing some results from that discussion. We certainly feel like we've made a number of changes to reflect what we've heard and to try to make sure that programs are developed in a way that they are beneficial to environmental justice communities and other heavily burdened polluting areas.

So I will take to heart what you said and continue to look at the other more formal statements of NEJAC's views.

MR. LEE: Peggy.

MS. SHEPARD: I just want to follow-up on a comment that Luke made.

If this is being carried out on a county-wide basis, I assume this does not apply to non-attainment counties.

MR. BRENNER: We haven't talked about specifically what the size of the area should be. If we were to proceed with a program like this, I guess one of the things we'd want to put into the guidance

is some suggestions as to what the appropriate size of the area might be.

On the one hand, if you draw it real tiny, there may not be a lot of opportunities to get emissions reductions from other toxic sources. On the other hand, if it's larger, there would be more opportunities to get emission reductions, but they might not affect the same group.

It's always preferable, I think, to think of things in terms of air sheds rather than counties so that you're looking at where the pollution really affects people as opposed to artificial geographic boundaries.

But that's the sort of thing, if we wanted to go ahead with this concept that I think we should probably all discuss, is how big this area might be that we describe in the guidance that people would want to look to for reducing total loadings of toxics.

MR. LEE: Haywood informed me that we do need to move on, so I want to apologize to Jane or anyone else who has more to say -- I'm sure most of you have more to say about this.

But before I do that, I think it is my understanding that, you know, we need to heed Luke's point about process. This was only meant to be a very -- the questions came up around Michel's presentation from the Air and Water Subcommittee and there was an

opportunity to just kind of spend some time to initially discuss, and that this is only meant just to begin looking at these issues in terms of the specific proposal idea.

MR. COLE: Charles, my only point about process is that I don't want Rob to go away thinking --

MR. LEE: Right.

MR. COLE: -- that this has been consultation with the NEJAC about this particular issue, because that's not what we're doing here.

MR. LEE: Right.

MR. COLE: If you would like consultation with us on it, we are happy to provide that, but that is not what this --

MR. LEE: No. And that's what my whole point is.

MR. GELOBTER: I don't think we want Luke going away thinking that our committee didn't discuss this and set up a process to address it either.

MR. LEE: Right. Okay.

(Simultaneous conversation.)

MR. BRENNER: We have no intention of moving forward on this independent of discussions with NEJAC. The whole idea here is to continue to work with NEJAC on this, to share drafts of the guidance.

I will be around all day, if anybody wants to make suggestions about ways to proceed that I understand would not be formal NEJAC guidance, but ideas from NEJAC members, that would be fine.

I hope we will establish a more formal working relationship as we work our way through this guidance, if in fact it turns out that that's something that NEJAC would like to be involved in. I expect on the part of the offices that we have a commitment to try to proceed with something like this, but it would be a much better product if we could have some engagement from NEJAC on it.

MR. LEE: Right. Yes, thank you, Rob, for sharing that with us and spending the time.

I would like to move on to -- I guess, Vernice, are you ready to go, or should we ask Marinelle?

WASTE AND FACILITY SITING SUBCOMMITTEE

MS. MILLER-TRAVIS: I'm ready. Two items. Now to find them. Well, here's one item. Let's do the show and tell first.

I think you all know that we've been working with Freya Margand on this Social Siting Brochure. We have almost a final draft, Social Aspects of Siting Criteria -- of Siting RCRA Hazardous Waste Facilities -- which deals with the social policy aspects of permitting of RCRA facilities.

This is not a final draft, but by January we intend to have a final draft out for dissemination. So that's one of our permitting items that we've been working on that actually finally comes to fruition. It's been a long time in the development.

The other permitting issue is that -- it was part of the proposal that Tim made to us in talking about what the OSRA commitments were. On the permitting side we had a lot of discussion with Vern Myers and others of his colleagues yesterday about an initiative to lift out 1,712 facilities that are now in the RCRA arena that they have identified as high priority facilities for clean-up.

We are going to work with them in a consultative process to really address the environmental justice implications of that, and the Social Siting Brochure and so many of the other initiatives that we've already done, to bring to bear on this particular initiative of addressing these 1,712 high priority RCRA facilities.

MR. LEE: You know, Vernice, I think you've pretty much mentioned around -- at the panel on Tuesday around land use. Some ideas about --

MS. MILLER-TRAVIS: Oh, yes, that was the other one. I'm sorry. I knew I had another one. That's the other one. Here it is.

This is a recommendation to the NEJAC for the establishment of a working group to provide input into a proposed

EPA guidance that were are loosely entitling Land Use Guidance for Local Governments Regarding Environmental Justice Considerations for Permitting and Siting of Waste Facilities.

MR. LEE: And needless to say, you know, we were looking to the Waste and Facility Siting Subcommittee because of the work around social siting criteria and things like that to try to figure out some way to both substantively and otherwise get at this whole land use issue.

Okay, why don't we move on to Marinelle, Health and Research.

MS. MILLER-TRAVIS: Charles, just one question. So that was the proposal to establish a workgroup of the subcommittee, but the proposal goes to the full Council because it's a working group that we're asking to establish. So what's the procedure for addressing that?

MR. LEE: I think -- I mean, I think you can move it, you know, at this particular meeting. I would think -- I would really think that it's a very complex set of questions and a lot of sensitivity is involved in it.

I would think that we should use the workgroup that comes forward with a set of recommendations around permitting and environmental justice as a forum to vet that question so that we have

a better understanding of how best to move that forward.

MS. MILLER-TRAVIS: Sure. But my question is much more procedural. Yes or no?

MR. LEE: The answer is yes, at the proper time. In other words, my suggestion would be that that idea of a workgroup to look at land use and the guidance around land use and things like that be part of the recommendations that come out of the workgroup around -- you see what I'm saying?

MS. MILLER-TRAVIS: I got it.

MR. LEE: And that way we put into place a way to think about how to best move this forward and who we need to build bridges with in order to make it happen.

MS. MILLER-TRAVIS: Okay.

MR. LEE: Okay?

MS. MILLER-TRAVIS: All right. Because you know that our subcommittee is fully prepared to go forward with that.

MR. LEE: Right. Right. Go ahead, Marinelle.

MR. TURRENTINE: Go ahead.

HEALTH AND RESEARCH SUBCOMMITTEE

MS. PAYTON: Thank you. Mr. Chair and fellow NEJACers, I'd like to --

(Laughter.)

MR. TURRENTINE: Now that's a new one. Former NEJACers.

(Laughter.)

MS. PAYTON: I'm sorry. Over-stressed here. Environmental exposure.

I feel privileged to have the opportunity to sit in this position to give a report for the Health and Research Subcommittee meeting.

I'd like to just briefly tell you a little about the meeting and to include the factors that you talked about because the meeting all centered around those factors, and I think the way that I've prepared the report it will flow a lot quicker than just trying to pick out certain issues.

It's the desire of the Health and Research Subcommittee to positively affect the health of those communities that are experiencing disproportionate impacts from environmental exposure. I mean, there is much to do, in particular to those who are dying from illnesses relating to potential exposures, and particularly environmental exposures.

Now, in consideration of the NEJAC meeting and the Health and Research Subcommittee we wanted to do the following.

First, we wanted to meet with some of those individuals who sit in positions who can help in this endeavor.

Second, to deliberate factors that are health and research related to be considered in permitting.

So those are the factors that we wanted to consider.

So let me just say that we began with our Agency presentations. From EPA, Drs. Dorothy Patton and William Sanders. They spoke on issues and initiates that are engaged in their offices that offer collaborative work for the subcommittee.

For example, Dr. Patton mentioned new directions for ORD. She did mention several; I'll just mention a few. Risk assessment, risk management. For the first time, ORD is recognizing the need for research, not just in health, but in social science. Also, they're considering health effects and ecological effects.

MR. LEE: Marinelle.

MS. PAYTON: Yes?

MR. LEE: I think this is really very, very important --

MS. PAYTON: That you don't want to hear?

(Laughter.)

MR. LEE: But -- no, we do want to hear it. But we do want to just tough on the few key points, you know, that relate to environmental justice factors and permitting.

MS. PAYTON: Okay.

MR. TURRENTINE: Marinelle, just for a point of clarification.

MR. LEE: He wanted me to be the bad guy.

(Laughter.)

MR. TURRENTINE: You'll be able to give your full report, your full subcommittee report.

MR. LEE: Right.

MR. TURRENTINE: And it's just that as we speak at the moment, we're only talking about those key issues and recommendations that you want --

MS. PAYTON: Okay.

MR. TURRENTINE: There's got to be two or three on that full page that you just showed me.

(Laughter.)

MS. PAYTON: To the committee members, I'm new at this, and to the audience, as well.

Okay, issues relating to permitting. Health risk assessment, cumulative exposure, economic burden, public health based standard, adverse effects, chemical accidents.

And let me just go back, in particular, health assessment; we had several presentations by our Agency program offices, Dr. Henry Falk of ATSDR, Dr. Ann Goode, even though she spoke

mostly on adverse effects. But each touched on this particular subject.

In particular, Ms. Goode, when she talked about adverse effects, she followed a talk given by Mr. Balter who talked about his public health based standard, the environmental justice standard of Philadelphia. Well, Ms. Goode told us that even though while obviously this is a good approach, but, of course, there's limitations.

One of the limitations is the lack of data. They actually replicated what he did for the study of the City of Philadelphia and found that it could not be reproduced because even though the existing data that's out there has gaps -- for example, there's a big hole for coding, et cetera.

So, one of the permitting -- I mean, this affects looking at the relationship between exposure and health effects because we just don't have the data to do it.

And let me mention – going back to the public health based standard -- I think is a good approach. As Mr. Balter said, why put facilities in an area that's already sick? It's just like setting a big polluting industry or a facility right in the middle of a hospital. That's one way of looking at it. If people are already sick, you know, why add more to it?

Chemical accidents, I'll just comment on this because this

is a new factor, I think, in considering permitting.

It's really interesting. We had presentations by Dr. Poje and Dr. Speights from the Offices of Chemical Safety and Hazardous -- the Chemical Safety and Hazard Investigation Board and the Chemical Emergency Preparedness and Prevention Office.

For the first time, you know, we had the opportunity to look at this particular phenomenon. I mean, in other words, why permit a facility that's going to blow up in a few years?

They actually have a report out which we would like to have copies made for NEJAC. It's called Investigation Report. It looks at this particular factor. So I think that's very important.

I know you were asking me when I was telling you that we were going to have this on the agenda, how is it that chemical accidents could be considered?

PARTICIPANT: Right.

MS. PAYTON: Chemical accidents, community response and chemical accident prevention -- community right to know are very important issues.

Now, should I talk about what the subcommittee recommended?

MR. TURRENTINE: Yes, that's what we want.

(Laughter.)

MS. PAYTON: Oh, okay.

MR. TURRENTINE: Those two recommendations, that's what we wanted all along.

MS. PAYTON: Am I not here or what?

MR. LEE: I knew you were going to get around to it sooner or later.

MR. TURRENTINE: But don't worry, folks, she has given her subcommittee report, so when we come to that time, she won't have any time.

(Laughter.)

MS. PAYTON: Oh, did I forget to say that I have to leave early? I'm so embarrassed here.

The subcommittee decided the following. To recommend a resolution on ethics and community research. In other words, community research ethics.

As you recall from last year, we did have a presentation by the investigators who looked at the Baltimore lead study. In that study there were a lot of people who felt that the study basically had a lot of problems; there were a lot of unethical considerations. So out of that grew this concern.

Now, we also agreed to recommend a resolution to request funding from EPA and other agencies in consideration of support of

community-driven research. You notice I said "community-driven," versus community-based, a term introduced by some members of the subcommittee in that we want the communities to have more control of research funding because they're doing research and a lot of the research they're doing is very good.

We also --

MR. TURRENTINE: Marinelle, let me be very clear.

MS. PAYTON: Okay.

MR. TURRENTINE: What we're seeking right now are environmental justice factors in permitting. We want your recommendations when you give your full subcommittee report. Right now we just want to get those -- and if you don't have any, you don't have to have any.

MR. LEE: In fact, you did already enumerate --

MS. PAYTON: Well, actually, I did already talk about one of them, and that was with chemical accidents.

MR. TURRENTINE: Okay.

MR. LEE: There is a set of time issues here, so -- I think that, you know, embedded in that presentation you gave, you gave a very clear set of factors that need to be seen through. And of course, all that needs to be folded into this workgroup.

I would just say there's two things of importance to note in

1 what you had talked about. That many of the issues that you raised
2 in relationship to environmental justice considerations and factors
3 also are centrally pertinent to the main NEJAC meeting around public
4 health and environmental justice.
5 So that's one thing. And this is all going to develop along
6 a continuum.
7 The second is -- and I want to point this out for the NEJAC
8 -- of tremendous importance. There were seven -- this has to do with
9 emergency planning -- there were seven statutes in 1996 that were
10 identified as opportunities in terms of where existing opportunities
11 may exist for incorporating environmental justice. One of those was
12 EPCRKA, Emergency Planning Community Right to Know Act.
13 In our discussions you note that a lot of the public
14 comments related to chemical accidents, particularly those that came
15 from Louisiana. I mean, what is the nexus between permitting and
16 community planning right to know, emergency planning, and all those
17 issues?
18 So that's a very -- I'm really glad that you highlighted -- that
19 you hit upon that to highlight it for us because that needs to be folded
20 into.
21 So those are, I think, two very important comments I
22 wanted to make.

1 With that, Arnoldo, did you want to say anything?
2 INTERNATIONAL COMMITTEE
3 MR. GARCIA: We had a very brief discussion about the
4 permitting issue. I guess in general I think that the international
5 issues have to be -- I think each subcommittee has to -- this is one
6 of these elements that has to be draw into their discussions because
7 of the consequences that it has, you know, for the activities of EPA
8 internationally.
9 They also are embedded within our country -- international
10 issues are embedded within our country. The south within the north
11 type of -- you know, the demographics are taking place.
12 Second, some of the stuff that Professor Raymond
13 described are still ongoing. If you look at the border regions,
14 wherever agriculture dominates the regional economies in particular,
15 the formation of colonias along the border as housing strategies
16 where people are setting up, you know, basically -- not shantytowns
17 like in the sense of Latin America, but as a consequence of
18 permitting and services. As well as migrant housing that is attached
19 to certain types of agriculture industries.
20 And as well as things that are coming down the pipeline
21 that I think EPA has a responsibility to address the consequences.
22 For example, the labor importation bill that's on the bill on the table

1 right now in Congress.
2 So I think that this puts another sizeable, you know, like
3 aspect on these issues of permitting, about the levels of franchise
4 that different communities have or perceive to have. It's a very
5 important element.
6 Finally, in regard, I think, to what Luke was saying --
7 although I'm going to say it differently -- about toxic reduction
8 strategies which I think are very important. We can't forget the less
9 poisoning is still poisoning.
10 And I think that the permitting stuff that we're talking about
11 I think has to be accompanied -- there has to be like a -- like we don't
12 even have to think about it in terms that there has – I think that
13 people are addressing this already -- but I believe that there has to
14 be environmental health funds attached to permitting with special
15 emphasis on our communities of color and children, women and
16 elders. There is an asthma epidemic in this country right now among
17 children.
18 I think the second thing is communication networks that go
19 all the way from the neighborhood corner all the way to the upper
20 echelons of the EPA both for regular and emergency response.
21 When an explosion in a power plant happens, there has to be a
22 response at all levels; it just can't be from the community doing the

1 protest in front of the power plants.
2 The second thing I think the -- I think the challenge before
3 us -- and I'd like to speak more about this when we address the more
4 general permitting issues -- is that what we're facing is the challenge
5 of us coming up with an environmental justice industrial restructuring
6 strategy because our communities, communities of color in particular,
7 working class communities, were abandoned -- not total
8 abandonment, but were left in the industrial infrastructure of a
9 previous stage of development of our country.
10 Because there is a very growing concern about the
11 conservation of farmslands, open space and natural habitat, that
12 they're trying to recapture the industrial infrastructure of our country,
13 they're coming back into our communities.
14 So it puts us in the position of saying what do we want our
15 country to look like, you know, what role do our communities have to
16 play in those plans. Right now we just have a very small piece of it,
17 you know, here in NEJAC and so forth. But that's the challenge our
18 communities are facing because they're going to be coming back to
19 us with the same kind of permits. You know, depending on what part
20 of the infrastructure you're sitting at of the economy, whether it's in
21 Louisiana which has the petrochemical, you know, basis --
22 MR. TURRENTINE: Arnoldo.

MR. GARCIA: Excuse me.

(Laughter.)

MR. TURRENTINE: Okay. You know, this fairness doctrine is --

MR. GARCIA: Thank you for the leeway.

MR. LEE: Arnoldo, those are important points you were making and we've made time at the end of the day for a much more expansive exploration by all of you, so my apologies to you and to Marinelle.

MR. TURRENTINE: And I'll be the heavy for that. What we need to do, Charles, at this moment -- we've got one other thing we need to -- it's just a housekeeping detail. It doesn't change the agenda; it's just housekeeping.

We have to make a determination of whether we're going to break for a couple of minutes because staff has to get some paperwork to us on vouchers and things of that nature. So I want to find out is at what time do we want to do that as a break and then move forward with the agenda as we had it. That's all I wanted; just a housekeeping detail.

MR. COLE: How many more subcommittees are going to do --

MR. LEE: We're finished.

MR. COLE: Have we done the Enforcement Subcommittee yet?

MR. LEE: Oh.

(Laughter.)

MR. COLE: You know, I walk out of the room and Rob Brenner is up here and my committee report is done. It's great. It's exactly what's supposed to happen.

MR. TURRENTINE: I thought Sue did it for you, Luke.

MS. MILLER-TRAVIS: She's not even on the subcommittee.

MS. BRIGGUM: Wait a second. I'm late because of a flat tire.

(Laughter.)

MR. LEE: My apologies, Luke. We are just taking, you know, a few highlights, recommendations that address environmental justice in permitting. You know, this is not the subcommittee report.

MR. COLE: Okay.

MR. LEE: And just oversight on our part.

ENFORCEMENT SUBCOMMITTEE

MR. COLE: I actually have just two or three brief points. Actually, enforcement usually comes after permitting, but enforcement is directly tied to permitting. And so I have five

observations and two actual policy pieces that are moving out of our subcommittee as a result of them.

The first is that unpermitted or underpermitted activity is a major problem. And to address one part of that, we are recommending to the full NEJAC a confined animal feeding operations resolution that will be distributed at the break.

Two is the compliance alternatives are a huge potential loophole in permitting. As we discussed the other day, you can have a community participate fully in a permitting process and then that permit can be traded away with an air emissions trading, so that the community has no control over it to obviate anything the community has gotten in the permit.

So, to address that issue we have reworked the EIP guidance and also have put together about a ten or twelve page comment on the EIP document that we'll be submitting for your review.

Third, we had a couple of excellent presentations in our subcommittee. The crux of one presentation was that political activity affects corporate behavior. The crux of the other presentation was that siting is more important than a move-in factor.

And so to address both of those, we will be bringing to the subcommittee ways to identify environmental justice communities

and give them either more procedural tools or greater assistance in the permitting process.

Finally, we also met with Yale Rabin who addressed us, and I think the crux of his talk is that historical land use patterns affect permitting today. And to address that, those historical land use patterns need to be considered in state and federal permits.

As part of our subcommittee work on that, we had another briefing from Ann Goode of the Office of Civil Rights on where EPA is going on their Title VI programs, and we'll be offering recommendations on that at future meetings.

Thank you.

MR. LEE: Let me just say that I'm going to turn the agenda back to Haywood at this point. We're going to come back to this in terms of more substantive discussion, more expansive discussion around this set of issues. I hope I didn't forget any subcommittee.

The next part of the deliberations of this Council is going to deal with the subcommittee reports and the action items that come out of that, which Haywood will handle.

I just want to ask that you all give yourselves a big round of applause for this work that you've done. I think it represents a really very, very high degree of intellectual content.

PARTICIPANT: Too tired to clap.

MR. TURRENTINE: Too tired to clap.

MR. LEE: Too tired to clap, right?

(Applause.)

MR. TURRENTINE: Okay. I do need to have some kind of direction on the break so we can take care of the paperwork that has to be taken care of.

MS. MILLER-TRAVIS: Why don't you do it right now.

MR. TURRENTINE: If you want to break right now or -- Rose?

MS. AUGUSTINE: Checkout time is noon, isn't it?

MR. TURRENTINE: Yes.

MS. AUGUSTINE: So I guess we can check out at the same time?

MS. MILLER-TRAVIS: Break and check out now.

MR. TURRENTINE: We could --the suggestion is to break and do a checkout at the same time. How much time do you require for that?

MS. MILLER-TRAVIS: Fifteen minutes.

MR. TURRENTINE: Fifteen minutes?

MS. MILLER-TRAVIS: I'm not staying here, so don't ask me.

MR. TURRENTINE: I'm showing about 11 minutes to

11:00. If we could do that, take care of the paperwork, and come back and be back at your stations by ten minutes after, I think we should at that point go into the presentations.

As you know, we have some people on the Council that are rotating off and we're going to have a presentation from Steve Herman to those members who will be going off the Council. We can do that and then get into the committee reports.

MR. GELOBTER: Could we just have a review. When we get back you want subcommittee reports and then we'll have a broader discussion on permitting again, and that's it?

MR. TURRENTINE: That is correct.

MR. GELOBTER: That's the two remaining business items?

MR. TURRENTINE: Yes.

MR. GELOBTER: Thank you.

MR. TURRENTINE: Oh, also you should have received a lunch request. You need to get that to staff so that you can pick up your lunch -- or, they can pick it up for you and bring it in here, whichever the case may be.

We're in recess for about 20 minutes.

(Recess.)

MR. TURRENTINE: We are back in session. I have to

declare that before someone decides to walk out of the room. All Council members, please take their stations. Charles, Peggy.

(Pause.)

RECOGNITION OF STAFF AND CONTRACTORS

MR. TURRENTINE: As I indicated before the break, we have Council members who rotate on and others who rotate off. Now we're going to engage in an activity, a presentation, if you will, to those members who are going off the Council. I think we have approximately 14 people that will be rotating off the Council.

I'm going to ask Barry Hill, the Director of the Office of Environmental Justice, to introduce the person who will make those presentations. Barry.

MR. HILL: Thanks, Haywood. Before I introduce Steve Herman, the Assistant Administrator of OECA, what I'd like to do is to recognize people who put a great deal of time and effort into making this, as Charles said and many other people have said, the best NEJAC meeting that has been held thus far.

It was an incredible amount of work, and the whole idea was to generate partnerships with the Agency, with the NEJAC expanded Protocol Committee, with our office, many, many people putting a lot of time and effort into making this meeting into what it is.

Let me ask the staff of the Office of Environmental Justice

to come up. Come, everybody. Come on. Don't be afraid.

(Pause.) (Applause.)

MR. HILL: These are the people that I work with every day. This is a team, a real team in the strict sense of the term.

Charles, he's put in an incredible amount of time and effort into making this meeting into what it was. He's like a wise old owl.

(Laughter.)

MR. HILL: He always has something good to say. And if you just see him at work -- yesterday there was a discussion between two subcommittees on this whole notion of jurisdiction. It went on for about ten minutes in this joint meeting. Charles just stood up and he said, "It's not about jurisdiction; it's about communication and coordination between the two subcommittees." And that's all it was.

When you think in terms of jurisdiction, as a lawyer, you think in terms of the responsibility or the area of control that a particular court has. We're not talking about that. We're talking about communicating and coordinating on major issues because environmental justice is a cross-cutting issue. So it's not a question of jurisdiction; it's communication and coordination. And only Charles can say that.

And Marva. Marva is really the general of this whole thing as far as the NEJAC meetings are concerned.

(Applause.)

MR. HILL: You know, she manages everything and she's incredibly flexible. She finds a way to get things done.

You know, as an African-American man, one of the things that we talk about is the dominating black woman.

(Laughter.)

MR. HILL: But seriously, when I look at Marva, all I think about is how beautiful her strength is as a black woman.

(Applause.)

MR. HILL: And before you sit down, let me just talk about Linda. She's the diva of the office.

(Laughter.)

MR. HILL: She's always perfectly coiffed and she gets things done. But I tell you this, in her sweet manner, don't mess with her.

(Laughter.)

MR. HILL: Because she controls the money. But I just want everybody to recognize.

There is one other person. Clarice, would you come up here?

(Applause.)

MR. HILL: Even though Clarice is on the other side of the

country, she's really an ex-officio member of the office and she's still very much involved in a lot of things that we do. You can always call her up and ask her what's the deal, what should we do, so on and so forth, because she knows everything and everybody.

We were talking yesterday and she was talking about the meeting and the progress that's being made, and I was telling her that we had to get to a certain point, a certain level, the maturation of the NEJAC, the maturation of the office. And it was because of all of the hard work and pain and suffering that she went through that we're at this particular point. And you have to recognize that.

(Applause.)

MR. HILL: Thank you everybody.

Now, there's another group of people and they're called the contractors. Can the contractors come up? Come on, guys.

(Applause.)

MR. HILL: Now you see what Victoria said? Not everyone is here. They're running tasks. That's what they do in order to make this meeting more efficient. The microphones, the papers, the hotel, making sure that the rooms are available. It's because of them.

One thing that I don't think I'll ever say again is that word that I used, "contractors." That's what they do, but they are people. They're very important people. So, from now on you all are the wild

bunch, okay? That's how we'll refer to you.

(Applause.)

MR. HILL: And, Fran, you know, the excellent report that was done in preparation for this -- because we didn't know what we were doing as a practical matter -- this was the first time that we were going to do it this particular way -- to retain the services of Professor Dubrowski to put together the report to try to distill everything that's being said from the point of view of all the stakeholders.

So this is now a model for the NEJAC meetings to come. It's worked; we've seen it work. And it's because of people like Fran and the Wild Bunch that we can have important and good meetings like this.

So, on behalf of the Office of Environmental Justice and OECA, we thank you very much.

(Applause.)

PRESENTATION TO OUTGOING NEJAC MEMBERS

MR. HILL: Now, Steve is, as I said, the Assistant Administrator for OECA. He's my boss, as a practical matter. What we would like to do is to honor the people who are leaving the NEJAC.

As I was putting together my thoughts a few minutes ago for this presentation, I was thinking about the right word to use under

these circumstances. Are they resigning? I said, how can you resign from a voluntary organization. That doesn't fit.

I said, are they retiring? No, they're not retiring; they're not going out to pasture.

I said, you know, expiring? No, they're not dying. So that didn't fit.

The best thing that I could come up with is that they're graduating.

The NEJAC is an educational institution. Because of all of the stakeholders that sit on the NEJAC, you're in many respects educating each other at the same that you're educating the Agency. So it's very much a school, an educational entity.

So what we would like to do is honor the people who are graduating. The first person that we would like -- excuse me.

MR. HERMAN: Excuse me. If I might say something.

I want to second everything Barry said, and also, ahead of time, before we make individual presentations, I want to thank all of the members of the NEJAC and of the subcommittees who are leaving.

Barry said something very, very important, and that was about this being an educational process. I want to particularly emphasize that part of the education which deals with educating the

Agency.

One of the things that that the Administrator wanted to do when she established the NEJAC and in several other things she's done, is to make sure that the Agency had the benefit of the advice and the counsel and the views of people like yourselves.

I've said this many, many, many times. We have often heard from other constituencies. It's very important that we've heard from you all in the context of the environmental justice issue. And that obviously has spilled over into areas of air, waste, water, enforcement, toxics, our international program. And it's going to continue.

But I know -- I just had a conversation with Lillian during the break and she was saying, "This is a lot of work." It is a lot of work. I just want to assure you that it is worth it, that you are having an impact on the Agency.

Your voices are listened to, and I know from firsthand experience that your input is affecting the policies that we are promulgating. It is affecting the way we are spending our money. It is affecting the way we are spending our time.

I think that this has been very constructive and very good, and I know the time that you all have spent, and on behalf of the Administrator and on behalf of the other Assistant Administrators and

the staff at EPA, I want to give you a heartfelt thank you ahead of time. So, thank you very, very much.

Now, Barry, we can go ahead.

MR. HILL: All right. Haywood, would you come up.

Haywood's management of this whole thing over the last two days was incredible. When he said "don't make comments; just questions," he's big enough and he's bad enough, you know, to make sure that that's done.

(Laughter.)

MR. HILL: And where is Charles at?

MR. TURRENTINE: He's taking care of something.

MR. HILL: Okay.

PARTICIPANT: He's the old man. He's resting.

MR. HILL: The wise old owl.

PARTICIPANT: Right.

MR. HILL: The first person is Sue Briggum. She's with Waste Management. Sue has stayed in this school for a long time, longer than anybody else at this particular point. Sue.

(Applause.)

MR. HILL: Dwayne Beavers.

(Applause.)

MR. HILL: Leslie Cormier.

(Applause.)

MR. HILL: Rosa Franklin.

PARTICIPANT: She's not here.

MR. HILL: Gerald Prout.

PARTICIPANT: He's not here.

MR. HILL: Margaret Williams.

(Applause.)

MR. HILL: The Honorable Dr. Richard Drury. Richard.

(Applause.)

MR. HILL: Kathleen Hill.

PARTICIPANT: She's not here.

MR. HILL: Okay. Nancy Howard.

(Applause.)

MR. HILL: Janet Phoenix.

(Applause.)

MR. HILL: Mathy Stanislaus.

(Applause.)

MR. HILL: And Lillian.

(Applause.)

MR. HILL: Everyone, please give our graduating class of 1999 a hand.

(Applause.)

MR. HILL: Thank you. I forgot to mention something. The DFO from the Enforcement Subcommittee -- what's her name?

PARTICIPANT: Sherry Milan.

MR. HILL: Sherry Milan. She is unable to be with us today because of chemical sensitivity. The Agency has prepared a -- we're going to give her a plaque for all of her time and effort in serving as a DFO for the Enforcement Subcommittee.

(Applause.)

MR. COLE: Barry, can I ask you to read that plaque? Do you have that there? Can I ask you to read that publicly on behalf of the Enforcement Subcommittee.

MR. HILL: Shirley, where is it?

PARTICIPANT: You have to give it back.

MR. TURRENTINE: She's coming.

MR. HILL: While Shirley is getting that, we should also recognize the DFOs of all of the subcommittee because they have done a hell of a lot of work in trying to put this meeting together.

(Applause.)

MR. HILL: And also the Environmental Justice Coordinators. They have been on all of the conference calls.

(Applause.)

MR. HILL: Now, this is to Sherry Milan in recognition of

your outstanding contribution to the success of the NEJAC Enforcement Subcommittee May 1994 to May 1999.

(Applause.)

MR. HILL: Thanks, Haywood.

MR. TURRENTINE: Thank you. We're going to continue with the subcommittee reports. We're going to stop at 12 noon, go and get your lunch. I hope you've given the staff your lunch orders. I'm going to ask you to go get your lunches, bring them back in here, and we will resume work while we eat lunch.

The report-outs of committees are now in order. Do I see anyone chomping at the bit to make the first report-out. Brad.

SUBCOMMITTEE REPORTS

INDIGENOUS PEOPLES SUBCOMMITTEE

MR. HAMILTON: Thank you, Mr. Chairman. The Indigenous Peoples Subcommittee yesterday worked on about four action items.

One of those was to provide the EPA Office of Pollution Prevention and Toxics a list of federally recognized tribal points of contact.

Another action item that we identified was the request that the Indigenous Peoples Subcommittee review any resolution concerning Indian Country prior to NEJAC adoption. We were

specifically looking at resolutions proposed by Air and Water concerning confined animal feeding operations. They're going to develop a separate resolution. But, anyway, we looked at that. Enforcement --- excuse me, it was Enforcement.

One of the other action items was to consider developing a resolution on Mt. Graham in Arizona pertaining to location of telescopes which impede the accessibility of cultural and religious resources, and to investigate that a little further.

The last action item that we dealt with yesterday was to continue devising a list of recommendations regarding permitting issues affecting indigenous peoples and Alaskan Natives.

You know, I'm not going to read all of these, but there are a significant number of them. There's pretty close to three pages. We're going to be meeting at some particular time fairly soon to refine these, to flesh them out more fully, look at them as far as program-specific items, general items. So we'll be discussing among ourselves and refining those key issues related to permitting.

We heard testimony from the Rebecca Davidson from the Delaware Tribe of Oklahoma regrading CAFOs and we are going to be looking at working with the other resolutions that may be made in that regard.

That's primarily what we did as far as yesterday's activities.

I think you all have the specific recommendations, or copies of those that we came up with, so I'm not going to take the time to read them all to you. I'm sure you all have the capacity to read, although sometimes we may not understand what we read, because of the way it's written.

Some other things that we've been doing is that we've developed a working draft guide for consultation and collaboration. We spent a lot of time on that. We sent out a letter to tribes making them aware of the plan to develop -- and this, by the way, is in your notebooks. I believe it's under the tab of Actions Required for NEJAC Review.

We developed the working draft. We sent it out to all the federally-recognized tribes. We sent out a letter identifying the due date for comments. We are going to now -- and we'd like for the Council to also review the draft -- we're going to be reviewing the draft over the next couple of months, and then we're going to have this put together so that we can get a final working draft to the Executive Council for review sometime in March, and finally have that provided for distribution at the next NEJAC meeting.

So we've been working very hard on that. it's been a large project trying to make it succinct and at the same time all-encompassing for what we want to try to do. It has been difficult, but

the subcommittee has really done a good job. Dean Suagee has been great, and everybody else that has been involved with it. That is something that we've been involved with.

Another particular piece of the activities that we've been involved with is developing a strategic plan. Jennifer has been our lead person on that. So I'm going to go ahead an let her speak to what we've done on that. She has more intimate knowledge of that than I do. Then I'll finish when she's through.

MS. HILL-KELLY: Thank you, Brad. I just wanted to mention to you about the consultation guidance that I think is important for all of the folks on the subcommittees, as well as the full NEJAC to understand.

Our purpose of putting this consultation guidance together was to provide guidance for the various stakeholder groups that are here that interact with Tribes or indigenous communities about how to, how to consult and collaborate with Tribes. So I think that you'll find it very informative and very interesting, and I hope that you take a serious look at it and provide us with your comments.

With that, I just want to mention two quick things about our strategic plan. I think all of the subcommittees were tasked with putting together a strategic plan for the next two years. We took this effort very seriously and we came together on four objectives. The

plan is included in your booklet.

The two that I want to highlight is, first of all, identifying key environmental justice issues in Indian Country. A lot of our discussions yesterday have ties to permitting. We discussed those yesterday; that was a very important endeavor and I know that EPA was very interested in getting us to do that. So we are fleshing out some of those issues.

A lot of those issues have upcoming pending policy rules that are in the works, like the Corps Water Quality Standards for Indian Country. So we are taking a serious look at those issues.

The second thing I want to mention is an objective of the subcommittee to provide some orientation or training about indigenous issues to the NEJAC. What we want to do is work with EPA to -- Nancy Howard has put together an excellent presentation that we hope will be incorporated in the new member orientation so that as we are going through this learning process together that you have a better understanding of just exactly what indigenous issues are and that you become more comfortable and have an understanding of those.

So, those are the two things I'd like to mention.

MR. HAMILTON: I just want to take a quick moment to think about Tom Goldtooth. We haven't heard from him. We're not

sure whether that's good or bad at this moment. We'll hope that no news is good news. So, we keep him in our thoughts.

MR. TURRENTINE: In other words, you don't know if he's still in Seattle or if he's on his way back.

MR. HAMILTON: Or if he's incarcerate in Seattle.

(Laughter.)

MR. GELOBTER: Richard Moore actually called Jose Bravo last night as he was coming out of a meeting, and there were actually gunshots and he started running at that point. This is like, I guess, probably 6 o'clock Seattle time. Then we found out later he was okay. He was in a van leaving the area, as he said. And he was just like in a meeting with funders or something; he wasn't doing anything funky or anything.

(Laughter.)

MR. HAMILTON: Anyway, just in conclusion, I would like to say this. That yesterday evening as we were listening to the public participation testimony, Jennifer and I kept nodding at one another because the phrases that kept popping up that we were hearing were things that we have heard for a long, long time in Indian Country. Like, they're killing off our people, we're being exposed to strange chemicals and new diseases, they're taking our land and moving us, relocation, and they're not compensating us justly. I mean, these are

all issues that we have dealt with for a long, long time.

We just wanted to say that, you know, it's a different face but it's the same thing. And we both kind of looked at one another and smiled and said, you know, they should be good at it now; they've had a long time to practice.

So, anyway, we just want to encourage each and every one of us to kind of dedicate ourselves to continue the fight. I think that in listening to the Reverend's comments last night, I think that we all need to look at that as kind of a plug-in charge and say, you know, let's try to do the very best that we can while we're here, accomplish what we can.

They talk about a war on drugs; well, we're involved in that same war, it's a chemical war, and it's against the poisoning and pollution of the earth, the place that we live and walk. We have very special spiritual connotations with that.

I just want to say to you all that we appreciate each and every one of you being here and the support that our committee is getting. Thank you.

MR. TURRENTINE: Thank you very much.

Volunteers? I don't mind calling on you, Marinelle.

HEALTH AND RESEARCH SUBCOMMITTEE

MS. PAYTON: I have finalized my report. In conclusion --

(Laughter.)

MS. PAYTON: The Health and Research Subcommittee agreed to draft a resolution to recommend guidelines for community research ethics.

Number two, we agreed to draft a resolution to request that EPA and other federal agencies discuss opportunities to fund community-driven environmental health research and research topics identified by communities.

Number three, we recommend to NEJAC, the Council, and to the Office of Environmental Justice, that the May 2000 NEJAC meeting include addressing environmental and public health provisions for federal agencies with allied health concerns to work cooperatively with the National Environmental Justice Advisory to coordinate a comprehensive response to the environmental and public health concerns of environmental justice communities.

We'd like to consider strategies to incorporate chemical accidents and community right-to-know into the decisionmaking process; devise a strategy to include a public health-based guidance into decisionmaking; to consider strategies to incorporate healthcare, public health, access to health care, economic burden, and psychological impacts into decisionmaking.

We'll also continue to further develop the decision tree

framework; plan a risk assessment forum in collaboration with EPA and other agencies, ATSDR, NIH.

And also, let me add, if there are any other NEJAC subcommittees that would like to work with us on this, we would appreciate you letting us know that.

We'd like to distribute copies of the ATSDR report that I told you about earlier. It includes an interesting article on economic burden of medical costs and loss of productivity.

And let me just add to this; this is just a comment. In this report only one community of color was considered. We feel that obviously work like this should include more communities of color because that's where you find the problem.

Also, we'd like to distribute -- I briefly mentioned this before -- a copy of the U.S. Chemical Safety and Hazard Investigation Board investigative report where they looked at chemical accidents. I don't know if any of you have seen this; I understand it was recently released. it comes from Dr. Jerry Poje's office. Also I'd like to mention, one thing that he did mention, is that there are an awful lot of chemical explosions that we don't know about.

Thank you.

MR. TURRENTINE: Thank you very much. And I want to ditto a comment that Marinelle made. That is, our collective desire

to have other subcommittees work with Marinelle in the Health Subcommittee in the planning for the May 2000 meeting.

So, those of you who have an interest or have the energy and want to provide some effort to that process, we would encourage you to get with Marinelle on that.

MR. LEE: Marinelle, can I ask -- I know that you had reported on a number of items that the subcommittee is working on or preparing. Are there any action items, resolutions, reports, or work products of any kind that you would like to forward to the NEJAC at this time for consideration?

MS. PAYTON: No, no. Not at this time. But we will have the two recommendations that I mentioned, and mostly likely a recommendation on community right-to-know and chemical accidents. We'd like to have the opportunity to meet with someone from Dr. Jim Makris' office and Jerry Poje to talk about ways in considering this. They would like to work with us on that.

Another product that will be coming, hopefully -- it's proposed -- is a prototype of the decision tree framework. We propose to have one available to present to NEJAC at the May 2000 meeting. And soon after that we hope to have something prepared to actually apply to communities.

Thank you.

MR. LEE: Thank you.

MR. TURRENTINE: Thank you very much. Who would like to go next. Arnoldo?

MR. GARCIA: Yes, I can go now.

MR. TURRENTINE: Hold on, before you do that, I want to be fair. The person that was expected to go next, you're not going to be limited to one minute, because we said we'd break for lunch.

MR. GARCIA: Right. That's what I was worried about.

MR. TURRENTINE: And so, why don't we do that, why don't we break for lunch. Go get our lunch and then come back and then we'll resume with Arnoldo where he will have the appropriate time to make his report.

MS. RAMOS: Haywood.

MR. TURRENTINE: Yes, I'm sorry. Rosa.

MS. RAMOS: Make sure the lunch is ready because the experience has not been that good.

MR. TURRENTINE: Staff, would someone make sure the lunches are ready. Hold on, guys, before we leave we'll make sure the lunches are ready, before we march down there.

Arnoldo, if you want to go on, we'll give you time to finish it, and we'll then go get our lunch.

MR. GARCIA: Okay. I don't care. Whatever is

convenient.

MR. TURRENTINE: Why don't you go ahead.

INTERNATIONAL SUBCOMMITTEE

MR. GARCIA: I was going to ask for a little bit of leeway. I'm not going to go over my time because --

MR. TURRENTINE: No, we haven't put a time limit.

MR. GARCIA: I wanted to start by giving a snapshot report on a significant activity that NEJAC sponsored this past summer.

We held the first Roundtable on Environmental Justice as the U.S./Mexico border in National City, California, which is very close to the Tijuana -- it's in the Tijuana/San Diego border area.

We had some 200 persons participate, representing all the stakeholder groups, with the majority -- at least over half of them being from community environmental justice groups from both sides of the U.S./Mexico border.

We had very important site visits, eye-openers for some folks, including I guess what we would call superfund sites. Also sites that list the names of -- when we were there, there were over 150 people that have died crossing the border. We visited the Migrant Wall which lists all the victims of the border policies of the U.S. at the border.

And then we had, of course, the traditional public comment.

1 Over 100 recommendations were generated by four
2 different work groups during the process of the gathering, the
3 roundtable. We had workgroups on environmental justice and labor,
4 indigenous peoples, environmental health and one on immigration
5 and the environmental.
6 They were pretty far broad-ranging recommendations that
7 came from the community groups in particular, given that this has
8 been an agenda that has been on the table a while -- so a lot of have
9 built up and there's a lot of needs and demands that need to be
10 addressed and are being called for.
11 However, there were three top recommendations that came
12 out of a community caucus that was held at the roundtable. These
13 three are very key for the elaboration of environmental justice policy
14 on the border.
15 The first one calls for the formation of an environmental
16 justice body, a community-based body or a commission that would
17 be responsible for monitoring and helping in the development of the
18 environmental justice policy for the border.
19 The second top recommendation was the cleanup of two
20 major sites which have some U.S. responsibility embedded in them.
21 This was the Metales y Derivados site. It's an abandoned site in
22 Tijuana. And Condado Prestos, Prestos lock site in Ciudad Juarez.

1 The third was asking for a site assessment in Matamoros Tamaulipas
2 which is in the Brownsville region; it's a sister city of Brownsville. El
3 Gato Negro site in Laguna Madre which is right outside Matamoros,
4 bordering Brownsville.
5 I think that the roundtable really was a qualitative step in
6 initiating the dialogue that is now beginning to take shape between
7 the border community groups, EPA and other intermediaries, and
8 NEJAC as well, about how we understand international
9 environmental justice issues, both in the U.S. context in the
10 binational context as well.
11 Yesterday, to report on our subcommittee, we had Mr. Alan
12 Hecht from the Office of International Activities -- I'm sorry, I'm really
13 bad for titles -- I know he's the Assistant Administrator in the Office
14 -- for one of the programs, right.
15 We had from Region VI Mr. Gregg Cooke who is the
16 Regional Administrator. From Region IX we had Enrique Manzanilla
17 and Clarice Gaylord and various staff persons also from the
18 Environmental Justice and Border Office Programs.
19 Present for the discussion yesterday -- and the discussion
20 centered around three items. One is process issues. The second
21 item was around the top priority issues and recommendations. And
22 also priority areas for EPA and community involvement.

1 So we basically had a very interesting discussion and
2 dialogue about how we understand the issues of development and
3 toxic waste and racism and so forth at the border proper.
4 We've made a commitment to begin a dialogue on priority
5 issues that are going to be pursued over the next – in particular the
6 next 12 months as we begin to develop our report on the
7 recommendations from the roundtable proper. And it's going to be
8 directly involving community groups, EPA and others.
9 It's a very far-reaching process because the way we began
10 the conversation really was that I asserted that environmental justice
11 has equality, has parity; it's not a subordinate concept and our
12 communities are not subordinate to the concepts that dominate right
13 now some of the way that policy has been formulated around the
14 issue of sustainable development, and that we have to come to a
15 mutual understanding about how one is locked into the other.
16 In the barrio, of course, we try to -- in my organization and
17 I think other organizations, that justice and sustainability have to go
18 hand-in-hand and there is no other way around it.
19 Even in the EPA documents -- they did a very lengthy
20 response, a detailed response, to the recommendation, especially
21 the three top recommendations. And in that document, which I think
22 is in your binders -- I think it's in your binders -- it's marked with the

1 issue of community input. I mean, there is a phrase in there -- there
2 is an assertion in there that says basically that the community role is
3 indispensable to EPA. However, then it calls into question the top
4 recommendations of the roundtable in particular.
5 We were also presented with -- we are presented with a lot
6 of opportunities in existing institutions. Some of them have come out
7 more recently out of the North American Free Trade Agreement,
8 including the North American Development Bank, the Beck, the CEC,
9 the Good Neighbor Environmental Board. And there's others. I don't
10 know all the acronyms and all the names right now, but they're all
11 listed.
12 The thing is that EPA also has made a commitment to
13 integrate environmental justice into these existing institutions and a
14 commitment to work with communities on that integration process
15 itself.
16 Basically there's a lot of disagreement on how that gets
17 done because a lot of those agreements -- as you might remember,
18 the negotiation of NAFTA excluded the majority of our communities,
19 excluded the issues of environmental justice, excluded the issues of
20 immigration, trading the environment, the way we see the impact and
21 displacement of communities on both sides of the border.
22 The issues that were set up did not take into consideration

neither the environmental or labor side agreements that were negotiated -- did not take into consideration, much less included in the elaboration of those agreements which have not had a qualitative -- have not made a qualitative difference on our communities at the border.

As a matter of fact, people that were on the tour, for example, when we visited the Metales y Derivados site, our community guides that were the narrators that were telling us the story of the site, said, if there's any pregnant women on board, we recommend that you not get off the bus. That's how dangerous the site is. It has burlap things that are broken, dust is all over the place, batteries -- how do you call it? -- batteries are all over the place. You know, it's a disaster.

The communities are right down-wind from it, right across from the site. So it's not something that -- you walk by it -- you know, it's not like isolated; it's right in the middle of a community.

For example, when NAFTA was signed it did not take into consideration issues like that. In the discussion that we had yesterday, Gregg Cooke made the comment, as we were discussing the sites themselves, that this represented international brownfields and international superfund sites even though although in Mexico they don't have brownfields; of course, they don't have a superfund

to deal with these types of issues.

It was a very important opening because it was at least recognition that there are international environmental justice issues. It was a very important opening for our communities about how we advocate for environmental protection, how we advocate for sustainable development, how we advocate for a lot of different issues like brownfields.

You'll see in our action item list, although it needs some editing and so forth, that there is a commitment to formalize a dialogue that's going to expand and include community groups and so forth, with goal of having some very specific measurable outcomes, including the issue of the sites.

We had an update on the site clean-up issues. There's both legal approaches being taken and economic incentive approaches being taken, which have to be taken because of the limitations or mandates that our government has in the binational situation. However, that still does not satisfactorily address the demands that are on the table from the different community organizations at the roundtable.

In other words, we're going to use and combine both formal and informal mechanisms to be able to influence this process and also to develop new mechanisms and restructure existing

mechanisms in institutions to adequately begin addressing environmental justice at the border.

We're also recommending, based on some early experience, that EPA create a grant program for across-border projects, community projects. I think that there's some very important experience acquired by the South Africa Funding Program that comes out of Region III, as well as our South Africa Workgroup which is looking at these issues. Very important work has been done about how we do international environmental justice work.

So we're recommending that a grant program be established for across-border projects.

I think that the sentiment is that we were very encouraged -- it was a shared sentiment of encouragement, both from EPA, from the community groups that were represented by Jose Bravo in the meeting, and also by the International Subcommittee that we have engaged in a mutual process of developing deeper understanding of our languages, our desires for environmental protection at the border and also for its consequences for other communities.

We have stressed at every point that both the Environmental Executive Order, in particular, and other environmental protection laws and policies, they begin at the border. The border is not a special region. It's just like any other region in

the country. The difference being that the other regions that are next -- one of the qualifications, which is no small matter, is that it's also binational regions and that it brings into consideration different ways of thinking about the problems of environmental justice and the problems the communities are facing.

So we are going to begin over the next 12 months -- you'll be receiving our report. Actually, we don't have an -- in the subcommittee, but I would say in the next three months or maybe even quicker if we're lucky in the next period of time to turn that around as fast as possible. Also, to continue our conversations that Charles Lee has initiated in sounding out some of the issues that are raised by the demand for creating of a binational border environmental community commission.

We also received reports on the updates on the work in South Africa, which they'll be included with more detail in your action items, and so forth.

I'll leave it at that, and if there's any more comments from the subcommittee members on the Council and also from Charles and other folks in the meeting.

MR. TURRENTINE: Thank you very much. Yes?

MR. HILL: I'd just like to clarify it a little bit. We had Mexican NGOs and community based organizations at the border

1 roundtable, and we've discovered that there is no mechanism in
2 Mexico for these people to participate.
3 What we're trying to do is to try and get sort of NEJAC that
4 will include Mexican communities. The truth is that the Mexican
5 Government has not been forthcoming, or is not forthcoming, with
6 regard to environmental problems in the communities.
7 After we visited the site, we had a guy from the Attorney
8 General's Office for the Environmental Protection address our group.
9 He denied that there was a problem in the place that we had just
10 visited. He said the place had been cleaned up.
11 So the implications of international trade, unless there's
12 community participation on both sides of the border, you won't know
13 what's going on in Mexico because the government isn't going to tell
14 you. And if the community isn't allowed to participate at some level
15 with regard to bringing in the problems like the way they do with the
16 NEJAC, no one will ever know.
17 I mean, there's little children -- children are born without
18 brains in those communities. They're born with defects, mushrooms
19 growing on their bodies.
20 We're very concerned about that. And that's why one of
21 our first recommendations was a commission very similar to NEJAC
22 that would include communities from both sides of the border to tell

1 us the effects.
2 There is no border to capital; as a matter of fact, the La
3 Paz Agreement talks about the border really being extended at least
4 a hundred kilometers into Mexico. And those are the sites that we're
5 talking about.
6 We have not really achieved any kind of consensus with
7 the Office of Environmental -- the International Affairs Office, but they
8 did make a commitment that I would like clearly to be shown in this
9 record; that they will begin educating their Mexican counterparts,
10 especially in the Border 21 Project, with regard to public participation
11 in environmental justice toward the end that the Mexican
12 communities can also be heard with regard to these kinds of
13 problems.
14 That commitment was made.
15 MR. LEE: Did you want to make a comment?
16 MR. GARCIA: I just wanted -- we also have two
17 resolutions. I'm not sure how we're going to deal with those.
18 MR. LEE: The main thing I was going to ask was about
19 focusing on these resolutions that are actually on the table and
20 ready. You're going to forward these for action.
21 I just wanted to add to what Arnoldo said. He pretty much
22 covered a lot of things. I think we should not underestimate the real

1 significance of that border roundtable. I mean, in terms of the kind
2 of both education and concrete steps that have come out of that, I
3 think it's very, very significant.
4 I think the real difficulty is going to be in terms of finding
5 both the forums. Gregg Cooke, the Regional Administrator in EPA's
6 Region VI was talking about what the environmental justice -- what
7 the roundtable and issues of environmental justice raises, is the
8 inadequate reach of existing institutional mechanisms to address
9 issues in EJ communities.
10 The whole idea I think of this whole question of this EJ
11 border commission that the roundtable came up with is really a good
12 way to explore that. And that is really a multi-faceted set of
13 questions involved in there. So that's one thing.
14 The other is that I think Arnoldo and the subcommittee
15 could agree that there are many ways, many ideas that have been
16 generated in the past several months by all the relevant parts of EPA
17 and the Office of International Activities and in Region VI and in
18 Region IX about more fully merging the EJ strategies in those regions
19 and the border strategies.
20 Some of those are reflected in the idea about cross-border
21 grants kind of mechanisms and things of this nature which are really
22 quite creative. And there are a lot of opportunities to do that.

1 I think that's just one example of the real import and
2 significance of that border roundtable and I think the International
3 Subcommittee, all those people that worked on it, should be really
4 quite proud of what they've done.
5 MR. TURRENTINE: Marinelle.
6 MS. PAYTON: Thank you. Listening to all of the health
7 effects that he was mentioning along the border, I just see another
8 opportunity for collaboration between the Health and Research
9 Subcommittee and the International Subcommittee.
10 One of the articles that you'll be getting the ATSDR article
11 looking at medical costs and loss of productivity actually looked at
12 volatile organic chemical sites, superfund sites, and interestingly in
13 excess of 200 cases -- birth defects -- as they were talking about,
14 birth defects -- resulted in an estimated $68 million a year. I mean,
15 that's astronomical. Unbelievable. Thank you.
16 MR. TURRENTINE: Thank you. And, Marinelle, be sure
17 that you will work with Arnoldo and his subcommittee, and any
18 information that you can share with them, I'm sure they would
19 appreciate it.
20 Lunch is outside the door. You can get it and then come
21 right back. Oh, Rose Marie, I'm sorry.
22 MS. AUGUSTINE: When we're talking border issues, there

are a lot of indigenous communities along the border, on both sides of the border, that we also need to look at.

MR. TURRENTINE: I'm sorry, I was doing something else and I did not hear that comment. I'm sorry.

MR. HILL: I would like to respond to Rose's comment. We had a panel on indigenous issues on both sides of the border.

One of our concerns is our Mexican brothers on the Mexican side -- the Mexican government doesn't recognize Indians the way the United States does so virtually all those Tribes are unrecognized. There is just no way for them to participate. They have no -- very few of them have a recognized land base, and they're just isolated communities.

That really is a concern that was voiced in the Indigenous Subcommittee in addition to a generalized concern by the roundtable with regard to community participation at all in Mexico. That is a very particular problem in Mexico.

The other is with regard to the health effects. We had a very good panel on health along the border, and I hope that we'll be able to incorporate at least some of those findings in the May meeting.

MR. TURRENTINE: What I'm going to ask you to do is to get your lunch and come back and then we'll recognize Rosa Hilda

for a comment or question. We will continue this discussion, but I just wanted to do that. Some of us can eat while the discussion is going on, and we can move forward.

(Recess.)

AFTERNOON SESSION

MR. TURRENTINE: Arnoldo, I think you have some resolutions, I believe, coming from the International Subcommittee?

MR. SALDAMANDO: A what?

MR. TURRENTINE: Is there a resolution coming from the International Subcommittee for which we need Council action?

MR. SALDAMANDO: Yes, there are two.

MR. TURRENTINE: Can we get everyone's attention, please.

MR. SALDAMANDO: If it's okay with the Chair -- they should have been in your packet.

The first one is a resolution asking the Administrator to communicate with the State Department regarding the United Nations draft declaration on the rights of indigenous peoples. We worked with the Indigenous Subcommittee on this and we hope we still have their endorsement.

It involves essentially the right of indigenous peoples to

determine their own development priorities and control their own natural resources, both generally with Article III that talks about the right of self-determination, and more specifically, in other articles it talks about coastal seas, waterways, wetlands and other specific items. It includes the right to traditional medicines. Just the right to preserve themselves and their cultures and their lands the way we want to preserve them, which we believe is an environmental justice concern.

The resolution thus describes that draft declaration. It not only would include the responsibilities of the States in the United States to observe those rights, which they do to a degree already, but also in other countries -- but essentially, since our jurisdiction is somewhat limited, we believe it is appropriate to support the draft declaration as it's written on behalf of the indigenous peoples in the United States.

I don't know if there are any questions about it or comments, but that generally is the resolution and it would request -- it would communicate the finding that it is an urgent environmental justice concern with regard to -- the NEJAC considers it such, and would request the Secretary of State to support the draft as it is currently written.

Also, I think we included a copy of the draft in the

materials, as well as positions by the Navajo Nation, the Treaty Council, and my organization, as well as the United States position on the matter.

MR. LEE: So we're talking about Resolution Number -- we're talking about Resolution Number 8, right, in your materials? In your introductory -- there's a resolution to urge EPA to request the Secretary of State and U.S. Trade Representative to comply with provisions of --

MR. SALDAMANDO: No, that's the second resolution.

MR. LEE: Okay, that's the second one. It's backwards in here. So the one that you want to address first is the United Nations draft declaration of the rights of indigenous peoples?

MR. SALDAMANDO: That's correct.

MR. LEE: Okay.

MS. AUGUSTINE: Can I make a comment.

MR. LEE: Yes, comment.

MS. AUGUSTINE: Tucson is considered a border town; we're less than 100 miles away from Nogales/Sonora. And even though there is a political border dividing the two countries, there is no border to contain the contamination that occurs in Mexico and that is poisoning the people in Mexico and the indigenous people.

You know, we cannot stop the birds or the coyotes, or

anything like that, from crossing the border. We also cannot stop the contamination from the Mexican side into the American side.

So there are no borders, you know, to stop that pollution. We have to start looking at ways to force the government in Mexico to start protecting the environment. The groundwater table that is shared by Mexico in Nogales and in Agua Prieta is the same water table that comes into Tucson into the United States.

So we share a lot; not only our cultures, but we share the same environmental problems that Mexico has.

MR. TURRENTINE: The Chair will entertain a motion. Luke, do you have a comment?

MR. COLE: I had a question of clarification. I have -- this is from an earlier packet. I have a November 8th memo from Danny Gogal saying that there was going to be a rework draft of this.

MR. SALDAMANDO: Yes.

(Simultaneous conversation.)

MR. GARCIA: The thing you have in this packet is -- it's essentially the same resolution, except that we just edited out a lot of stuff. People didn't like all the whereases, so we just cut down on the number of whereases.

MR. COLE: Okay, never mind. Thank you.

MR. GARCIA: Otherwise it's the same language.

MR. COLE: Thank you.

MR. SALDAMANDO: Should there be a number attached to this one as well?

MR. TURRENTINE: There should be.

MR. SALDAMANDO: So that should be Number 9?

MR. TURRENTINE: And there will be.

MR. GARCIA: There will be. Don't worry, we'll attach a number.

MR. COLE: I move that we approve the Indigenous Subcommittee resolution -- or, the International Subcommittee resolution -- what number?

MR. TURRENTINE: Number 9.

MR. COLE: Number 9.

MR. TURRENTINE: Is there a second?

MS. MILLER-TRAVIS: Second.

MR. TURRENTINE: It's been properly moved and seconded. I'm sorry, I think -- let's go through this process again. The court recorder did not hear -- who was the second? The second was?

MS. MILLER-TRAVIS: Second.

MR. TURRENTINE: It has been properly moved and seconded that we accept the resolution coming from the Indigenous

Peoples Subcommittee, Resolution Number 9. What's your pleasure? Are there any questions on the motion?

(No audible response.)

MR. TURRENTINE: Ready to vote? All in favor, let it be known by the usual signs of aye.

(Chorus of ayes.)

MR. TURRENTINE: Opposed have the same rights.

(No audible response.)

MR. TURRENTINE: The ayes have it, and so ordered.

MR. SALDAMANDO: Thank you very much. The second resolution is actually somewhat timely. When we began the task of writing this, or proposing this, we were somewhat skeptical about it, but we decided to go ahead.

It is a resolution to urge EPA to request that the Department of State and the United States Representative comply with the provisions of the Environmental Justice Executive Order.

We were a bit skeptical at first. The resolution before you has been changed somewhat. When we first brought the resolution, we were under that 30-day deadline, we were told there was a 30-day deadline. So we tried to get it in sometime around the end of October.

On November 15th, I believe, the President issued another

Executive Order requiring that in all international trade agreements that there be certain environmental considerations made and that where potential impacts -- where there were potential environmental impacts, that those might be subject to environmental review, including the element of public participation. That is Executive Order 13141 of November 15th or 16th, 1999.

So we've included language -- last night we included some language referring to that Executive Order as well. So this resolution before you now includes a couple of whereases with regard to Executive Order 13141, which would make those requirements.

In addition to that, I was watching the news this morning where the President told the World Trade Organization that they should also include -- there should be environmental considerations made with regard to international trade agreements.

We take the liberty in this resolution of saying that those impacts are exactly the -- are the kinds of impacts required by the Environmental Justice Executive Order, which would be disproportionate impacts on people of color and low income populations, as well as Indian tribes.

So, it may be a very timely resolution now, much more timely than before. But it does request that the Administrator communicate with the State Department as well as the United States

Representative and ask them to comply particularly with the Environmental Justice Executive Order.

It also goes on to ask that the President -- that she seek designation by the President in order that they be included among the list of agencies covered by the Environmental Justice Executive Order.

One of the problems that we foresaw was that agencies covered by the Executive Order are defined under the Executive Order as those listed, and the State Department and the Trade Representative are not particularly listed.

So we've gone ahead and asked her if they want -- actually, it's not an "if." We've asked her not only to ask them to comply with it, to do their assessments, and to participate in the interagency task force. But we're also asking her to seek to ask the President to designate the Trade Representative and the Department of State, where appropriate, as agencies covered by it. So that's essentially what the resolution would do.

MR. TURRENTINE: Is there a motion for acceptance?

MR. COLE: I move that we approve this resolution.

MS. MILLER-TRAVIS: Second.

MR. TURRENTINE: It has been moved and properly seconded that we approve this resolution. Is there any discussion on

the motion or the resolution?

(No audible response.)

MR. TURRENTINE: Prepare to vote. All in favor, let it be known by saying aye.

(Chorus of ayes.)

MR. TURRENTINE: All opposed?

(No audible response.)

MR. TURRENTINE: Let the record show that on all three actions taken by the Council today thus far, there have been unanimous votes in favor of. There have been no no votes and no abstentions.

MR. SALDAMANDO: Thank you very much.

MR. TURRENTINE: Does that conclude the resolutions from the Indigenous Subcommittee?

PARTICIPANT: International.

MR. TURRENTINE: I'm sorry, International. I am sorry, International.

Michel, do you want to go now?

MR. LEE: No, no.

MR. TURRENTINE: Hold on, Michel.

MR. LEE: We needed to go back to the Indigenous Subcommittee --

MR. TURRENTINE: Oh, that's right, the Indigenous Subcommittee and also the Health Subcommittee, we did not -- in an oversight on our part, we did not ask for any discussion or any comments from the Council regarding the reports that were given.

If there are such comments or discussions to be offered, we would ask you to do that now, and then we'll go to the Air and Water Subcommittee.

Vernice.

MS. MILLER-TRAVIS: I'm going to speak from Peggy's mike because I gave her something that she probably has in her hand right now. It's a report that Marinelle talked about which actually emanated out of some research that was done in New York City about the health effects and birth effects present in communities surrounding hazardous waste sites.

So we want to look at pursuing that jointly with this subcommittee -- between the two subcommittees -- in preparation for further discussion of that issue at the upcoming NEJAC meeting in April.

MR. TURRENTINE: Thank you. Are there other? Yes, Rose.

MS. AUGUSTINE: Maybe it would be appropriate to have the staff make copies of that report so you can take it with you and

you can start reading it now. It's very important.

MS. MILLER-TRAVIS: We requested it already.

MS. AUGUSTINE: For all the NEJAC?

MS. MILLER-TRAVIS: Yes.

MS. AUGUSTINE: Good.

MS. MILLER-TRAVIS: They're already working on it.

MR. TURRENTINE: Are there other questions or comments for either of the two subcommittees, Indigenous or Health?

(No audible response.)

MR. TURRENTINE: If not, we will now hear from the Air and Water Subcommittee.

AIR AND WATER SUBCOMMITTEE

MR. GELOBTER: Thank you. Most of the subcommittee members are sitting right here in front, as they do for the entire process of the NEJAC. They're like -- they're ex-officio Council members.

Basically we have four -- we have a bunch of major areas of activity, and I'll just go through them: cumulative permitting, urban air toxics, public utilities, fish consumption, Tier 2 air regulations, total maximum daily loads in water, and those organized pigs again, just generally speaking.

Our approach has been, at this early phase anyway, to focus really on impacting regulations as they come out and on ensuring that as they're rolled out, local communities are in a position to have -- to influence a state and their local governments about how they're going to be doing a variety of fairly aggressive things that EPA is now putting out on the street in the next year or so, or has put out in the last year or so.

One more broad workgroup we have on cumulative permitting is headed by Clydia Cuykendall who is sitting up front there, who is an attorney at J.C. Penney and used to be an attorney for Norco. She has a fairly large workgroup under her; several of our committee members sit on the workgroup, as well as some external stakeholders.

Basically, as I said earlier in our comments, the discussion in the panels on permitting were incredibly useful to helping us focus on the next phase and to really give some teeth to our committee's work on cross-media or cross-facility permitting.

In particular, we did discuss the offset issue a great deal. And I would say that towards the end we really tried to focus in on those elements that are specifically going to be beneficial to environmental justice communities.

I'm sorry I didn't raise the specifics earlier, but I'll give you

a couple of examples of the kinds of triggers that the Agency and we suggested be used before this kind of an offset situation be used.

First is that there be clearly identified disparities that this program is aimed at addressing. First of all. It's not out there for industry to use generally; it's out there for EJ communities and in places where we know that there are cross-media or single-media heavy toxic loads. And that it be designed in a way to have a direct impact on that.

Second of all, the Water Office -- and we didn't speak to OSRA -- but the Water Office clearly sees one major thing that's going to force polluters into this kind of a framework are the three-year renewals of the total maximum daily loads.

Every three years water basins have to renew their plans for all the pollutants that are in them, and they think that as those roll out, that's going to force a bunch of people into programs like this.

Second of all, the new state implementation plans that the Air Office is doing, as they renew them or modify them, that will be a major trigger or mechanism for moving people into these offsets.

Again, the offsets will be clearly focused and targeted to places where there are identified EJ issues around toxic loadings.

We're going to monitor this process very closely for the Air and the Water Office, at least, and in particular we're looking at trying

to put together a series of -- as I said earlier, one of the generic approaches we're taking is producing materials or manuals that are very directly useful and understandable and useful to communities in impacting the broad activities of these very broad offices.

So in this arena one of the things that is already going to happen is we're going to be putting together with the Office of Air, at least, and maybe Water -- I'm not whether we discussed it that much with them -- a citizen's guide to grandfather facilities. E.g., what are the things that -- you know, a lot of facilities are out there and grandfathered and just kind of like, you know, oh, hope nobody notices, you know, that we were supposed to file Title V last year, or that we were supposed to upgrade our permit, or that we built a big facility but we didn't file for a new permit.

It's going to be a very simple -- probably no more than a three-page sort of set of very bold questions that communities should be able to clearly understand. And they'll know. They'll say, well, actually, they did build that big building last year; well, they should have had a new source review permit, and maybe they didn't.

So it's something that really indicates -- you know, the Agency and Washington, they're very far removed from the field, obviously, and they have a sense that they are covering the grandfather facilities. And we know that they're not in many cases.

Having clear guidance to communities -- not to states, not to industry -- about what they should be looking for to have happened to these old nasty things that are sitting in their communities I think will be a very useful piece.

We're also asking them to put together a similar list to the Lazarus list of EJ authorities -- of authorities in existing -- EJ authorities in existing law for cumulative permitting, which probably exists in a number of forms already, but we're going to ask them to pull it together specifically in a way that's useful to EJ communities.

So those are our activities on cumulative permitting.

The urban air toxics strategy -- we had a report that I don't think has actually been formally submitted to the full NEJAC because we wrote it last February or April -- or, March, rather. We have it here and I'm submitting it to the record now. I think Wil already did do that.

Since then a lot of our discussion was about, okay, how seriously did they take the comments we put in the report? We had over 200 recommendations in this report that although it wasn't submitted formally to the NEJAC, the Agency took into account during their final rule promulgation.

There continue to be fairly significant outstanding concerns about their implementation of the urban air toxic strategy. Basically

they're required under law to come up with a way to reduce toxic loadings in cities particularly, but there are rural elements to it as well.

So we had a discussion about some of the larger outstanding concerns, a lot of which have to do with how do they choose the pollutants, where are they going to be putting the monitoring, and what kind of monitoring is going to be done around urban air toxics.

Where we're at in the process is that they are now -- that the EPA sort of feels like it has its marching rules, so to speak. It has a guidance out and a set of actions it's going to take at the national level. But there is in fact another year that we're in the beginning of right now before state and local guidance and programs are expected to really start.

So we're going to try to operate at the intersection of those two things. EPA is implementing at the national level and doing sort of guidance development at the state and local level.

There is a workgroup that the Clean Air Act Advisory Committee, of which four of our members are also members, that has convened that will meet five or six times over the next year around state and local urban air toxics programs before they're actually implemented.

What we are hoping, and our office has been very cooperative on this, is that we'll actually be able to structure public hearings or workshops around the country on the urban air toxics process that will accomplish two things. First, the Agency does still have decisions to make about monitoring questions and technology choice questions and other things like that, and those workshops or meetings will be an opportunity for communities to have an input as EPA is doing its piece that is sort of now somewhat set in stone though there is still a lot of discretion.

Second of all, it will be a way to sensitize state and local officials as that process is moving forward and to try to actually generate real EJ impacting pilot projects at the state and local level on urban air toxics when they start rolling out at the state and local level.

There is going to be continued monitoring of progress. The Chair of this workgroup is Damon Whitehead who wasn't able to make this meeting; but Elaine Barron has also joined the workgroup. And Barbara Warren, who is in the audience, did a lot of the work as a workgroup member who is not on the full Council.

Again, one other thing that we hope will emerge from this meeting process -- we're sort of inspired by Charles Lee's example on brownfields -- is maybe a slightly more -- I don't know how many

-- I didn't see any really citizen-friendly; I saw some great reports on brownfields, but there may have been brownfields materials generated -- but we're looking to model materials so that in a year when state and local governments start acting on urban air toxics, there's the something the communities can have in their hands about what this means and what they can do in the process as well.

The next area is public utilities. I want to get up and present on that for a second.

We had a very broad-ranging discussion. We're just starting to

MR. TURRENTINE: You have to use the microphone.

MR. GELOBTER: Microphone and everything? Okay.

So, we had a really, really interesting discussion on public utilities. It really came up -- and we had a meeting in June of this year in Washington. It was right after the National Ambient Air Quality Standards had been challenged largely on the basis of utility rates -- utilities in the Midwest, as well as something called the NO_x SIP call, which you'll understand in a second based on one of the overheads.

Basically we felt going in that we had two major goals for addressing them. First of all, there really hasn't been a look at the EJ impacts of energy generating facilities, really, in the history of looking

at this stuff. We looked at refineries, we've looked at toxic waste sites, but we haven't really looked at energy generating facilities. And there has really not been that much look at the rest of the fuel cycle, though there has been some more of that.

Second of all, as a way to get at some of the real obstruction to new and better National Ambient Air Quality Standards is -- it has been the public utility industry. That's really where fighting has happened, and we felt that we needed to take a look at what was going on with those.

You know, as Rob reminded us over and over again, when we talk about the National Ambient Air Quality Standards being tightened or changed, we're talking about tens of thousands of lives a year, compared to toxics, which are very important but by risk estimates, anyway, account for more like thousands of lives per year. It's another order or magnitude.

Folks should know that energy generally, from beginning to end, accounts for 80 percent of all pollution, flat out worldwide. You know, it's a way to think beyond the individual facilities to understand where they fit in a system that we are all participating in.

Just briefly I want to share with you three pieces: sort of focus on big plants, small plants and renewables. And there is also an air and water dimension to both of these. Right? For example,

one witness we weren't able to bring here was going to testify about the impact of hydropower on fish in the Great Northwest and the decisions that are happening around hydropower facilities in big dams.

This is the big plant stuff (indicating). We had an industry representative for PSC&G, one of the more progressive utilities in New Jersey -- we invited Edison Electric Institute, which is the industry rep; they never returned any of our calls over a three-month period despite the fact that, you know, EPA suggested we invite them, and so on and so forth. So they didn't come.

This is a map -- let's talk about coal. We all know coal is pretty nasty. Well, 50 percent of all the coal generation is in cities. Right now, 50 percent.

Second of all, the 50 largest mercury emitting power plants, 90 percent of the power they generate is generated within 50 percent of a city.

Now, when I said the NO_x SIP call earlier, this has to do now with the impacts of these kinds of facilities. You see here that this is where the power -- that the NO_x is generated, and this is where the wind blows. And there is a big disparity at a regional level.

So plants impact their local environment significantly and they also impact the region and the glob significantly.

The SIP call was an attempt by EPA to say, okay, the ozone control zones are one thing, which are supposed to be sort of multi-state entities, but in fact, we need to go beyond to 22 states to try to start regulating these pollutants. And the industry came back, hit very hard, and at this point it's before -- is it the Court of Appeals or the Supreme Court? Rob, the SIP call? The NO_x SIP call is before the Supreme Court or Court of Appeals?

MR. BRENNER: Court of Appeals.

MR. GELOBTER: Yes. So there is a major challenge to that and EPA is fighting back.

Now, another major piece which I didn't mention up front is energy -- I'm sorry, there's also -- when we think about the local impacts of the fuel cycle beyond the MSAs, we also have to think about where the energy comes from.

As we move along this process, whether we go toward global warming with more coal use or away from global warming with more nuclear use, Indian Country and indigenous country around the world is going to be one of the places that continues to e hit hard.

And then there's disposal at the tail end. Is it fly ash on a coal plant facility or is it actually disposal ash off site at some other place and nuclear fuel rods and the whole nine yards that we can imagine.

The regional effects I talked about there. There is also an energy deregulation element here, which is particularly alarming. It was raised by one of the people who gave testimony the first night and he provided further discussion at our committee meeting.

This is an example of when there was wholesale deregulation, when the Federal Government allowed -- and these slides are from the industry person who came but we thought they were really to the point. When wholesale deregulation was allowed in 1995, you see that in a three-year period after that there was a 2.4 percent increase in coal generation.

What's even scarier is this slide, which shows the amount, depending on where you are in the country, of excess coal generating capacity there is. These are mostly grandfathered plants, and these are plants that are going to try to put each other out -- put their competitors out of business. Coal, at this point, is one of the cheapest forms of energy; because it is so disfavored, its price has dropped.

But at the same time, a lot of plants are going to be trying to ratchet up what they are supposedly permitted to do. A lot of plants that said that they were going out of business ten or fifteen years ago, they've been in operation 30, 35, and 40 years, and they may try to operate for 60 years.

PSE&G, for example, I think has committed to phasing their coal out in 2010, and they're worried about competitors in the midwest, whose plants should have been phased out maybe in the same timeframe, going to 2050.

MS. MILLER-TRAVIS: Michel, can I ask a question?

MR. GELOBTER: Yes.

MS. MILLER-TRAVIS: The MACC one, I assume that's the northeast, or at least that's where we live.

MR. GELOBTER: New York is MPCC and MACC. Yes.

MS. MILLER-TRAVIS: So over there it says 39 percent. Does that mean they have the capacity to increase production by 61 percent?

MR. GELOBTER: A coal plant would normally at -- a coal plant really can't operate beyond 80 percent capacity factor. So you can expect that these folks will try to move to 80 percent.

MS. MILLER-TRAVIS: So another 40 percent?

MR. GELOBTER: Yes. They could double their coal generation over the next few years. And they would just undercut prices. I mean, the free market at work. That's what could happen.

So, anyway, I thought that people should see these slides. I'm sure this will have impacts on several of our other committees, and it's something that we are -- we formed a workgroup around Dan

Greenbaum who is the former commissioner of Massachusetts and the head of the Health Effects Institute. He's going to head that and we will have some renewable people on there and other folks.

Let me talk a little bit more about -- let me finish this piece before I take questions because it may address some of your questions.

We looked at small plants. One of the alarming pieces of news that we got, or that we were reminded of, was that under deregulation a lot of big companies are now just putting plants on site. Right? You know, you need energy; why buy it off the grid? You can save a huge percentage on the cost by just putting a small generation plant on your facility. It's some of what's happening in California and it's a major concern that people should watch out for.

Finally, in terms of renewables, there was a lot of concern regarding the testimony we heard yesterday from Mr. Singh. You know, the fact is that there should be consumer protection. When you buy energy, you know, from the Midwest, that's wheeled over through the grid, you know, shouldn't there be rules about what that product should look like, what its impact or its footprint is out back in the world. You know, I think he said we regulate hamburgers and drugs, why not the electricity that you're sold?

There are major issues for low income communities in

terms of pricing here. As we go into deregulated industry, what is going to happen to the lifeline support for low income communities and communities of color?

We also discussed a few specific cases, particularly the anomaly that Puerto Rico represents in this in terms of the kinds of fuels they are allowed to burn, and that's a resolution that we're specifically presenting at the end of this report.

We have a new utility workgroup. Some of the first steps -- we are going to define how we're going to take the next steps on this, but some of the likely things are trying to get a quick look again at some of the data on where EJ communities are affected specifically by these kinds of facilities, and the low income energy issues in particular.

We have a resolution on Puerto Rico that we'll read at the end.

Any questions on the utility thing? Let me finish the report and then take questions. Okay?

We also have a workgroup that we formed a while ago -- well, we're also asking for approval of our workgroup formation on public utilities. We did form a workgroup the last time on fish consumption that has not made a lot of progress.

There's been initial outreach to native communities on this

by Kathy Hill, who is no longer now a member of the committee. Annabelle Jaramillo is taking over that workgroup, building her work on the work plan there. They had four parts. Focus on consumption, monitoring, advisories and exposure reduction, with an overall goal of tracking back through fish to actually reducing contamination.

That's a goal we share with the Office of Water. We are going to start trying to move forward on that more aggressively and start to propose other members of that workgroup also.

On Tier II we had a joint session with the Enforcement Committee. Tier II is basically a situation where the EPA is going to reduce the amount of sulfur in commercially sold gasoline. That's going to have impacts back at the refineries. We're going to have to tighten their production processes to produce cleaner fuels, but more than likely will emit more locally as a result.

There are a lot of concerns. Richard Drury came over form the Enforcement Committee to help us with this. There are concerns about mobile to stationary, basically trading, where facilities who will be producing that cleaner fuel will be able to trade off their new emissions potentially against the reduction in emissions within the counties they operate in, for example.

There's some concern that the offsets that EPA has agreed to potentially provide may not be legal in the sense that they are

supposed to surplus under the law, and it's not clear that if the offsets are being created by the rule that you are putting out, that that's really a surplus that the industry can claim.

Finally, I think we were somewhat relieved that there have been many cases that new source review would be triggered that the changes that these plants would have.

Actions on this specifically -- and Richard engaged in a long conversation, so there may have been more afterwards; he engaged with the Agency -- and there will be some tight monitoring, I think at least on Richard's part, and we'll talk about whether we can continue to have an involvement in a significant way.

But, first of all, we have asked the Agency to provide -- to create, again, a short two-page document listing -- there are about six or seven reasons the Agency is convinced that this is not a problem. They are regulatory reasons.

We've asked them to provide it in a way that communities can make sure that those things are in fact happening, that new source review is being triggered, that there is a reasonable amount of reduction in emissions in their counties if there is an increase someplace else. So, stuff that is supposed to happen that citizen monitoring of and enforcement of is going to be critical; a simple flier, again, saying here are the six or seven things that, as your plant

1 changes its process, you should watch out for.
2 Second of all, demographics. Again, we're going to start
3 looking at which EJ communities, specifically low income and people
4 of color communities, are most affected by this change in technology.
5 Then, not finally, but almost finally, we did look briefly at
6 corporate average farm organizations.
7 (Laughter.)
8 MR. GELOBTER: Cumulative agricultural feed. I don't
9 know. Anyway. I know what they stand for. It's just too many words
10 and too many acronyms in one day. The pig places. The hog farms.
11 (Laughter.)
12 MR. GELOBTER: We were very, very skeptical of the
13 permitting programs that the Water Office put forth. At one point
14 Dana Minerva -- I'm not sure she's here -- actually told the presenter
15 to be careful about over-selling things. I think there's a history in
16 water that is I think similar in some ways to the history that I think the
17 Air Office is facing now and why we're seeing so much regulatory
18 creativity in the sense that there is an obligation here to permit tens
19 of thousands of facilities potentially and no capacity at the state level
20 to run permit programs and then no capacity at EPA to run permitting
21 programs.
22 So there is a category of general permits that looks like it's

1 going to be in effect for the next four or five years, followed then by
2 specific facility permits. A general permit would be a state-wide
3 permit. It gives citizens some standing to sue but it's not facility-
4 specific, it's not widely enforceable, and, you know, if you look at the
5 history of the Clean Water Act where similar things happened in the
6 early '70s, it can be a big joke. It can end up being a very big joke.
7 So we basically felt that this was primarily an enforcement
8 issue because the places they have been effective is when a state or
9 facility says, well -- because one of the loopholes here is that the hog
10 farms say they're not emitting anything. So all EPA has to do,
11 obviously, is just go stand next to them for a minute or two and find
12 out that that's not true.
13 That has been an effective way. We've asked them to
14 actually -- because the Enforcement Committee focused on policy
15 issues, in their resolution we actually have added an enforcement
16 provision because we think, as policy people, that is the only solution
17 right now.
18 But fundamentally we think that they have to be engaged,
19 as you'll see from the resolution, in going out and doing EPA federal
20 inspections on hog farms for states that are not interested in doing
21 permitting, so that they can tell those states, you're in trouble if you
22 don't do permitting because there are emissions. Also to educate

1 states that have not thought about this issue yet that the few facilities
2 they may have, may have problems in the long run, and to bring
3 states who are recalcitrant to the table in terms of permitting
4 programs.
5 How we're going to accelerate the overall permitting
6 process, I trust the language of the resolution proposes some ways
7 to do that, but that's direly needed here.
8 Finally, we discussed the water agenda a bit and we are
9 going to basically pursue more discussions. They laid out for us their
10 longer term regulatory agenda -- their regulatory agenda for the next
11 year or year and a half. I won't go into that right now.
12 One other thing on the feedlots. The Water Office did
13 commit to investigating the situation that was raised to us in
14 Oklahoma and will conduct an investigation and hopefully send field
15 agents out to find out -- to show that those facilities need permits like
16 everywhere else, and they're in violation of a series of Clean Water
17 rules.
18 There are a lot of issues. I'd say a lot of the issues -- what
19 we're most interested is in water generally because they're looking at
20 tightening a lot of the big Clean Water Act regulations over the next
21 year or year and a half -- is bring communities of color to the table in
22 conversation that has been predominantly dominated by contractors

1 -- because there's a lot of money in this stuff; a lot of facilities get
2 built, a lot of cement gets poured -- and by pretty specialized
3 environmentalists from some of the big environmental groups and
4 stuff. But communities -- I used to be a water official in New York
5 City; it was very hard to involve EJ communities in these very wide
6 ranging discussions on very wide ranging regulations like total
7 maximum daily loads.
8 Particularly there are also issues of concern in Indian
9 Country and trading because there are going to be water bodies that
10 are shared, jurisdictions with Tribes. And if there does start to be
11 reallocation of loads within a watershed or district, how are the
12 jurisdictions going to be determined there, et cetera.
13 So we're really still working out how we can best make an
14 impact there.
15 Finally, indeed, we are looking at -- we have one additional
16 generic concern that was raised in the committee. That was the
17 concern over the effectiveness of legal strategies and public
18 participation.
19 We've asked the Agency to think about benchmarking that
20 a little bit so that we can tell whether in fact those things do work,
21 because we've heard a lot of testimony that it's problematic, there's
22 a lot of research to the effect that, you know, going to public

hearings, it was going to change the fact of your community when it comes to pollution. That there are other strategies, like political mobilization, et cetera, that don't fall under the bailiwick of environmental regulation, and we're interested in looking at that.

I think that covers most of what we do. We do have one resolution. The Enforcement Committee will be putting our stuff in their CAFO resolution. We have one resolution on Puerto Rico that I'll ask Rosa. Has it been around yet? Can we pass it around. We'll consider that after questions and stuff.

MR. TURRENTINE: Thank you, Michel.

MS. RAMOS: Do you expect me to read it?

MR. GELOBTER: No, just pass it round.

MS. RAMOS: Okay.

MR. GELOBTER: We'll discuss it, and if there are any questions.

MR. TURRENTINE: Are there any questions or comments for the -- yes, Don.

MR. ARAGON: Just a couple of items, Mr. Chairman.

First of all, I appreciate your report. It was very informative and very thorough. I hope that the information on the coal fired power plants is handed out to the rest of the NEJAC people because this is of great concern to us in our area because we have air quality

problems in Wyoming.

But I would also like to see the nuclear incinerators included into the air concerns since this is a permitting problem in our area. Like I noted the other day, Idaho is permitting a nuclear incinerator in the Idaho Falls area, which will greatly impact the people of Wyoming.

The other thing, Mr. Chairman, I think that the Health and Subcommittee should also work with the Air and Water Subcommittee, especially on power plants because of the asthma problems. Also, the fish consumption, which are serious health problems for Native American people and other individuals that consume fish.

So, if the subcommittee and this organization can work together on these health issues, I think that would be in everyone's best interest. Thank you.

MR. TURRENTINE: Thank you. Are there other comments or questions?

(No audible response.)

MR. TURRENTINE: If not, Rosa, do you want to move this motion -- this resolution, rather?

MS. MILLER-TRAVIS: Was that a resolution

MR. GELOBTER: Could you discuss it a little for a second

first? Yes, there's a resolution that just got handed out.

MR. TURRENTINE: Yes, that's why I asked Rosa Hilda to give us the background on it.

MR. GELOBTER: I'm not going to read it. Just tell them why we have it.

MS. RAMOS: Okay. You know, Puerto Rico has a very particular problem related to the power plants. The root of the problem is that the state regulations do not include federally-enforceable emissions limitations.

What that means is that the state does not prohibit the power plants to emit particular amounts of pollutants. So the power plants can emit all the sulfur dioxide they want because there is no limitation. Also, they emit three times the amount of particulates, or dust, that is contemplated in the Clean Air Act.

Because of that, and because of the type of fuel these power plants use, which is a very dirty fuel -- it's a fuel that contains 1.5 percent of sulfur – there is a great impact in the community.

The type of fuel that the power plants use is a residual oil that in order to be considered a clean fuel should have no more than .5 percent of sulfur content. One percent is considered an intermediate fuel in terms of contaminants, and 1.5 percent is considered a dirty fuel.

The National Air Quality Standards reflects the impact of those particulates into the air. We have been a non-attainment area for 20 years. EPA ordered the state in 1993 to revise its state implementation plan to solve this problem.

What they did -- unbelievable, but it is true -- is to remove even more the limitations in the non-attainment areas. So in the non-attainment area of the Cataño/Guaynabo area there is no particulate emission limitation. This contravenes the Clean Air Act and, of course, hasn't solved the problem.

So this resolution -- because this non-attainment status has been corroborated for more than four years, the EPA guidelines require that the state implementation rules must be revised. And this is what this is all about. We're asking EPA to ask the state to review its rules in order to incorporate the minimum federal standards for particulate and sulfur dioxide.

We also are asking EPA to ask the state to force these power plants to use a clean fuel as the strategy to eliminate the non-attainment area. Also, by the use of this clean fuel, we are asking them also to include continuous monitoring mechanisms of the sulfur dioxide emissions into the air.

You have to remember that Congress discriminated against Puerto Rico and we were excluded from complying with the

acid rain program. You know, the states in the mainland have to reduce significantly all their sulfur dioxide emissions using the -- I think it's a 90/90 emissions as baseline. We don't have to do that in Puerto Rico because it doesn't apply to Puerto Rico.

So, using a clean fuel and having the minimum emissions standards will protect the Puerto Rican citizens in more or less the same manner that the citizens living in the United States.

Monitoring the emissions continually, the community will be protected from criminal actions committed by the power plants that have been corroborated. This is an egregious violator. They have been convicted criminally. They are right now on probation. So, by having this surveillance system continually in the plants, it will guarantee no foul play within the Agency.

This is a win/win situation for everybody. There is enough technical data to sustain and support EPA actions, and certainly the community will support EPA in these actions in our community.

Thank you.

MR. TURRENTINE: The Chair would entertain a motion. Do you have a question on this, Vernice?

MS. MILLER-TRAVIS: Yes, but you seem pressed to want to move.

MR. TURRENTINE: Well, I know that we have two other

subcommittees that have to report, and I know some people have to leave by 2:30 to get to the airport. I have to have a quorum to act on all of the items.

If you've got a quick question that does not require a long response, I will entertain that.

MS. MILLER-TRAVIS: I'll make it quick. I'll just say that Rosa Hilda and her community tried to address these issues officially.

Michel, you need to hear this.

MR. GELOBTER: Yes.

MS. MILLER-TRAVIS: Rosa Hilda and her community tried to address these very issues that are raised in this resolution officially with the Justice Department and EPA Region II by intervening in a consent decree process around a PREPA facility in Cataño.

I will say that while Gene and Melva Hayden worked really hard to get the Region II people to the table, the people responsible for oversight and enforcement of this issue were reluctant at best to address the communities concerns.

The Justice Department sat down with them at the table extensively, but at the end of the day would not address and did not feel that they could within the context of a legally enforceable consent

decree get PREPA to do the things that you're asking them to do in this resolution.

So I think we sort of need to talk about what is the political strategy to get the Agency to do enforcement around these issues when they have exhibited in their own legal constraint reluctance to address those issues. So that's something that I think needs to be factored in.

The second thing that needs to be factored in is, a woman came before us last night from the District of Columbia. I just want to draw the parallels to the unique political status of the District of Columbia and Puerto Rico in not being able to get equal enforcement of existing federal environmental statute and regulations because of their unique political status.

That's something that we keep bringing up resolutions, but the resolutions are not -- of course, this is a much bigger issue than anything that we can deal with constructively in this Council. But it needs to be put on the table and it needs to be a part of the record that we are going to keep coming back having conversations about enforcement issues in Puerto Rico and in the District of Columbia because they have a unique political status that does not provide them the protection that the other 50 mainland states have -- well, 48 mainland states have.

I think that needs to be recognized and entered into the record, but it's going to create continued problems for us in our subcommittee work to try and address those issues when the Federal Government is not trying to address those issues.

MR. TURRENTINE: Thank you very much. I do appreciate your bringing that parallel to the Council.

MS. AUGUSTINE: I'll move the resolution.

MR. TURRENTINE: There has been a motion to accept the resolution. Do I hear a second?

MR. COLE: I second it.

MR. TURRENTINE: It has been properly moved and seconded. Are there questions on the motion? Luke?

MR. COLE: I have a friendly amendment. In the fifth "whereas," it says, "the state cannot control non anthropogenic emissions, it can control non anthropogenic emissions." I would move to strike the second "non."

MS. RAMOS: That friendly amendment has been accepted by the proffer of the resolution. And there has been a proper second.

MS. JARAMILLO: Just wordsmithing; things like that.

MR. TURRENTINE: Go on.

MS. JARAMILLO: Haywood, I'm not sure that we need to

spend a lot of time on them. It's just adding the appropriate pronoun before -- so, we don't need to do that right now.

MR. TURRENTINE: Okay. Are there other questions on the motion?

(No audible response.)

MR. TURRENTINE: Prepare to vote. All in favor, let it be known -- I'm sorry, did someone have --

PARTICIPANT: I'm just -- Michel is over there --

MR. TURRENTINE: Oh, yes. Michel your motion is being voted down. Are you sure you want that to happen?

(Laughter.)

MR. LEE: Too many ex-officio members, right?

MR. GELOBTER: You know, I would appreciate it if we could just table it until the general business section so that I could talk to my committee just a little bit more. But we anticipate moving this forward today.

MR. TURRENTINE: What general business session are you referring to?

MR. GELOBTER: You know, when we're doing the other general resolutions.

MS. MILLER-TRAVIS: This is the session.

MR. TURRENTINE: We may not have enough for a

quorum. And, plus, Michel, there is a motion on the table with a proper second.

MR. GELOBTER: Okay.

MR. TURRENTINE: All in favor of the motion that has been properly moved and seconded, let it be known --

MR. LEE: Wait.

MS. MILLER-TRAVIS: Is there a question on the motion?

MR. GELOBTER: I would like to --

MR. TURRENTINE: Oh, I'm sorry. A question on the motion?

MR. GELOBTER: I move to table it to the end of the committee reports.

MR. LEE: Okay, why don't we do that? Michel, you need to understand that if we don't have a quorum at that time, then we may run into a problem. Okay?

MR. GELOBTER: We will -- I mean, I hope we'll have a quorum until the end of the committee reports.

MR. LEE: We do too.

MR. GELOBTER: Are we short? How close are we to not having a quorum now?

MR. TURRENTINE: As long as we keep talking, we're getting closer all the time.

MR. GELOBTER: Okay. Well, let's just keep going. I move to table it for -- at least until the end of the next committee report.

MR. TURRENTINE: Okay. Could we hear from the Waste and Facility Siting Subcommittee.

WASTE AND FACILITY SITING SUBCOMMITTEE

MS. MILLER-TRAVIS: I'm going to try to move expeditiously through these issues.

First, the Waste and Facility Siting Subcommittee adopted and passed a Strategic Action Plan in April of this year. It was not included in the binder, but we have forwarded that on to OEJ. Just so that you know, we completed that project in April and are working under the guise of that.

The first issue that we want to bring to the committee is a recommendation that the NEJAC approve the Waste and Facility Siting Subcommittee report, A Regulatory Strategy for Siting and Operating Waste Transfer Stations, and present its findings and recommendations to the EPA Administrator for action.

I want to ask Sue if she would say a few words, as one of the principal organizers of this effort, about its findings and what we are recommending.

MS. BRIGGUM: Only a few words? Basically this has

been a two-year effort involving a workgroup of a dozen people. We did tours of two cities and took public testimony from literally dozens of witnesses, including all stakeholder groups, both the public and private sector, affected by the proposals in terms of standards, as well as numerous community members and federal, state and local officials.

We also received input from other cities beyond New York City, and Washington, D.C. where we conducted the tours.

Our central findings were that absent a federal baseline for waste transfer stations, there was enormous variability in their operating practices. As a consequence, citizens expressed very strongly their experiences with health and environmental impacts, particularly in communities where these facilities were clustered. That was quite striking and dramatic in both New York and Washington, D.C.

Our finding was that although waste transfer stations are necessary parts of the waste disposal service that's necessary in municipalities, without a federal baseline it is very difficult to understand what good practices should be and assure that they're taken.

Both industry and communities agreed that it would be extremely beneficial to have EPA develop best practice manuals for

both siting and operations in order to upgrade services and to let the waste industry, both public and private, understand exactly what they should be shooting for.

It's also important that EPA develop criteria because sometimes local standards are so vague that it's very difficult to understand what they mean. And, as a consequence, they aren't enforced.

There's also concern about lack of enforcement generally because of consent decrees. Because in some areas cities take different policies in terms of enforcement, we've found that the need for absolute enforcement against every activity that had the impacts of being a waste transfer station, would need to also be incorporated into a baseline.

So we came up with extensive recommendations in an almost 50-page single spaced report on siting criteria, a planning process to assure a more equitable distribution of such facilities, and a more deliberative approach to evaluating how many of these facilities should be necessary and where they can appropriately be in order to avoid overburdening communities of color and low income communities, design and operating practices, including an investigation into Clean Air Act opportunities to reduce emissions, a planning process, community participation, and community

enforcement opportunities as well.

At the end, I'd be remiss if I didn't really thank Mathy Stanislaus who was the original drafter of the resolution and did an amazing job on an extremely controversial and complex subject of balancing everyone's views and holding us to a very, very technical report. He deserves a praise.

MS. MILLER-TRAVIS: Mr. Chair, we are recommending the approval of the full Council of this report. We then have a secondary set of recommendations that then follow that action.

MR. TURRENTINE: The Chair will entertain a motion for the approval of the report as submitted.

PARTICIPANT: I second it.

MR. TURRENTINE: I haven't had a motion yet.

MS. MILLER-TRAVIS: I made the motion.

MR. TURRENTINE: You offered the motion, okay. And it's been properly seconded.

Questions on the motion. Jane?

MS. STAHL: This is something that I've looked forward to and I'm --

MR. TURRENTINE: Use the mike. Please use the mike.

MS. STAHL: As I started to say, this is something that I've been looking forward to as a precursor to the best management

practices that EPA is going to be putting together.

My concern is that this is the first chance I've had to look at it. And while I would very much like to be able to support this, I feel like I'm not doing my job to this Council or to anybody that I might represent from the outside by taking something sight unseen, you know.

And I trust you, Vernice, up and down and all around. But I do have a concern about that.

MR. LEE: Let me speak to this. I knew this was going to come up, because, you know, in a report as extensive as this it's not good practice for the Council to act upon it without -- and you wouldn't be filling your responsibilities as Council members unless you have really thoroughly vetted this.

We all need to look at it from the large Council point of view of how best to address and process work products of this nature that do require, you know, a lot of consideration and study by each and every one of you.

Now, what we can do is do this by mail ballot.

MS. RAMOS: In fact, the DFO just suggested that.

MR. LEE: Yes. I want to put some things on the table around that.

We are also not happy with the mail ballot process. That

is one of the things that we want to look at after this meeting. It's one of the things on the agenda to look at.

My recommendation is for this particular report. And I hope you recognize the extraordinary amount of work and the importance of this question that's being addressed, that this report addresses. All of you, please, do read this and do return your mail ballots. You do need to respond to those mail ballots when they are put forth.

I would like to just offer, if it's okay with the Chair, that we do this within a two week period.

MS. MILLER-TRAVIS: Yes.

MR. LEE: And that two weeks from now -- is that something that's fair to ask?

MS. MILLER-TRAVIS: I think it is fair. I just want to say that as both Mathy and Sue are leaving the Council --

MR. LEE: Yes, that's right.

MS. MILLER-TRAVIS: -- and the subcommittee, I would like, as a sort of testament to the work and the effort that they've done, to have this concluded in their term of office which ends on December 31st.

MR. LEE: And keep in mind the interlocking nature of some of these work products because the commitments have been made by several of the program offices do relate to and would greatly

benefit from this report in terms of OSRA and the Office of Air.

So what I would propose -- and it's up to you to adopt this -- is that two weeks from now we will be sending out a mail ballot regarding this report, at which point -- I think we need to establish a certain period of time, a reasonable period of time for you to respond.

I do want to ask your forbearance in this; that you do really take that very seriously.

MR. TURRENTINE: Charles, I am in agreement with the sentiment being offered; however, I think we would be remiss if we did not take into consideration the season that we are approaching. If we're talking about sending out a ballot in two weeks, you're not likely to get a response back at all.

Now, what I need to know, from Jane and from others, how long will it take us to read this --

MS. MILLER-TRAVIS: I can read the Executive Summary on the way home.

MR. GELOBTER: I want to hear it from the Council. How long will it take you to read this document and feel comfortable with offering your vote? How much time are we going to need?

I mean, each of you know your schedules or you have an idea of what kind of time you have available to address this.

MS. STAHL: I'll start by saying that if I gave you an honest

answer, I would want at least until the first of the year. However --

MR. TURRENTINE: But I want you to be honest. That's what I need.

MS. STAHL: Well, I think that that -- let me leave it there then.

MR. TURRENTINE: I mean, it does no good for us to sit here and put a process in place that isn't going to work.

MS. MILLER-TRAVIS: That's right.

PARTICIPANT: That's right.

MR. TURRENTINE: And we know that the Christmas holiday is upon us and I just don't believe two weeks will give us what we're seeking. So that's why I raise that question.

Then, is it acceptable by the Council that we get mail ballots out to the Council members during the week following January 1st?

MS. MILLER-TRAVIS: Yes, let's do the process now to have the information back to us by the first week of January so that we would --

MR. TURRENTINE: Is that acceptable to the Council?

(Several participates indicate affirmatively.)

MR. TURRENTINE: Then we will -- what is the date that we expect to have this ballot back to OEJ?

MR. LEE: The first week in January.

MR. TURRENTINE: What is the Friday --

MS. MILLER-TRAVIS: That's what I looking for.

MR. TURRENTINE: The first Friday of the first week in January?

MS. MILLER-TRAVIS: Friday, the 7th.

MR. TURRENTINE: Is it the desire of this Council that the ballots will all have to be returned by January 7th? Can we commit to that? Is that fair --

MS. MILLER-TRAVIS: That's fine.

MR. TURRENTINE: -- to the submitting subcommittee?

MS. MILLER-TRAVIS: Yes, that's fine. And, Jane, I want you to know that we take those comments in good faith because we know that's the way they're intended. And we appreciate your wanting to sit down and look at the document.

MR. TURRENTINE: Thank you.

MS. BRIGGUM: I have a legal question.

MS. MILLER-TRAVIS: Go ahead, Sue.

MS. BRIGGUM: Who will vote then? If the term is over, does that mean that we're going to be voting --

MR. TURRENTINE: Use the mike; the court reporter can't hear.

MS. BRIGGUM: I am using the mike but it's not on, I guess.

MR. TURRENTINE: Would whoever is controlling the sound system make sure this mike is on.

MS. BRIGGUM: Who will vote on it?

MR. LEE: If your term ends December 31st, if you vote before December 31st, then those will be counted.

MS. BRIGGUM: I just want to make sure that they clear this with counsel that we don't come back and then people say the wrong people voted on the thing and we get some procedural difficulty because of seven days.

MS. MILLER-TRAVIS: Thank you, Sue.

So the second part relates to the report, the second action item, which was that we direct EPA Region II Administrator Jeanne Fox and EPA Region II EJ Coordinator Melva Hayden to test pilot the recommendations and findings of this report in Region II, particularly in the New York City Metropolitan Area, that they would look at the enforcement mechanisms, the recommendations and that they would oversee bringing the responsible parties to the table to try and address in a collaborative approach the recommendations to begin to capture and redress this particular situation in the City of New York.

By no means is it meant to only affect communities in the City of New York, but since we had the Regional Administrator in the room with us, we thought we would take the opportunity to try and move these recommendations in a test pilot way in one of the most heavily impacted communities in the nation from the issue of waste transfer stations.

They have both agreed, and Jeanne, the Regional Administrator, has agreed that they will follow through on that issue. So that's the second item.

The third item. We talked about the establishment of a working group around land use, guidance for local governments regarding environmental justice considerations for permitting and siting of waste facilities. As noted, we are going to try and fold that recommendation into the broader recommendations that will come out of the report summarizing the actions of this total meeting.

Charles, did you have a question?

MR. LEE: No. I just do want to make a point at a point.

MS. MILLER-TRAVIS: Okay. The next item is a proposed resolution that should be before you. It's titled Proposed Waste and Facility Siting Resolution No. X, Resolution to Address Communities at Risk from the Atlantic City Tunnel Project, Atlantic City, New Jersey.

We heard from one of the community representatives last night about that their particular issues were. We had a presentation from them in the subcommittee yesterday. I would just read you the "therefore be it resolved" parts of the resolution.

MR. COLE: Vernice, we do not have this resolution in front of us.

PARTICIPANT: It's in the action items.

MR. LEE: It's in our packet.

MS. MILLER-TRAVIS: "Therefore, be it resolved. that the National Environmental Justice Advisory Council calls upon USEPA to immediately, through its Region II offices, facilitate the convening of all parties, including he South Jersey Transportation Authority, New Jersey Department of Environmental Protection, and the New Jersey Department of Transportation, to address the immediate issue of exposure of community residents to contaminated soil during construction activities and other issues of potential impact to the community residents after construction, such as flooding, and safety.

"Be it further resolved, that the National Environmental Justice Advisory Council calls on USEPA, in consultation with the U.S. Department of Transportation, to convene a meeting of the New Jersey Department of Transportation, the South Jersey Transportation Authority, and the Federal Department of

Transportation to address long-term air quality issues associated with this tunnel project."

That's the recommendation and the resolution.

MR. COLE: I move that this resolution be approved.

MR. TURRENTINE: Is there a second?

MS. SHEPARD: I second.

MR. TURRENTINE: It has moved and properly seconded that the resolution coming from the Waste Siting Subcommittee on the tunnel project in Atlantic City be accepted.

Are there questions on the motion?

(No audible response.)

MR. TURRENTINE: Prepare to vote. All in favor, let it be known by the usual sign of aye.

(Chorus of ayes.)

MR. TURRENTINE: Opposed?

(No audible response.)

MR. TURRENTINE: Let the record reflect that there was a unanimous vote to accept this resolution.

MS. MILLER-TRAVIS: Thank you.

MR. LEE: Haywood, I just want to make a comment.

MR. TURRENTINE: Sure.

MR. LEE: Ken, I'm glad you're still here. I don't know if the

Protocol Committee remembers that when I first came EPA one of the things I wanted to start exploring was the idea of -- was this whole question of the better utilization of the work products of the NEJAC.

I thought that one of the first examples in which we can try to learn how to do that better is this waster transfer station report.

I just want to put on the table that it is our intention -- and I don't know where this is going to totally go, is that we want to do briefings, both internal in EPA and external to different stakeholder groups, that we want to do in conjunction with the NEJAC and the workgroup around major products of the NEJAC, such as this waste transfer station report.

I think if you were to go over your materials, there are a number of these kind of work products that are forthcoming. So I just want to make sure that that's on the record.

MS. MILLER-TRAVIS: Thank you, Charles.

Two more brief items. In response to the presentations made both here in the public session from Calcasieu Parish, residents of Mossville --

MR. TURRENTINE: Can I just interrupt you for one moment?

MS. MILLER-TRAVIS: Yes.

MR. TURRENTINE: Is it appropriate for the Chair to at least ask the Council -- and this is on the previous resolution that we just passed -- you know the people from Atlantic City came and made a presentation before us last night in the public comment section. I think it may be appropriate if we could forward to them a copy of this resolution to let them know, and also to be expectant of some additional action.

MS. MILLER-TRAVIS: Yes.

MR. TURRENTINE: So is it -- I mean, am in order by asking that the Office of Environmental Justice make sure that Mr. Hollingsworth from the NAACP of Atlantic City receive a copy of this resolution.

MS. MILLER-TRAVIS: And can I ask that that be coordinated with Kent Benjamin?

MR. TURRENTINE: Yes.

MS. MILLER-TRAVIS: Much appreciated.

The last two points: that the Waste and Facility Siting Subcommittee participate in the quarterly meetings convened by EPA Region VI to address Calcasieu Parish, Louisiana environmental and health concerns. These meetings are cohosted by the Louisiana DEQ. We would participate as official participants in that process, which is a multi-stakeholder process -- all of the agencies driven by

Region VI and Louisiana DEQ, and that would involve the participation of myself and Dr. Neftali Garcia Martinez in the actual meetings in providing some assistance to the communities to try and get a handle on those issues in Calcasieu Parish.

That really doesn't require Council action, but I wanted to inform you all that that was what we resolved to do around the issues that were presented to us by the Mossville residents.

Lastly, in response to testimony given in a public session by Michael Lythcott on behalf of the CATE organization in Pensacola, we found that there was a great disparity between the presentations that were made to us between EPA program staff and the testimony that was given to us in the public session.

In further conversation with Ms. Williams, we think that there are still some very significant outstanding issues that need to be resolved in the Escambia relocation effort.

So, at either a meeting that our subcommittee may have in the spring or at the next full meeting of the subcommittee and the NEJAC, we are going to have a meeting with Tim Fields, all the responsible program staff, representatives from the Escambia community and CATE to try and further resolve these issues, but to get on the record what the source of the problems are and how they can be resolved.

That is it for the action items for our subcommittee.

MR. TURRENTINE: Thank you very much.

Are there any comments or questions for the Waste Subcommittee?

(No audible response.)

MR. TURRENTINE: If not, we'll hear from the Enforcement Subcommittee.

ENFORCEMENT SUBCOMMITTEE

MR. COLE: Thank you, Mr. Chair. In keeping with the season, I want to give a very brief summary. Charles, are you raising your hand?

MR. LEE: No.

MR. COLE: Okay. I want to give a very brief summary of our committee meeting yesterday, which was twelve dollars for lunch, eleven agenda items, ten briefing books, nine committee members, eight hours of meeting, seven regions represented, six pounds of paper, five resolutions, four retiring members, three presentations, two consultations, and a meeting with the air committee.

(Laughter.) (Applause.)

MR. COLE: That's all I have, Mr. Chair.

(Laughter.)

MR. COLE: No. We had three presentations following

along the lines of the presentations that were given to the full NEJAC. One, in fact, was a conversation with Yale Rabin who presented to us.

The upshot of Professor Rabin's testimony, which we heard here as well as in our subcommittee, was that historically racist actions, and racially motivated actions, have an impact on today's permitting. So we're still grappling as a subcommittee with ways to get states and the Federal Government to look at that. That was one of the important things that came out of that presentation.

James Hamilton of Duke presented to us. His conclusions, based on a study over 2,700 different TRI sites and political activity, that in census blocks that have high levels of voter participation, or political activity, companies voluntarily reduce emissions of carcinogenic substances at a much greater level than they do in census blocks that do not have politically active populations.

That has significant implications for enforcement and for permitting in that companies are taking action voluntarily to clean up in communities that are already empowered and not in communities that are disenfranchised.

I think that echoes a lot of the empirical and anecdotal information that's been presented here.

Professor Manuel Pastor from the University of California

at Santa Cruz presented to us on the age-old chicken and egg question, which is, which came first, the community or the facility.

He found that in his empirical studies of Los Angeles that siting of facilities mattered much more than moving. Communities were not moving to the nuisance; the nuisance was coming -- being sited in the community.

He offered a wrinkle on the entire kind of move-in debate, which was the idea of ethnic churning. He found that the communities that were being targeted for facilities the most were communities that were in transition. If you looked at it in aggregate, they were communities of color; 80 percent, let's say, communities of color.

But if you looked at what was happening over time, in 1970 they were 80 percent African-American, and in 1990 they were 30 percent African-American and 50 percent Latino.

And so his findings show that in communities that are not socially cohesive, where there is a transition between the races, those communities that are most vulnerable in his theory, was that that was because those communities weren't able to come together to exercise their power. And that has important implications in terms of our work as well.

We had two very productive consultations, first with Steve

Herman and a number of Enforcement personnel where we shared with them our kind of draft report card on enforcement in which the best regions got C's and the worst regions got C-minus and D-pluses in terms of their enforcement activity, based on our cut at the OECA 1998 annual enforcement statistics.

We've gotten a lot of good feedback from Steve and from other Enforcement personnel on how to make that report card more useful to them, and we will be doing that in the future.

We also expressed to Steve our dismay at the budget cuts that have been proposed for OECA and we'll probably be writing a letter from our subcommittee to the Administrator, not protesting because it's difficult to protest to Administrator Browner what Congress has done, but expressing our fear that cutting Enforcement resources will not move us towards environmental justice.

We had a briefing from Ann Goode in the late afternoon, who is head of the Office of Civil Rights. We expressed our frustration with the lack of progress on Title VI. Since we last met with her, no cases have been resolved on behalf of communities and there is no guidance, although in our last meeting with her she had promised that guidance by July.

She assured us that the guidance would be issued in eight to ten weeks, and so we eagerly await that Title VI guidance.

As of right now there are 25 cases that are in the pipeline that have not even been accepted or rejected. They're just kind of waiting in the in the pipeline. She committed to our subcommittee to resolve that backlog by January. I guess something is going to explode out of the pipeline in the next 30 days. We're looking forward to that as well.

MR. TURRENTINE: Luke, is that January of 2000?

MR. COLE: Yes. January, one month from now. Though, given the slippage in the Office of Civil Rights commitments to the NEJAC and to communities, I wouldn't have anybody hold their breath on that particular deadline.

We had a productive joint meeting with the Air and Water Subcommittee, in which, as Michel mentioned, we discussed the Economic Incentive Program Guidance. I thought it was a very productive interchange with the Office of Air and Radiation staff in which they made concrete commitments to meet some of the concerns that we had raised, including agreeing to prohibit the trading of lead and also agreeing to reinstate some of the mandatory language on environmental justice requirements.

We also talked about Tier II for a little bit and had an inconclusive discussion about jurisdictional issues, which I'm sure will continue to arise between our two committees and Michel and I will

work out in a friendly fashion.

In terms of action items, we had three old action items and two new action items that we wanted to report on. We had sent out for mail ballot three resolutions: a resolution on variances, a resolution on economic benefit, and a resolution on the Economic Incentive Program Guidance.

The variance resolution was overwhelmingly passed, and so I just wanted to report to you that that is a done deal, that's been passed.

The economic benefit resolution was also overwhelmingly approved, but there was an amendment suggested and so we held off final approval of that and we took that suggested amendment back to our subcommittee yesterday and our subcommittee, after talking about it for about 20 minutes, decided that we did not want to accept that amendment and that we would request that the resolution go forward in its original language.

Now, I think this would be an appropriate time to have a conversation about that, and Sue is the one who had offered the amendment, and so I'm happy to hand the microphone over to Sue.

Let me just give a little background. The economic benefit resolution urges EPA to work with states and work with their own enforcement programs to capture the economic benefit of violations

in their criminal -- I mean, in their penalties, so that corporations can't profit by pollution. They make a million dollars by dumping this stuff in the water, and then they get a $50 fine. Well, they're going to keep dumping this stuff in the water.

May states have raised a variety of obstacles to capturing economic benefit, and our resolution goes through each type of obstacle and gives concrete advice to EPA on how to address those obstacles and surmount them.

MS. BRIGGUM: My amendment -- and I very much appreciate the way that Luke has dealt with me on this, and so the fact that we have a disagreement I don't think takes away from the importance of his resolution.

My point was that you actually get the results you want on economic benefit calculation only if you in fact do have compliance enforcement against all market participants and if there are exemptions or there is a failure to enforce against a particular kind of facility -- whether it's public or private, based on size, based on resources in targeting -- that has to be taken into account in terms of economic benefit.

Otherwise what you will do is penalize and raise the prices of those who are pretty close to compliance, and reward those who aren't complying at all.

But I'm sure as it goes forward probably Steve will be thinking of those issues. So I will abstain.

MR. COLE: That's fine. I would ask that we just approve that with that one abstention.

MR. TURRENTINE: Is there a second.

MS. MILLER-TRAVIS: A question on the motion. I have a question; I'm confused.

PARTICIPANT: Second.

MR. TURRENTINE: Now we can have your question.

MS. MILLER-TRAVIS: Thank you. So what are we -- the packet that we have from the Enforcement Subcommittee with the date December 1st, there's a resolution. Is that what we're talking about?

MR. COLE: No. The resolution that we're talking about is the resolution that was mailed out to you by mail ballot in early November, and you have actually already approved it.

MR. TURRENTINE: But this is a process.

MR. LEE: It's a process issue.

MS. MILLER-TRAVIS: Okay, I was confused.

MR. LEE: The process -- what really has happened is that the resolution is adopted, but it has an abstention to it.

MR. COLE: Right.

MR. LEE: That's already been done by virtue of the process.

MR. COLE: Okay, so the resolution has been adopted with one abstention. That's all I'm reporting. We don't need to take any action.

MR. LEE: You don't need to take a vote.

MS. MILLER-TRAVIS: Okay. Thank you.

MR. TURRENTINE: Fine.

MR. COLE: Thank you. The third old resolution that we had before you -- and before I move on to that, I'd like to acknowledge the significant amount of work and the very detailed briefing paper and the excellent preparation of this resolution by Lillian Wilmore who is one of our subcommittee members who is in the audience. She has really championed this issue and really educated our committee and I hope the full NEJAC and the Agency on this issue.

The third old resolution before us is the economic incentive program resolution, which seems to be the longest running consideration of a resolution in the NEJAC history.

This resolution was also overwhelming approved by the mail ballot. There were four people who offered friendly amendments to it. We took the resolution back to try and incorporate those friendly

amendments, and what you have in front of you -- the first three pages of it – are our incorporation of those friendly amendments.

There were two objections to it; two people objected to the resolution. We tried to meet as many of their objections as possible. The ones that we could not meet are summarized in the top sheet.

We also modified the resolution in our subcommittee yesterday afternoon to reflect our positive conversation with the Office of Air and Radiation in our subcommittee joint meeting with the Air and Water Subcommittee yesterday. So that's the handwritten paragraph at the bottom of the page to reflect the commitments of the Office of Air and Radiation.

I would ask that we approve this modified version. The language on the third page that's underlined is the new language that we have put in which we accept as friendly amendment. We got friendly amendments from Vernice Miller, Michel Gelobter, Gerald Torres and from Sue Briggum and we thought those all added to the resolution and wanted those to be captured in it, as well as the progress being made by the Office of Air and Radiation.

So I would offer that for your approval.

PARTICIPANT: Second.

MR. TURRENTINE: It has been properly moved and seconded that we accept the resolution coming from the Enforcement

Subcommittee regarding the Economic Incentive Program with the additions and amendments that have been included.

Are there questions on the motion? Vernice.

MS. MILLER-TRAVIS: Just one question, Luke. What I don't see reflected -- and thank you for addressing the issues that we put before you and thank you for the time that you all took in going through this. And you are right, it is one of the longest resolution processes we have been engaged in.

My only additional suggestion -- and here I go asking for something else -- is that we acknowledge the willingness of the Office of Air and Radiation to continue to stay at the table with us until we solve these issues.

MR. COLE: I'm happy to accept that amendment.

MS. MILLER-TRAVIS: Thank you.

MR. COLE: Do you want to just write up something that says whereas we --

MS. MILLER-TRAVIS: Sure. Just exactly that.

MR. COLE: -- acknowledge the willingness of the Office of Air and Radiation to stay at the table until we resolve this issue.

MR. TURRENTINE: Jane, do you have your card up?

MS. STAHL: I do.

MR. TURRENTINE: Okay. Yes.

MS. RAMOS: At the risk of blowing any anonymity that is supposed to be effectuated by the comments and responses, I need for you folks to know that I am in fact objecting, or have objected, to this resolution. Also, I need for you to understand why.

Let me start by saying that the modifications to the resolution that were made I think have made significant, significant improvements and I appreciate those very productive endeavors.

I would go a step further, though, to say that the notion of trading and market based incentives is something that is a very valuable tool to the states who are going to be implementing and trying to reach attainment for all of its air contaminants -- toxics, particulates, the whole nine yards.

We're seeing some of the benefits of that already in the recent announcement that Administrator Browner made with regard to attainment demonstrations for NO_x which is one of the most significant hazards out there in our urban communities. And our ability to ratchet down and ratchet down on NO_x emissions has in part been made possible by the opportunity for some emissions credits tradings.

So it's a tool that we in the states have found to be very valuable.

I was surprised and intrigued by Commissioner Shinn's

discussion on our first day of the creation of this -- you know, the almost too big notion of a trading program providing the economic benefit back to EJ communities. I think that that is something that we also need to keep available to us.

Without overblowing the issues or taking too much time here, prohibitions, as opposed to guidances, in EPA programs that are supposed to provide the states with tools to effectuate programs create an adversarial notion in the states who are going to implement those programs.

So the ideas that are incumbent -- or entrenched -- in this resolution of not allowing for the creation of hot spots, or not adding insult to injury by allowing industry ways out of compliance in EJ communities are all very important items.

Recognizing the level of distrust among the communities toward state and local implementation of these programs, I understand the interest in having EPA as the gorilla in the closet that's going to come in and, you know, whack states around if they don't do the right thing.

But, again, I sit here as a state representative who knows the value of the flexibility of a wide range of tools. My objection is based on the lack of flexibility or the diminishment of flexibility in a tool which I believe we will use and hopefully use appropriately for

the benefit of air quality improvements throughout our regions.

So I hope that provides some basis for your understanding of why I am not going to support this motion.

MR. COLE: Thank you, Jane, and I would just ask that Ms. Stahl's objection be noted for the record.

MR. TURRENTINE: Yes, absolutely.

MR. COLE: I think that we've addressed all of the issues that she raised in here a number of times and I don't want to belabor the point by having a debate with her about it today.

MR. TURRENTINE: Sue.

MS. BRIGGUM: This is just a process point. I think everyone should appreciate the deliberative process we had on this resolution because there were two conference calls that went on at some length to debate this issue. I shared a number of Jane's concerns. I think that they have attempted to address these concerns and make sure there are no adverse unintended consequences, but as a state representative, I can see that you feel the obligation to really reflect your sector as well.

That's one of the challenges I think we have when we vote on these resolutions because you may think it's all right for your particular company or your particular individual point of view, but you may know that you are giving a false sense of consensus if you

1 suggest that in fact the entire industry sector or a state sector will
2 agree.
3 That's one of the things that I think at some point we need
4 to discuss because we shouldn't be having a false sense of
5 consensus, but it should be real.
6 I do want to say that I think that Luke, in particular, and
7 Charles in the OEJ staff, did an excellent job of attempting to work
8 through these in very a deliberative way.
9 MR. TURRENTINE: Are there other questions on the
10 motion?
11 (No audible response.)
12 MR. TURRENTINE: Hearing none, prepare to vote.
13 All in favor, let it be known by the usual sign of aye.
14 (Chorus of ayes.)
15 MR. TURRENTINE: Those opposed?
16 (Nay response.)
17 MR. TURRENTINE: Let the record reflect there is one no
18 vote -- one nay, with an appropriate explanation as to why.
19 Are there any abstentions on this vote?
20 (No audible response.)
21 MR. TURRENTINE: The ayes have it and so ordered.
22 MR. COLE: Thank you, Mr. Chair. I would also like to

1 acknowledge the enormous amount of work undertaken by my
2 committee member Richard Drury on this issue and on this particular
3 resolution.
4 The Economic Incentive Program that's discussed in this
5 resolution is actually open for public comment right now. We spent
6 a portion of our afternoon yesterday working over the public comment
7 out of our subcommittee on that Economic Incentive Program
8 Guidance. That is the 11-page or 12-page piece that's paper clipped
9 to your resolution.
10 I'm not sure -- I look to the Chair and to the DFO for
11 guidance on this -- I'm not sure what the protocol is; whether we just
12 send this as a subcommittee, as our subcommittee's comments on
13 the EIP Guidance, or whether we'd like the entire NEJAC to adopt
14 this. I mean, I would appreciate it if the entire NEJAC adopted it, but
15 I understand also that it's a 12-page fairly detailed comment letter on
16 the EIP Guidance and that people may not feel comfortable passing
17 on that right now.
18 The comment period has been extended by the Office of
19 Air and Radiation to December 10th. It was going to end in
20 November and we, as a subcommittee, requested that they extend
21 it so we would have the opportunity to meet in person and have a
22 conversation about it at our subcommittee meeting yesterday.

1 So this will go out one way or the other, but I don't know if
2 members of the NEJAC would like to add the Executive Committee's
3 imprimatur to it.
4 MR. TURRENTINE: What is your pleasure? I sense that
5 it's probably going to be expeditious for you to send it out as a
6 subcommittee --
7 MR. COLE: Okay.
8 MR. TURRENTINE: -- because I think we've just gotten it,
9 we've just received it, and I'm not sure that people are ready to vote
10 and buy into it, having not had an opportunity to read it.
11 MR. COLE: I think that's fine.
12 MR. TURRENTINE: And I don't want to hold it up.
13 MR. LEE: I want to make sure -- there's a point of
14 clarification of here just so that there's nothing that comes back and
15 haunts us in terms of procedure.
16 It is, by the Charter and Bylaws of the NEJAC, that a
17 recommendation that's made in the name of the NEJAC has the
18 approval of the Executive Council.
19 I mean, I personally am not adverse to members of a
20 subcommittee, you know, making comments and things of this
21 nature. I think that what you should do in this case is to make these
22 in the name of the individuals in the subcommittee.

1 MR. COLE: What I'd like to do, Charles, is instead of that,
2 request a motion of the full Council that the Enforcement
3 Subcommittee be allowed to send this to the Office of Air and
4 Radiation as a subcommittee. That would be my motion.
5 MR. LEE: Okay.
6 MR. TURRENTINE: Is there a second?
7 PARTICIPANT: Second.
8 MR. TURRENTINE: It has been properly moved and
9 seconded that the request from the Enforcement Subcommittee on
10 the recommendation or the comments on the EIP be adopted by the
11 Council and that the Council authorize the subcommittee to forward
12 those comments, especially given the fact that we've got less than a
13 10-day turnaround time for having those comments in. Are there
14 questions on the motion? Vernice.
15 MS. MILLER-TRAVIS: Luke, I'm looking at page 4 of 12
16 -- I'm sorry, that would be the third page of the comments. These
17 two paragraphs, "Therefore, NEJAC formally requests that EPA
18 extend the comment period," that was done.
19 Then the next paragraph, "Due to the concerns that will be
20 outlined below, NEJAC is compelled to voice its opposition to the
21 September 1999 EIP." That would have to be changed to "the
22 Enforcement Subcommittee of the National Environmental Justice

Advisory."

MR. COLE: Okay. I can do a global replace of all NEJAC mentions to Enforcement Subcommittee --

MS. MILLER-TRAVIS: Okay.

MR. COLE: -- because I'm sure it appears in other places as well.

MS. MILLER-TRAVIS: Thank you.

MR. TURRENTINE: Are there other -- yes, Jane

MS. STAHL: This is another one where I'm going to have a little discomfort and I would just ask Haywood, rather than needing to object this one, my preference would be to abstain, not having had the opportunity to fully review. So if you could, when you call the vote, just provide that opportunity.

MR. TURRENTINE: Are there other comments or questions or any unreadiness?

(No audible response.)

MR. TURRENTINE: If not, prepare to vote. All in favor, let it be known by the usual sign of aye.

(Chorus of ayes.)

MR. TURRENTINE: Those opposed would say nay?

(No audible response.)

MR. TURRENTINE: Hearing none, those who wish to

abstain, have that option.

MS. STAHL: I abstain.

MR. TURRENTINE: We have one abstention.

PARTICIPANT: Two abstentions.

MR. TURRENTINE: Two abstentions. Okay, we have two abstentions.

MR. COLE: Thank you.

MR. TURRENTINE: The ayes have it and so ordered.

MR. COLE: Thank you, Mr. Chair and members of the Executive Council.

We have another resolution which is before you which is on the confined animal feeding operations. It's an attempt to address some of the things that Michel mentioned in his presentation and that we've heard about in public comment and it's also been raised I think in the Indigenous Subcommittee.

This resolution basically asks EPA to have a much more serious both permitting and enforcement presence with respect to CAFOs and to exercise much more oversight of states and also to require individual permits for large CAFOs.

I can spend more time going through the resolution, if you'd like, or not. I'm not sure what people's -- this was passed out. It's called Hogs, Health and Honesty.

We've had a friendly amendment from the Air and Water Subcommittee to it. The Hogs, Health and Honesty draft CAFO resolution has a 7-page memorandum explaining the need for the resolution, and then the resolution follows that.

Perhaps following in the footsteps of the Waste and Facility Siting Subcommittee what may be the best thing to do is for me to request a mail ballot on this so that people will have the opportunity to read it because I know that many of you have just gotten it today.

There are two things that I'd like to mention, though, before we kind of move off this. One is that we've received a friendly amendment from the Air and Water Subcommittee which will incorporate into the next iteration that goes out to a mail ballot, but I'll just read it.

It says, "Whereas, a number of states have insisted that CAFOs have no offsite emissions and therefore do not require permits, therefore EPA should conduct aggressive enforcement of the Clean Water Act with respect to CAFOs with the following goals in mind.

One, identifying egregious CAFO polluters;

Two, gathering data and assisting states in the development of stringent individual permits; and

Three, enforcing the Clean Water Act in states that have

lax or nonexistent capital regulation."

We accept that friendly amendment. That will be reflected in the ultimate piece.

The other piece that I want to mention is that when we had originally put this resolution together we had talked about CAFOs in Indian Country. After consultation with the Indigenous Subcommittee, we've agreed to take the Indian Country mentions out and to work with them to draft a separate resolution on CAFOs in Indian Country to address the very specific and important concerns there. And you'll see that probably out of a joint effort of our subcommittees in the next little while.

This resolution was the product of very hard work by Savi Horne of the Land Loss Prevention Project, and Lillian Wilmore of Native Ecology, and I want to honor their hard work on this.

MR. TURRENTINE: Luke, is there a feeling on your part as to when this mail ballot should go out?

MR. COLE: I think what we could do is send it out with Vernice's piece, you know, so that the two ballots could go out at the same time and we could have about the same turnaround. That gives people a month to review it and then vote on it. Again, with the Briggum caveat that if you are retiring from the Council that you vote by December 31st.

MR. TURRENTINE: Okay.

MR. COLE: Future issues on our plate are Title VI, obviously. The guidance is coming out sometime in the near future, and we'll be providing comments on that. I'll be setting up a process to invite all of the NEJAC to participate in providing that comment the same way we did around the draft guidance two years ago.

We'll be working with the Indigenous Subcommittee to come up with a CAFO resolution.

We'll also be working to address at the subcommittee level, and we hope at the full NEJAC level, the problems discussed in the Charleston, South Carolina region that were raised by our subcommittee member, Delbert Dubois.

One of the proposals has been to have a panel at the next NEJAC which is on health that brings together some of the different stakeholders in that situation. Bringing together the state regulators, the federal officials and community people to describe the process they've undertaken. I think as a full NEJAC we will hear three very different stories, and those different stories will be instructive to us.

I think that a panel like that, that might also include three stakeholders from Mossville, Louisiana, where we might get three also very different stories, would help us understand the real constraints we're facing as community members, as state and federal

regulators, and as environmental groups in trying to work together to address these problems. So that's on our plate into the future.

Before I conclude this report, I just want to again recognize and honor the long service of our Designated Federal Official Sherry Milan who has moved on to other duties in the Agency. I'm glad we got the opportunity to present that plaque and I hope that's presented to her at the appropriate time.

Also, I would like to recognize my three retiring subcommittee members who have really -- without their work, we couldn't have gotten our job done. That's Leslie Cormier, Lillian Wilmore and Richard Drury. I would just like to acknowledge them.

(Applause.)

MR. COLE: Thank you, Mr. Chair.

MR. TURRENTINE: Thank you. We have one bit of unfinished business that's come -- that had been tabled earlier is now, I understand, ready for action. I don't think it would be wise for the presenter to redo that presentation because the unreadiness was on the part of the presenting subcommittee, not on the part of the Council. So I would say, if you are ready to move that, I would entertain a motion, and let's get it through.

MR. GELOBTER: Let me just -- we had passed a motion in principle to present this resolution, and the committee felt the need

to review it and pass it formally. That has now been done, so it is in the form before you approved by our committee officially.

MR. TURRENTINE: There's a motion to resolution that was put through on pollution caused by the Puerto Rican Electric Power Authority. Is there a second?

MR. COLE: I second and then I call the question.

MR. TURRENTINE: Okay. There's a second and there's been a call for the question.

All those in favor of the motion as presented, will let it be known by the usual sign of aye.

(Chorus of ayes.)

MR. TURRENTINE: Those opposed have the same rights.

(No audible response.)

MR. TURRENTINE: Hearing none, are there any abstentions?

(No audible response.)

MR. TURRENTINE: Hearing none, the ayes have it. So ordered by unanimous vote.

MR. GELOBTER: Haywood, I just wanted to -- because it happened at the end of my report, I wanted to acknowledge my committee members who painstakingly sit through all the public testimony and the nine hours of meetings we have, et cetera. I want

to thank them, since I didn't get to do that at the end, for their work, and particularly at this meeting.

MR. COLE: Mr. Chair, I think there is one other outstanding resolution that maybe Mr. Gelobter can addressed.

MR. GELOBTER: It was passed out before you --

MR. LEE: Right. Right. Before you go into that, there's a couple of other pieces of business that I want to make sure are handled, and then we want to get into that. That was -- had identified three pieces of business that need to be addressed.

The first is, we just want some clarification -- there is the urban toxics -- the Air and Water Subcommittee has forwarded to us for action the Urban Air Toxics Working Group Report on Urban Air Toxic Strategies. Can we ask that this be part one of the mail ballots to be looked at in the same way as the Water Transfer Station Report and the CAFO resolution?

MR. GELOBTER: This had not been sent out to the full Council several months ago?

MR. LEE: No, no. It has been sent out, but --

MR. GELOBTER: I thought --

MR. LEE: Hold it a second.

MR. GELOBTER: I thought people had probably received it back in April or May.

MR. LEE: I don't know if anybody has ever really read it.

MR. GELOBTER: Okay. It was supposed to have been forwarded back then.

MR. LEE: Yes. I appreciate what you're saying, but I am not absolutely sure if the Council members were actually really aware of --

PARTICIPANT: What are you talking about?

MR. GELOBTER: The Urban Air Toxics Workgroup Report which was finished late February and sent out without a ballot at that point -- but it was sent out to the full NEJAC I believe.

MR. LEE: Right.

MR. GELOBTER: We reported it out I think on our third conference call in February or March.

MS. MILLER-TRAVIS: To be fair, Michel, to your DFO, it could very well have been sent out. I personally do not recall having read it or --

MR. GELOBTER: All right. Well, fine, let's do the paper ballot piece then, sure.

MR. LEE: Okay. Then can we treat it in the same way? We don't need a motion on that, do we?

MR. COLE: Can I request that unless a member specifically requests a new copy, we not be sent another copy?

MR. LEE: Okay.

MR. COLE: Thank you.

MR. LEE: Yes, I know. But make sure -- we have this incredible problem when we action on something, many, many, many of you -- and I mean, many, many, many of you -- come back to us and say, well, we don't have a copy. So we are then put in a position of having to really send out many copies at great expense.

So what I want to say is, you know, I really heed what you're saying, Luke, but can everyone make sure to keep track of all their paperwork.

MR. GELOBTER: Could I make a suggestion

MR. LEE: Yes.

MR. GELOBTER: You might want to try starting to use the Web to post these things. That way, you do one mailing and then somebody's got to get to a library if they don't have a computer.

MR. LEE: Right. Okay. That's a great idea.

The second is, if you will look in your workbook, there is a redraft after some real thought and deliberation on the public participation workgroup of the model plan for -- the model public participation plan for meetings that actually is being forwarded to you. Is that right, Rosa Hilda? -- to this full Council for action.

MS. MILLER-TRAVIS: What is it? What's it under? What

tab?

MR. LEE: It's under -- what is it?

PARTICIPANT: It's under subcommittee. It's the last piece.

MR. LEE: Right. It's the last piece under the public participation workgroup.

Rosa, did you want to speak to it?

MR. TURRENTINE: This document has been worked on; it's been reported out a number of times on protocol conference calls. If there is a motion to accept this work, the Chair would entertain that motion.

MR. WILLIAMS: So moved.

MR. TURRENTINE: Is there a second?

MR. GELOBTER: Second.

MR. TURRENTINE: It has been properly moved and seconded that the revised public participation model be accepted by the Council. Are there questions on the motion? Now, anyone who has questions or comments. Yes, Rosa. Use the microphone.

MS. AUGUSTINE: I'm confused.

PARTICIPANT: It's in your notebook.

MS. AUGUSTINE: Okay, what's in the notebook here -- what's been --

MR. LEE: Under the Subcommittees tab, and then if you go to the last part of that, which is entitled Public Participation Workgroup.

MS. RAMOS: These are documents that were developed to institutionalize a system to be responsive to the public who comes to our meetings. We need to show sensitivity and to develop a system to give a follow-up to their petitions. So this is only a strategy to have some type of accountability to the people that come to our meetings.

MR. TURRENTINE: Rose.

MS. AUGUSTINE: I had never seen it before, that was my question.

MR. TURRENTINE: Is there unreadiness on the part of the Council to take action on this motion at this time? I note that there is unreadiness.

MR. COLE: No, there is not unreadiness.

PARTICIPANT: Could you repeat the motion?

MR. TURRENTINE: The motion was to accept the model plan for public participation meetings as submitted by Hilda and the Public Participation Workgroup.

PARTICIPANT: Call the question.

MR. TURRENTINE: I call the question. Prepare to vote.

All in favor of the acceptance of this Model Participation Plan, which is a revision of the previous one, let it be known by the usual signs of aye.

(Chorus of ayes.)

MR. TURRENTINE: Those opposed to the acceptance of this Model Participation Plan have the same rights with nay.

(No audible response.)

MR. TURRENTINE: Those who choose not to vote should abstain by so noting their desire to abstain.)

(One abstention.)

MR. TURRENTINE: Let the record reflect that there is one abstention. The vote is carried with a majority decision. So ordered. Let's move on.

MR. LEE: The next piece then, Michel, is that resolution you were talking about.

MR. GELOBTER: You have before you a resolution that was given out probably about an hour before lunch that reflects the discussion we had after public testimony from Louisiana two nights ago. Should I read it? People have it in front of them. They should take a look at it? What?

PARTICIPANT: Read it.

MR. GELOBTER: I should read it. All right.

I wrote the first draft and Luke and Vernice made some comments, and there were comments by other NEJAC members to improve it.

"Whereas, public participation in environmental decisionmaking is fundamental to environmental justice as it allows those affected by the decisions to take part in them;

"Whereas, all major environmental laws contain legally binding public participation requirements;

"Whereas, EPA offices with permitting authority further agree to embrace the NEJAC public participation guidelines;

"Whereas, the right to legal representation is indispensable for public participation and is central to the viability of citizen supervision of federal environmental laws;

"Whereas, public participation and speech on environmental decisions is Constitutionally protected by the First Amendment;

"Whereas, NEJAC has heard testimony at each of its last five meetings from residents of Louisiana who have presented substantial evidence indicating a pattern of intimidation by the State of Louisiana of citizens engaged in public comment, leading to the curtailing of citizens' right to free speech in environmental permitting processes;

"Whereas, the State of Louisiana has moved to abridge citizens' rights to legal representation in environmental decisionmaking;

"Whereas, the failure to guarantee public participation represents a dereliction of the State of Louisiana's delegated and authorized environmental permitting programs:

"Whereas, implementation failures in delegated programs undermine the Federal Government's authority for those programs at the national level;

"Whereas, such threat to federal authority, if confirmed, provide grounds for the revocation of the State of Louisiana's permitting authorities:

"Therefore, be it resolved that the National Environmental Justice Advisory recommends that the Administrator direct the Inspector General to conduct a full audit of the State of Louisiana's permitting programs with particular attention to violations of the Agency's public participation regulations, the NEJAC's public participation guidelines and the U.S. Constitution."

(Applause.)

MR. TURRENTINE: The Chair would entertain a motion.

MR. COLE: I move that we approve this resolution.

MR. TURRENTINE: Is there a second?

MS. MILLER-TRAVIS: Second.

MR. TURRENTINE: It has been properly moved and seconded that we approve the resolution as read by Michel. Are there questions on the motion? Jane.

MS. STAHL: Again, I need to comment so that you'll understand the action that I am going to take here.

I would like to tell you all and everyone who is listening that I personally support this motion. I would also like to tell you that if in fact things are as we have heard they are in Louisiana, it undermines every other state's credibility in trying to do the right thing in terms of any of its environmental permitting, not to mention its environmental justice initiatives.

However, I sit here not just representing the State of Connecticut nor myself, and as a representative of other states, I am loath to endorse sending the Inspector General into any state for an inspection. So I will be reluctantly objecting to this motion.

MR. TURRENTINE: Sue.

MS. BRIGGUM: And I also, in discussions with some subcommittee who have been evaluating the resolution, they also believe that there are some aspects to it that might be polarizing rather than helpful because of the -- obviously, an Inspector General recommendation is an extremely severe sanction. We heard in the

Waste and Facility Siting Subcommittee that in fact Region VI is being very aggressive at the moment in trying to facilitate this situation in the state.

I certainly agree that this is a critically important issue and that all speed has to go forward with the work that Region VI and Louisiana are participating in, and they are driven by the citizens' concerns. But I also have concerns about some of the language and legal implications of the resolution.

MR. TURRENTINE: Are there other questions? Vernice.

MS. MILLER-TRAVIS: I would say that as one of the participants who contributed in the drafting of this, that, as Jane has said, I feel personally very strongly about this, but I do recognize that it is with great trepidation that the State of Louisiana comes to this table and puts themselves in this circle with us to try and resolve these issues.

I want them to stay at the table on behalf of the communities in the State of Louisiana who must get some redress from the issues that they are facing.

This is a question of, one, the merits of the resolution I think speak for itself, based on the years. I mean, this resolution is not written out of the comments that we heard in the public sessions. This resolution is written out of the public comments that we have

heard in every public comment session for every NEJAC meeting since the NEJAC was convened. This is a pattern and practice over history that we're trying to redress.

But I am mindful of the fact that, as Jane said, this is sort of like, you know, do you want to use honey or do you want to use vinegar to get your people to the table. I mean, this is sort of the moment that the Council has to decide collectively what is the strategy, and then how do you also speak to the constituents of the State of Louisiana who come to us and ask us for redress.

It's a rock and a hard place. You know, you don't have a lot of options at this point. One of the things that the Waste and Facility Siting Subcommittee did offer to do was to participate in the process that the state and EPA Region VI have engaged in to try and look at those issues. And so that's our attempt to try and bring a microscope to that process and lend whatever support we can to unraveling those issues.

But at this point it's a discussion for the Council. I'm not sure to what degree the State of Louisiana really wants to be at the table with us and is really going to do some of the things that we all collectively talk about without some real heavy-handed tactics, you know. That's what the discussion here is about right now.

MR. TURRENTINE: Let me remind the Council that this

the question on the motion. Are there other questions on the motion?

We can talk about the resolution in detail at another point, but now I am entertaining questions on the motion. Are there any? Luke.

MR. COLE: I don't have a question on the motion. I'd like to say something about the resolution.

PARTICIPANT: Me too.

MR. TURRENTINE: Let's move the motion and then we'll talk about the resolution as long as we want to. Are there other questions on the motion?

(No audible response.)

MR. TURRENTINE: Hearing none, prepare to vote. All in favor of the motion as read by Michel, let it be known by the usual signs of aye.

MR. COLE: Point of order. How are we going to approve it if we haven't discussed it yet?

PARTICIPANT: Yes, I think that's right.

MR. TURRENTINE: That's what you've been doing on the question on the motion, discussing it.

MR. COLE: Then I want to leave my thing up.

(Laughter.)

MR. TURRENTINE: Then go on. You can have your

comment.

MR. COLE: I think that we have used honey, we have used flowers, we have used pleasant greeting cards. We have even gone to the State of Louisiana and met in their capitol in an attempt to reach out to them. And we have had a Protocol Committee meeting with the State of Louisiana this year in Washington.

Despite all of the honey that we have used, these abuses continue in the State of Louisiana. I think that rather than using vinegar, we should be using – you know, rubber mallets, or something like that.

The call for an Inspector General's audit of the state was actually a compromise position in that many members that I've talked with wanted to recommend that EPA remove all delegated programs from the authority of the State of Louisiana.

So, members of the committee should know that this is a compromise position that was struck and that we feel that this is an appropriate way to have EPA oversight of what's historically been and continues to be an egregious situation.

MS. PAYTON: From a health perspective I wanted to comment on similar thoughts that Luke had. I think that we should take the vinegar approach.

I stand from a health research approach. Just looking at

1 research, ATSDR found high levels of the worst dioxin in blood
2 samples from members there. No action was taken. In one
3 population of people the department -- the Louisiana Department of
4 Health and Hospitals dismissed the results with no follow-up action
5 at all. They found these levels to be two and three times higher than
6 the national average. And nothing has been done.
7 There is nothing left to do. When you talk about health
8 assessment and risk assessment, looking at correlating exposure to
9 impact, what more is left?
10 I say LDEQ needs to be stopped.
11 Thank you.
12 MS. RAMOS: Although I acknowledge that, you know, the
13 Regional Administrator has made a great effort to enforce the
14 environmental laws in Louisiana and to – and has engaged in many
15 efforts, I think that EPA at this moment needs powerful tools to do
16 more. This audit will give EPA the tools that are needed in order to
17 proceed in moving the state to do what is needed to be done; and
18 that is, to include the community to actively and meaningfully
19 participate in environmental decisions that will affect them.
20 So I think that this -- the way I see this, this is not an action
21 taken against EPA, but an action to help EPA to do stronger actions
22 against a state that is refusing to administer justice to abused

1 communities.
2 MR. TURRENTINE: Call for the -- oh, go ahead, Michel.
3 MR. GELOBTER: Just quickly. I think that -- I basically
4 think we've done a lot. Like I said, a year ago we had -- then we had
5 the meeting in between -- I just want to make one point about present
6 EPA activity. There is a lot of cooperation on the work that's
7 happening that Region VI is doing on the enforcement front.
8 The permitting program remains unexamined. That was,
9 we asked, we discussed specifically permitting issues with the region
10 prior to formulating this, and they indicated that they felt that -- well,
11 they indicating that the permitting program was not as examined as
12 it might be, given some of the issues that we raised in the resolution.
13 MR. TURRENTINE: Call for the question. Prepare to vote.
14 All in favor of the motion, let it be known by the usual signs of aye.
15 (Chorus of ayes.)
16 MR. TURRENTINE: Opposed?
17 (No audible response.)
18 MR. TURRENTINE: Abstentions?
19 (Two abstentions.)
20 MR. TURRENTINE: The ayes have it and so ordered, with
21 one abstention.
22 MR. COLE: Two abstentions.

1 MR. TURRENTINE: Two. I'm sorry, two abstentions.
2 Let me say something to you because obviously you know
3 my frustration when we're trying to operate a process to get things
4 done. I'm going to ask the staff at the earliest possible moment to
5 make available to us Robert's Rules of Order.
6 The question on the motion is not an opportunity for people
7 to justify their actions. It's an opportunity for you to get clarifications
8 so that you know how to vote and what action you want to take.
9 Probably what we're doing wrong is we're entertaining
10 motions before we have discussion. The motion should only be
11 offered after we've had adequate discussion so that people then
12 understand the issue that they're being asked to vote on. And then,
13 any questions on the motion, thereby, would be for clarification so
14 that you will know how you're voting.
15 But if you notice, most of our commentary is on activities
16 that should have taken place when Michel read the resolution.
17 You know, I'm not upset with anyone. I just think we can
18 do it better if we understand what the process is and how we should
19 be doing it. So that's why I'm asking staff to make available to us
20 Robert's Rules of Order and how we conduct ourselves.
21 Again, I want all of us to fully have a dialogue on the issues
22 that we are to vote on because it is serious action that we are

1 expected to take, and we should have ample opportunity to discuss
2 and be clear on those actions that we're going to vote on and ask this
3 Council to recommend to the Administrator.
4 So I just wanted to point that out to you. That was my
5 sense of frustration and that was why. Not that you were doing
6 something; it was that I allowed something to happen that should not
7 have happened. I should not have allowed Michel to offer a motion
8 until such time as discussions had taken place. So I'm not blaming
9 you; I'm blaming myself and I'm explaining why you've noticed
10 frustration on my part.
11 MS. BRIGGUM: This actually follows on with my comment
12 before on the discussion on the air issues. On that issue, which was
13 also extraordinarily important, we had the opportunity to talk,
14 understand what the resolution actually says and what its impact will
15 be, and then make a determination.
16 We got this today. People from the subcommittee and
17 other business people said this could have unintended adverse
18 consequences, and we think maybe we're making some progress on
19 what's a critically important issue.
20 And we're required to vote, putting those of us who feel
21 that we don't want to vote for something when we don't know exactly
22 what the effect will be and don't have the opportunity to discuss it, in

1 a terrible position.
2 I don't want to have it reflected that I don't think that critical
3 action is needed in the State of Louisiana. All I want to say is that I
4 don't understand if this is phrased exactly in the way that would be
5 most effective.
6 And I am enormously frustrated -- I can say it because I'm
7 about to retire -- by a process in which we can't have these honest
8 conversations and make sure that we're passing the best resolutions
9 possible.
10 MR. LEE: The comment I was going to make to a point
11 that was raised before about the – that perhaps a great deal of
12 deliberation that the Office of Environmental Justice thought was
13 needed around the EIP resolution was part -- I think some of these
14 comments that are coming out now are reflective of the fact that we
15 do want to look at this whole process as an important agenda item for
16 the NEJAC because the process of how you adopt resolutions or
17 decisions, make decisions, is extremely important around issues that
18 have many facets to them. I think that this is just something that
19 points to the need for that.
20 At this point I -- basically we had said earlier this morning
21 that there were going to be three major portions of this discussion --
22 of the agenda today. The first was to develop a process and identify

1 some of the more critical action items and recommendations that
2 emerged from the subcommittees with respect to the central issue
3 focus for this meeting, which is environmental justice factors and
4 permitting. And so we did that. Then we had the subcommittee
5 reports in which we expedited and processed the various action
6 items.
7 And so at this point, for the third part, we wanted to have
8 a much more expansive conversation that's not as inhibited by time
9 constraints around the environmental justice factors and the
10 permitting area.
11 I do think it is important for us to do a time check because
12 it is now quarter to 3. I'm not sure if all of you want to have that
13 discussion at this point because, you know, it has been a long day
14 and I don't know if our --
15 MR. TURRENTINE: Leslie, before you leave, what I want
16 to do is I want to make sure that those members of the Council that
17 are going off, that they have an opportunity to have comments. And
18 so I just wanted to make sure that none of those that are going off will
19 get out of here without having an opportunity to share with the
20 Council anything they want to share at this time.
21 MR. LEE: What else is there for me to say at this point,
22 right? So, I don't know. Do we want to do a time check first and

1 make a determination on how long we want to go? It is now quarter
2 to 3. And then I guess we need to have a few minutes to just wrap
3 up.
4 You may want to make some kind of a determination as to
5 when you want to adjourn today, what's the time target that we
6 should aim for with respect to adjournment.
7 MA. PAYTON: Charles, my plane leaves at 5:00.
8 MR. LEE: 5:00. Michel, did you have a thought?
9 MR. GELOBTER: I have to leave almost immediately at
10 this point.
11 MR. LEE: Okay. So should we go to 4:00? I mean, you're
12 the Chair, Haywood. What's your pleasure?
13 MR. TURRENTINE: I think we should go until we finish.
14 I don't know that we should set 4:00 as a time. It might be ten
15 minutes from now when they're ready to go. And that's I think we
16 should be guided by.
17 MR. LEE: Okay.
18 MR. TURRENTINE: It's when the Council has finished with
19 its business.
20 I would -- Michel, you've got to go, and so we'll have
21 comments from Michel. And then I would want to hear from -- I know
22 Dwayne is leaving, Sue is leaving and Leslie is leaving the Council,

1 and Margaret is leaving. So I would definitely want to extend to each
2 of you an opportunity to comment. So, as soon as Michel makes his
3 comments then we'll move to the members of the graduating class.
4 CLOSING COMMENTS OF NEJAC MEMBERS
5 MR. GELOBTER: Thank you, Mr. Chairman.
6 I guess I have two things to say. The first is that I still think
7 -- I raised the concern about where are the teeth in permitting. That
8 is to say, beyond public participation. One of my subcommittee
9 members raised the issue of public participation, about benchmarking
10 it.
11 You know, we heard testimony that it wasn't effective for
12 communities that were clearly mobilizes, that had strong cases. And
13 there were fears in some of those situations that legal action post
14 facto. So I think we really have to think about that as we move
15 forward and not just say, let's get people to the table.
16 One thing that we've found useful -- that I've found useful
17 as I sit in our committee and we face an overwhelming set of issues
18 is to just -- you know, although we are environmentalists, to
19 remember that we are the National Environmental Justice Advisory
20 Council. So, on things like the offsets that were proposed, there are
21 clearly a host of issues that are generic to offsets across the board
22 that we have to pay attention to.

But I think the real value added that we can have and the real way to be specific with the Agency -- and we were able to do some of this in our session – is to think, okay, what's the environmental justice piece of this? If we are proposed by Tim Fields and Rob Brenner and Dana Minerva that they have a new offset policy, and they are doing it in response to this initiative, then let's -- to the extent that we are uncomfortable that it will open the barn door to a series of things that we don't want to see happen in offsets generally, let's be sure that it is used and implemented and done for environmental justice.

What are the triggers for this? When does it become an acceptable policy tool, not a tool that an industry group picks up and abuses, or whatever, but that it in fact is focused and targeted on those things.

I think that's one route to getting specific. As much as I care about the environmental as a whole, I often find myself as a chair and as a Council member, thinking about narrowing the lens to what's going to affect people of color communities.

That's one reason OSWER's initiatives were useful, in the sense that they -- although I don't think, frankly, that most of them were permitting initiatives -- some of them were -- but the big ones have to do with giving us more data so that when we go after

permitting we can know where we have to go to protect EJ communities.

So, data is always the first step, knowing where the affected communities are, or testimony, or whatever. And then moving.

That can help us get more specific and it can also shortcut the amount of time that we spend worrying about the big environmental problems if we just up front make sure that new proposals that are meant to get at EJ and permitting are limited so that they in fact address EJ and permitting, and then are allowed to operate expansively to do that as best as possible. They are triggered by the right things and then they're done as expansively and as broadly as possible.

I think that's one way to get to the specificity that Administrator Browner suggested.

MR. LEE: Shall we start with you, Dwayne? Do you want to?

MR. BEAVERS: Well, I certainly have enjoyed serving on the Indigenous Peoples Subcommittee and on the full Council for one year. There for a while I was wondering if I was ever going to graduate.

It certainly has been a learning experience. In fact, in

Region VI EPA at the Tribal Summit I was able to be a keynote speaker on environmental justice and talk to the Tribes and encourage them to participate in the environmental justice process.

There is still a lot that they don't know out there about environmental justice. That's all I wanted to say about that.

A couple of concerns I have. Another initiative that came out of Region VI earlier this year was the CAFO general permit. Approximately 19 tribes commented on that in a regional perspective. And then I think it went the wayside and now it's being looked at nationally.

The concern I have is were those comments forwarded to headquarters so that here at headquarters they could see what those comments were from the Tribes.

Also, the general permit was placed in the Federal Register and it specifically stated in there that one reason EPA was moving towards the general permits was because they lacked the resources to review permits on a case by case basis. I think that's real dangerous when it gets to that point.

Another thing about the permitting process, too, is I believe there should be a direct notification to the community by mail and in a timely manner so that they can gather their resources to effectively comment. Because once that permit application has been presented

by a facility, they've already done their homework and they're ready to go into production or increase production.

So I think direct notification to that community early in the process so that the community can gather its own resources.

Those are the only two comments that I had.

MR. LEE: Sue.

MS. BRIGGUM: Am I supposed to be commenting on permitting or giving closing remarks?

MR. TURRENTINE: No. You're outgoing, you're graduating so you can comment on anything you want to comment on.

MS. BRIGGUM: I can say anything I want.

MR. TURRENTINE: Right. Anything except anything about me.

(Laughter.)

MS. BRIGGUM: Okay, I'll talk about Charles.

I want to thank everyone for the opportunity to serve on the subcommittee for five years and the Council for two years.

This has been the best experience of my professional life not only because the issues are so important and so intellectually challenging and complex and critical and cutting edge, but also because of the people who have been on the Council and who come

to the Council because they have such character and integrity and such passion and value.

I mean, it's a wonderful learning experience for someone from the business community to have the opportunity to be here. So I just want to thank you.

MR. LEE: Leslie.

MS. CORMIER: I'd like to also echo those comments. I've been on the Council for three years and Enforcement also for three years. I had hoped by now we would have more industry folks at the table with you; I think the process is getting such that it's less intimidating for all of us no matter what sector we come from, the way we've evolved as a group. I hope that in the future we get more folks to the table.

I'm just going to move from this side of the table to that side of the table. I'll still be around, and I look forward to working with everyone still and learning more and being a part of this.

Thank you.

MR. LEE: I think the last member of the graduating class is Margaret.

MS. WILLIAMS: Thank you. I guess I can be the commencement speaker.

(Laughter.)

MS. WILLIAMS: I have enjoyed working with NEJAC and I have experienced almost every emotion that you could come up with.

You know, when I first got involved with the NEJAC, we were fighting for relocation, and Charles Lee brought a meeting to Pensacola. I think that focused issue a lot and helped us with that relocation process. I was delighted because I thought we had found help in our struggle.

I can empathize with all of the communities who come before us because I've experienced some of the same things that they have experienced. It disturbs me to see them come year after year and year after year and we have so many action items that are still pending, nothing has been done.

And I'm wondering why is it that we, as African-Americans, have to struggle so hard for survival in the United States of America when we are bona fide citizens, registered voters and taxpayers.

These people in authority who make these decisions are being paid by our tax dollars and I don't think it's fair that we should be killed by those who we pay to work on our behalf.

Every community that comes before us tells you about suffering from the same types of illnesses. The burden of proof has to be on the community, so they say. Why can't these facilities that

pollute these facilities have that burden of proof, and prove to the decisionmakers, even in the permitting process, that what we are going to emit is not going to destroy the people who are living in this area?

That disturbs me greatly because the government doesn't have the data, so they say. No one else has any data. There's always data gaps. But conclusions can always be drawn that there's no harm to the people who are living in these areas.

I think that's utterly ridiculous, to tell group of people that the only thing that can save you is stop fishing, put up a sign, and keep your children in the house.

We have seen this over and over and over. And we've talked about research and study. Study and research. And every time I pick up a paper, almost, I can see where research has been done on African-Americans. We have more cancer, more glaucoma, more hypertension, more of everything than anybody else.

How much more study do we need? While we are shuffling papers, going through resolutions, making recommendations, our people are still dying in these communities.

In our community in the last two and a half months we've buried about seven people. These chemicals stay in your body for years. And our children -- our children, who are exposed at this

point, may suffer down through the years.

Somebody is going to held accountable for this. This is tantamount to murder.

And when I hear about research and study and nothing about care for this generation that we have, it saddens me, because if they continue to be exposed to chemicals that's going to damage their brains, there's no way for them to learn. There's nothing to stop them from having behavior problems when they are exposed to these various chemicals.

And if you're going to do research, you should do research in these areas where these facilities are and where the children are there. Do research on those children and find out how those chemicals affect their learning abilities.

You know, let's see if we can't do something worthwhile for a group of American citizens. We're not immigrants. We are citizens of America. We like the same things that you like. We love our families. We laugh just like you do. We cry. We have the same feelings that you as individuals have. And all we're asking is to be treated as American citizens.

When these people come to this meeting, they come seeking a glimmer of hope. And you could see the expressions on their faces when we tell them that we are going to do something

about it. And when nothing happens until next year this time they come back for that same glimmer of hope.

What does it take for us to be recognized as citizens of the United States of America? Does it take coming before a group and just expressing our feelings, our hurts day after day? What does it take? That's a question I'd like to ask each of you.

I heard Luke say that political actions affect corporate behavior. I'd like to reverse that and say corporate actions affect political behavior. It seems to me that our rules are made by people other than the politicians that we placed in office. I think it's time we took a good look at their record. And if they aren't working on our behalf, something should be done about it.

You know, you don't know how we feel unless you've been there. And when I see no one but the heads of agencies coming in here to give their speeches, it disturbs me because there is a lack of communication from the federal to the regional, from the regional to the state, from the state to the local. They're all on different wavelengths.

If we're going to solve these problems, I think one thing we should do is try to get representatives -- if you're going to concentrate on permitting, get representatives from the federal, state, region and local together and let's see if we can't synchronize our laws and our

efforts to ensure that environmental justice is included in the permitting process.

There are some states that don't even know what environmental justice is, and some don't even care about environmental justice until it comes to the point where there's some grant money out there and they'll label everything they do as environmental justice and get that money and use it for whatever they want to. The same thing with research.

So we've got to be careful on what we are doing to a people who have done nothing but help build America. More efforts are given, even to the enemies of America, to improve their quality of life than is given to the people who are born and reared here.

You need to think about these things seriously.

Lastly, I mentioned this once before, when we come together to meet, I think we are all of different religious -- have different religious backgrounds. What we could do, if you don't want to offend anybody's religion, is just bow in a moment of silent meditation and ask for a divine power to guide us in these directions that we take, because the lives of our people are at stake.

It's a shame to destroy a people, take their properties away from them, keep their families sick and dying. These are the things that are done by criminals. And if they were actually done by

criminals, they would be prosecuted. And I think if it could be proven that these things are done by criminals in our community, something should be done to make sure that they are prosecuted also.

Again, it's been a pleasure working with each of you, and I'll try to keep in touch with the Health and Research -- because one of the things that I'm fighting for in my community is a clinic to try to provide some service for those people who have been adversely affected and see if there isn't something we can do to help at least 800 or 900 children in that area to be relieved of the heavy burden of chemicals that they've been exposed to.

(Applause.)

MR. TURRENTINE: Thank you very much.

I want to say thank you from the depths of my heart to the four of you that are going off the Council. It has been my pleasure working with you, and it is my hope that we will continue in the struggle to bring about justice for all people.

It is my desire that we would continue to network and collaborate more than we ever have in the past to get this job done.

As Dwayne pointed out, it has been a tremendous learning experience. It has been a tremendous learning experience for all of us. But if we've learned anything during our tenure on this Council, we probably have learned that the Council is not the answer to the

problems that face communities of color. The Council is an avenue through which we can get some information to the Agency.

If we listened to what the minister said, Zack Lyde said last night in his frustrations as to what the Council has or has not been able to accomplish, I would only remind us that the degree to which we reach back out into the grassroots organizations, into the bowels of industry, into the state and local houses, and try to continue that educational process -- to that degree, are we going to successful in correcting many of the wrongs that we have heard from the people that come before us?

I'm going to stop at that point. But I did want to say to the graduating class, thank you, thank you, thank you.

At this point I would ask any other members of Council who have a desire to give parting comments, that they would do so at this time. In no particular order.

PARTICIPANT: Do what?

MR. TURRENTINE: Parting comments. Parting shots.

MS. MILLER-TRAVIS: I wanted to just say thank you to two people; to all the people who have served, but in particular to Sue Briggum and to Jerry Prout. We didn't get to say goodby to Jerry because he's not here today, but we had the benefit at a point in time of having both Sue and Jerry on the Waste and Facility Siting

Subcommittee.

Their contributions as industry members who put shoulder to wheel to help us figure out these very difficult problems was invaluable. It wasn't any more or less valuable than other people at the table, but I don't think that we could have made the progress that we made without having them there.

And they didn't just work with us in the subcommittee; they went back and worked with their colleagues and their industries to try and bring them along and bring them to the table.

There are a lot of other concentric circles that are going on outside of the NEJAC; a lot of that work has been done by the good will that we generated in our subcommittees and on the Council, and it's flowed back into their constituencies.

I can think of no better testimony than that we are able to affect the behavior and the thinking of those who have in past practices caused harm and injury to the communities that come to us to ask us for consultation, that we've been able to sit down at the table with some pretty heavy-duty industry folks and sit down and at the end of the day say that they are our colleagues and they are our allies. That will go on long after the life of the National Environmental Justice Advisory.

And so that's a special thank you to Sue and Jerry and

their work on our subcommittee.

MR. TURRENTINE: Rosa and then Don and then Marinelle.

MS. RAMOS: I just want to bring to your attention the letter that the Public Participation Subcommittee is recommending to be sent to Ms. Carol Browner regarding the Federal Advisory Council memberships.

The law requires that the advisory councils for EPA must have representation from all sectors of the community. We would like to analyze carefully the composition of EPA FACAs to be in a more appropriate situation to make recommendations on how to incorporate affected communities.

Usually what we have seen up to now is that those councils include academia, include environmental groups, include industry -- quite as large number of participants -- states. But we don't see that often affected communities, people that are going to pay the consequences of the decisions taken at that high level.

So we are asking for more information in order to make the appropriate recommendations to the Agency. That's very important. I think this could lead to significant changes in the way that guidelines are established in the Agency, and hopefully in other agencies too.

MR. ARAGON: Mr. Chairman, I think I would also like to extend my congratulations to the people that graduated and hope one day I can graduate.

(Laughter.)

MR. ARAGON: I sound like I've been sentenced to something here. You know, with the 13 and 14 hour days and no breaks, no lunches, and stuff like that.

(Laughter.)

MR. ARAGON: This is an environmental injustice --

(Laughter.)

MR. ARAGON: -- to the people that are working here.

But in staying with what Charles started off with in saying that in our meetings we should be issue-focused I think is a real excellent idea.

I think that the idea of opening up with permitting is excellent because one of the things that's happening in this nation is the EPA is working with Indian Tribes throughout the United States in trying to assist these tribes to assume the responsibility and exert their sovereignty and also get into the permitting process.

I hope that Indian Tribes, when they do get into the permitting process, use some genuine honest statistics to evaluate the impacts of the things that they are permitting and not let

economics rule their decisions.

I think that I really sympathize with what Margaret said, and I feel that the people that come here and testify before the NEJAC should receive some type of a written letter or some form of a response to let them know that their issues have been referred to either a committee, or thrown out, or moved on up the ladder somewhere.

You know, I've seen people come here too who have basically presented the same testimony over and over and over again. It makes me wonder if they have received any kind of satisfaction that they've been heard and now something is going to be done. Even if nothing is done, at least I think the people deserve the respect to be sent a response.

Last, I appreciate that the Administrator came to the meeting here and spent a little time with us. And I would appreciate it if she could come and spend more time with the NEJAC in the future. I think that that is very important because it lets us know that, you know, we're not just sitting in this room by ourselves and not working with staff that have been delegated to us, even though those are excellent staff people.

For those individuals that speak out against the NEJAC, and so forth, I want to remind them that, you know, EPA is probably

one of the only federal agencies that allows the public to come before it with this type of a forum. You cannot go and talk to DOD. You cannot go and talk to DOE.

In the Bureau of Indian Affairs, the Indian Tribes don't even have this type of a forum to go and talk with the Bureau of Indian Affairs which is dedicated to working with Indian Tribes.

So, with this forum that we have here, the open forum and the long hours, and those types of things, it is an excellent thing that other federal agencies should be taking a look at. And when we talk about being taxpayers, you know, this is something that I think should happen across all the federal agencies so that individuals have an opportunity to get in there and express their concerns as to how their tax dollars are being spent.

Thank you.

(Applause.)

MR. TURRENTINE: Thank you. I see Marinelle. I see Rose Marie. I see Luke, and I see Jane.

MS. PAYTON: A lot of the things I wanted to say have already been said, so I will just comment on a few issues.

I just want to say to Don that we'll all graduate if we do our work well.

And in response to Mrs. Williams' comment on hoping that

the Council will be able to do something to impact the communities, I too share those sentiments.

I must mention this in reference to her saying, you know, to say a little prayer or meditation, I do that. Maybe I shouldn't be saying this, perhaps it's inappropriate -- I hope not -- but each time before I sit in this chair I ask God to lead me in the right direction. Every day I can't get out of my mind what I saw in Baton Rouge, Louisiana -- or, I should say in Louisiana in all of he site tours that we went on.

It has changed my life. I knew poverty the way that most of know it in the ghettos, you know. The down-South houses that you've seen documentaries on that have no floors, the cracks in the walls, no running water, no sewage. But when you add to that the burden of toxic chemical exposure, now that's poverty.

It's a sin and I think that the conviction should be, if possible, to literally take those people and confine them to live in those areas for the rest of their lives, or at least long enough for them to make changes. I know that's impossible. Let me move on here.

But anyway, let me just say that I think that a focus oriented meeting is the right direction. I really enjoyed it. I think it was really good. The one suggestion I would like to make is that if possible there could be a little more time for dialogue. I think that it

would work really well. For the May 2000 meeting I think this is a good approach for that meeting as well; I know we've talked about that.

I just wanted to add that. Thank you so much.

MR. TURRENTINE: Thank you.

MS. AUGUSTINE: This is my third meeting. In that short time I know a lot of people here on the committee. There are some that I've just met, but I want to say that I feel real bad because you're leaving because we seem to be working pretty well together, and that's what it takes to make a committee, to be able to be effective.

I too -- this is the third time I've been here in one of these meetings -- is this the second in Louisiana? Yes, the second time. Okay. It feels like the third time.

(Laughter.)

MS. AUGUSTINE: The first time I thought, this is not for me; I'm going to quit. The second time, this is not for me; I'm going to quit.

You know, I go home and I can't get over -- you know, it's in my mind what I hear that's happening to these communities. When we went to Baton Rouge it took me a long time to be able to -- I still can't get over that. I just think of all the communities that I have been to. It just seems to get worse and worse and worse.

And then I see all the people that come in here with so many hopes, and you feel so – anyhow, I feel so ineffective. You know? And yet you feel like you do have an obligation.

But why can't the agencies feel this kind of responsibility? Where is the Department of Defense? Did they come this time? Did they come the last time? Where is the Department of Energy? DOD, DOE -- what is it, BIA? All of the problems that we hear, where are they?

Now, let me ask you this. DOD, under the Presidential Executive Order isn't there an interagency committee that was set up to work on environmental justice issues with the EPA?

PARTICIPANT: Yes.

MS. AUGUSTINE: Isn't this a mandate for DOD?

PARTICIPANT: Yes, it is.

MR. ARAGON: Isn't this a Presidential Executive Order?

PARTICIPANT: Yes, it is.

MR. ARAGON: Well, isn't the President of the United States the Chief Executive of DOD? And aren't they in violation of that Executive Order, in violation of the their Chief Executive? What does it take to bring them to the table?

Let me ask you this, Charles.

(Laughter.)

MR. ARAGON: When are you going to reconvene the interagency committee?

MR. LEE: The answer to that is --

MR. ARAGON: How do we do it?

MR. LEE: The answer to that is are already starting to.

MR. ARAGON: We already started to? They should have never quit.

MR. LEE: I may agree with you -- I'll agree with you on that.

MR. ARAGON: Thank you.

MR. TURRENTINE: Thank you. Luke.

MR. COLE: Thank you, Mr. Chair. I think this has been overall a tremendously productive meeting and I really like the fact that we're focusing on a single issue. Members of my subcommittee also passed that along to me. They said that this has been the most substantive and productive meeting of the NEJAC that we've had.

I think there are process issues that we still need to work out, like people are saying we need more time to have a dialogue with the panel participants, and we need to have better time management by us, as a NEJAC. I take responsibility and I would hope that all of us would too, that when we say we're going to have a ten-minute break, we come in back in ten minutes, rather than 45

minutes later, because that's one of the reasons we don't have enough time to discuss this stuff.

A perennial issue that we have to address which is key to being effective as a NEJAC is copying capacity at NEJAC meetings. I know it seems like a minor matter to bring up before the full Executive Council, but at every NEJAC meeting that I have been at, we've had problems with the contractors and copying. It's usually that the copy machines break down.

But if this is the seventh time the copy machines have broken down -- you know, the first time they break down, okay, we'll accept that. The second time, let's have a question about it. The seventh time, we need to have a different way to do this because there are many things that we would have liked to have distributed earlier or have been able to talk about in our subcommittee and have people around the room see what we're talking about, but we couldn't because of that.

Permitting key issues were raised here, and I hope one of the things that we can do that we've not been good at as a committee is follow-through on these issues.

I would echo Rose's remarks that the federal agencies weren't here, but I don't think enough state and local agencies were here either. I know that this meeting was originally slated to be in

Philadelphia to try to kind of take it into state and local turf, and for various reasons it wasn't there, it was here. But we need to do a better job perhaps in making attending the NEJAC an attractive proposition for state and local decionmakers who might otherwise not come either because they think it's going to be hostile or because they think it's going to be irrelevant. We need to prove our relevance to them.

I will say that there's been excellent turnout by staff, and particularly EOCA staff. At our subcommittee meeting we had a number of the regions represented and I think that was really useful.

As I do in my closing remarks at each of these meetings, I'd like to thank the staff, the contractors and the EPA staff, and my DFO, Shirley Pate, who really make this thing happen. You know, they are here before we get here to set up the rooms, and they are here after we leave to break down the rooms. And if we think we're putting in long days, you know, they're putting in longer days. So we really need to acknowledge that.

(Applause.)

In closing, I'd just like to say that when Reverend Lyde spoke last night, he really spoke to a crucial issue facing us. That is, our relevance to environmental justice and to the movement.

Many, many times during the NEJAC process, whether it's

conference calls or in between meetings or at meetings, I have been pulled aside by various people, all different stakeholders and staff, who said, you know, you're being very critical here and we don't want these people to walk away from the table; we have to maintain collegiality and we have to do this and that.

Yes, I think that's important, but I also think it's important that the Agency know what people are thinking. And sometimes what people are thinking is that the Agency isn't doing what they should be doing. And if that's difficult for the Agency to hear, so be it.

So, I am all for maintaining collegiality and having people at the table, but if they're not doing what they should be doing, I'm not afraid to call them on that. And I don't think we should be afraid to call them on that.

One of the things that I see happening, and I saw it more at this meeting than I've seen it at any other meeting, is what I would call Agency capture of the NEJAC. I see Agency staff setting the agenda for subcommittees. I see Agency staff picking all of the members of the subcommittees. I see Agency staff, you know, orchestrating how resolutions will happen.

That is not what EPA should be doing, and that is not what we should be letting them do. We are to be advisors to them, and

when they get into the action of advising us of how to advise them, then why are we doing this? If they want honest advice and they are confident enough in their policy positions to get it, then they will let us offer that advice. And I think we, as NEJAC, need to be very careful that we are not captured by the Agency and by individual offices within the Agency.

With that, I'll say thank you.

MR. TURRENTINE: Thank you. Jane.

(Applause.) (Laughter.)

MR. COLE: Thank you. My three-person cheering section over there.

MS. STAHL: For the sentimental part of my comments let me say this. Were there a way to bottle a Mrs. Williams, a Ms. Briggum, a -- Dwayne, I don't know your last name, -- a Dwayne, and essences of all of the people who sit around this table, and ship them out to the four corners of this earth, we would all be better for it because, unfortunately, we tend to talk among ourselves and we don't tend to share these wonderful people and the very important messages that they bring to us with the rest of the constituencies that are out there.

I mean, we're very inbred. We bring stakeholders in, but we don't share our message back out. So that's -- you know,

essence of Margaret is what I'm going to take home with me today. So I share that as the sentimental part of my comment.

The more substantive part of my comment is this. I think we need to maintain the focus that we've started on today. One of my fears is that we send an Inspector General or some such thing off to a state like Louisiana or New Jersey or Connecticut and they come back and say, it might be as bad as the residents think it is, but it meets the standards and so we can't do anything about it.

We need to look very carefully at our permitting requirements and our standards because if they're not doing the job, that's where we need to make the improvements. If they're not there, if we don't have the data or the background to change those standards, then that's what we need to do. But the first step is the identification of those needs.

We tend to hid behind published established standards. And then we tend to get entrenched. We dig our heels in and we say, this is it; you know, if you meet the standard, that's it.

Now, personally, when I go back home, that's exactly what I do. When I have a permit application in front of me, I see the application information, I see my statutory standards, and if they match up, that permit is granted. If they can be made to match up by establishing conditions or mitigation factors, then we put those

mitigation factors or those conditions on board and we issue a permit.

So what we need to do is take that cold hard look at the standards that we're applying so that we can't simply hide behind them and not recognize that they might not be all we need.

And then I'll borrow a phrase from Vernice. We need to find the political will to put the questions out there; not to be in a defensive mode and say we'll never get this through Congress or we'll never get this through a regulation. Let's at least challenge ourselves. Let's at least say, you know what, if we meet the standards and that's still not good enough, maybe what we're supposed to do is require relocation of harmed people.

Maybe that's something that we need the authority for and that we should make the responsible entities foot the bill for so that there aren't issues of there's just no money, there's no way to do it, or there is no authority to get it done when everybody knows that that's really the only answer that's out there.

We need to challenge ourselves; we need to challenge our system. We don't need to be abusive or violent about it. But we need to recognize where the problems are and at least try, because if we are defeatists up front and say we'll never get that through, we're asking for too much, we'll never know how far we could have gone.

So, I'm not retiring -- yet. Thank you.

MR. TURRENTINE: Thank you. I just want to throw something out. Someone -- and I don't see the individual at the present time -- stopped me on the way from the elevator to my room last evening and suggested that I put this before the Council as something to think about.

What really prompted me to do this was Jane's statement about bottling up the various people on this Council and dispersing that to the four corners of the earth.

This individual said, "C-SPAN coverage." C-SPAN coverage of the NEJAC meetings.

PARTICIPANT: That would be great.

MR. TURRENTINE: I'm not going any further than that. I'm just going to put that out there. I'm sure that in the infinite wisdom of those who are going to make decisions, it will be considered and dealt with in the appropriate way.

I felt that I at least owed it to that individual, and especially after one of the Council members talked about the need or the desire to inform larger groups of people as to the continuing nature of and the discussions around problems that we face.

Jerry, is that your card or is that Peggy's? Oh, Peggy. Then I think Annabelle and then Rose Marie.

MS. SHEPARD: I just wanted to say as someone who graduated from the Enforcement Subcommittee two or three years ago and now have the opportunity to be here on the Council with old friends --

MR. TURRENTINE: In graduate school?

MS. SHEPARD: Yes, and new colleagues. I am really happy to be here and to work towards some of the objectives that we all share.

For those of us who were here when NEJAC sort of kicked off, a lot of us have thought, well, where are all the EJ people, where have they all gone? And who are all these new people?

I'd just like to say that it's been a great opportunity to meet those new people I didn't know and to realize their commitment to the objectives that most of us share.

I look forward to working with Marinelle, who is a new colleague on the Health and Research Subcommittee. And I look forward to seeing Ms. Williams and some of the others who are departing because I know this isn't going to be the last time. We'll see you back again.

I just wanted to say that I think that we're all going to face some really severe political challenges in the next couple of years and that it's going to take us really beginning to pull together even

more and to be more strategic.

I think many of us here have got to get on the phone when we get back and start talking to our elected officials about budgetary issues and other matters. I think we've really got a critical political job ahead of us and I hope that we will pull together and be up to that task.

MR. TURRENTINE: Thank you.

MS. JARAMILLO: Well, this is -- let's see, I think I'm becoming a NEJAC veteran. This is about the fourth or fifth meeting. And what can I say? It is a tiring process.

Let me focus on the subcommittee work a little bit because I think that is probably the most valuable thing that NEJAC brings to the table, and that's the work of the subcommittees, the direct focus on all the components of what needs to happen in terms of alleviating the abuse and the despair that many of those environmental justice communities have.

To that end, I feel very fortunate to have been switched over to Air and Water this last year, and have felt a great deal of satisfaction and gratification with the work going on there.

I especially want to commend out chair who really keeps us on task, even though he wants to work 18 hours a day instead of 14. But that's okay, there's a lot of work to do.

Our process yesterday was very good. We did have two or three process disputes and we managed to resolve those. But I think all in all that process is really to me probably the most valuable piece of the work that we're doing.

I want to empathize a little with Jane in terms of where she finds herself and where I find myself quite frequently: whether I should lead with my heard or whether I should lead with not getting my state in any trouble.

I kind of look at it in a different way perhaps in that I have to be true to my heart most of the time because that's just who I am, and I trust my intuition sometimes that I can make the right decision using my heart.

But I'm probably in a little bit different situation than Jane is, and that is, a quasi-policy adviser to the chief executive of the state. If I can go away with advice to him from here where I've made a decision which might be contrary to the way that an agency person might give him in the state, well, you know, I'll deal with that when I get there. Look at it that way. Again, using my intuition.

But also using the behavior that the chief executive models. Being an emergency room physician, he agonizes over every policy decision he makes. He takes all the information hand-given to him in terms of data and factual information; then he lets his

stomach feel what all that is internally.

Watching that person go through that process is something that has been very helpful to me in terms of internalizing what kind of decision it is important to make here. And so I always look at that in terms of the decisionmaking that my role model and my boss uses in that whatever decision he makes is going to affect those that reside in our state, and he always errs on the side of ensuring that the quality of life of the residents of our state is not compromised in any way by those decisions.

So I kind of try and use that model in terms of making my decisions, and if my vote on the record tends to compromise me in a lot of cases, well, so be it.

But I have to say that after the fourth or fifth meeting here I'm finally beginning to feel a little bit more comfortable. The first two years I've got to say were intimidating as hell.

(Laughter.)

MS. JARAMILLO: Now I'm feeling a little more comfortable with the process. For somebody that's new to the Council process, it can only get better. Thank you.

MR. TURRENTINE: Thank you.

MS. AUGUSTINE: I want to respond to what you just said, Haywood, about -- what was it C-SPAN? Yes. I'm brain dead right

now.

I had the same person come over and ask me how come you don't have media attention? Well, like I said, I'm new. Is there a media communication subcommittee that deals with advertising -- I'm talking on the NEJAC -- advertising these meetings? Because when we're talking about public participation, community participation -- this is one of the largest and most important committees to the communities that is dealing with the problems that they have in their communities and they don't even know that we're in Washington or we're in Baton Rouge, except the local people.

We should have some kind of media outreach so that not only the local folk know what we're doing, but that other people also know that we're here. A lot of people don't even know what the NEJAC is.

When we're talking about citizen participation, this is one way to inform them that the NEJAC is there and we're working on some of these issues, and give them an opportunity if they're able to come.

Not advertise it like in the Federal Register. You know, that's not advertising. I'm talking about C-SPAN, the news media, anybody that we can get ahold of. I would like to see that happen for the May 2000 meeting, that we talk about it, that we advertise the

May 2000 meeting. That's the first meeting that we're going to have in the next new millennium. It's very important what we do in the next millennium.

I would also like to say that, you know, it's not just coming to the NEJAC meetings here a couple of times a year, I believe, when the NEJAC meets. But we also have these conference calls every month that we have for the subcommittee. And these are the most important, I think, for the subcommittees because this is where we do all the planning on what we're going to be talking about in the big meeting that we're going to have.

So, we do a lot of work. We work in the communities. We have the subcommittee conference calls. And then we have the big meeting and we're working on resolutions and telephone calls. My life has changed a lot.

(Laughter.)

MR. TURRENTINE: Gerald, is your card up?

MR. TORRES: Just a couple of points. I want to I guess second what Luke said. I thought that the meetings this time were quite substantive and a lot the discussions were very helpful.

I want to thank Steve Herman for the time he spent. There is a point that came out of our discussion yesterday that I think is critical for us to understand.

That is, one of the primary goals of the Executive Order was to change the regulatory culture within those agencies that make decisions that have an impact on the environmental. So that what would be good for us to learn from the folks at EPA -- and I think we've started down this path a little bit -- is what's the most effective way for us to give you assessments of the work that you're doing in ways that not just you hear, Steve, but the people down the line from you hear.

I think that's something that we need to work on and get better to make sure that our communication really does have that impact.

I'm glad to hear that the Interagency Group is being reconvened because it's not EPA that is supposed to take these issues into account, but every federal agency that makes a decision that has an impact on the environment.

I think EPA is to be commended for taking the leadership, as it ought, in doing this, but the Interagency Group has to push the decisions back down through the other agencies. What EPA can add now is the experience of dealing with the NEJAC to help those other agencies along. It's kind of late in the day, I realize.

The other thing that I think is important to remember is that one of the -- in EPA all of the program areas ought to have an EJ

component. That is, it is one of the issues that is pervasive and ought not be captured just by a NEJAC or an Office of Environmental Justice. But one of the goals of the Office of Environmental Justice ought to be to push the issues through the other program areas.

I think that's critical because as you talk to the regions and the regions talk to the states, that's the way it gets communicated.

Finally, I think it's important for us to remember that the constituencies that we represent, to the extent that we represent community groups, really are miner's canary. That the object of environmental regulation is to protect the health, safety and welfare of the citizens of the United States -- people of the United States; I'm not going to limit it to citizens -- people in the United States.

And what we are trying to do is to bring information to the agencies about those people who are most egregiously affected by the failures in the systems to provide that protection.

The fact that we can see it in the communities that we go back to first, doesn't mean that those communities that we're not seeing it in currently are unaffected.

The role, I think, of the NEJAC in being the miner's canary, if you will, ought not to be -- ought to be borne in mind so that it's not thought of as something that is over here or in addition to the primary mission. That in fact, we are the light on the primary mission.

I think we need to continue with that focus in mind. Thank you.

MR. TURRENTINE: Thank you, Gerald. One comment, and this is on the number of other federal agencies that are here or really aren't here, and the reconvening of the Interagency Workgroup. I've heard a number of you say that they should be engaged.

Let me go one step further. If they don't get engaged, and now get engaged, they're going to have a tough row to hoe in the fall NEJAC of the year 2000 because guess what the topic is? The focus of that meeting is interagency workings.

Now, if they just start, leading up to that meeting, it's going to be very obvious to everybody concerned that nothing has been done. And I think as Luke has pointed out, we're going to be extremely critical. Extremely critical. They may not have heard of us before but they will hear us in October of the year 2000 if they don't get involved and get involved now.

MR. HILL: I really appreciate that. I was going to bring that up, too, in terms of having the Interagency Task Force as the sole subject of the meeting. I would just suggest that in addition to Interior that the Bureau of Land Management also be invited.

MR. TURRENTINE: Rosa Hilda and then Don and then we're going to look to see if anyone else chooses to comment. If not,

we're going to start our close-out.

MS. RAMOS: I just want to say that, you know, I don't know if we can endure being televised in these meetings, but we should be able to survive.

(Laughter.)

MS. RAMOS: I understand that the C-SPAN is a service given only to Congress. I don't know, but we should investigate.

But I can assure you, if these meetings are televised, you're going to see a lot of governors and you will see all the administrators of the agencies. I can assure that.

MR. TURRENTINE: Don.

MR. ARAGON: Yes. Just a comment. We've heard that there's enough laws and statutes on the books and the problem exists on enforcing these things. And I think that since it's been brought out, I think it's an opportune time for EPA to take a look at how are they implementing the law through their own agency.

Like the gentleman said over there, I think that some of these messages should be echoed on down through EPA itself so that, you know, when they are in the permitting process or in the regulatory big-brother system here, they can enforce their own rules and regulations that have already been adopted and are not being enforced.

MR. TURRENTINE: Arnoldo.

MR. GARCIA: I couldn't pass up this opportunity. I think the idea of C-SPAN is a very good one, but I think that we also have to remember that the different forms of communications always have their limitations; like who has cable and so forth.

PARTICIPANT: That's exactly right.

MR. GARCIA: Who has the time to sit down and watch coverage of a 13-hour meeting and so forth.

(Laughter.)

MR. GARCIA: The days of our lives, right?

(Laughter.)

MR. GARCIA: Unless we had -- what's the guy's name? The NPR person? If we did it that way, we might have a better audience.

PARTICIPANT: Jerry Springer.

MR. GARCIA: Yes, Jerry Springer. But I think the main point, though, is that there are very different forms of communication available to us. I don't know if we have a Website, if NEJAC has a Web page. We could do a live web chat, what have you.

Also, a few years ago when I had a different job, we had a conference from another organization called EDGE, it was a coalition of environmental and civil rights and communities of color. We

broadcast on KPFA the conference and we actually had people coming off the freeway to join us at the conference. Thousands of people listened to the conference. So radio is also another opportunity, but it takes, you know, a dedicated – a certain type of line that we need, and so forth.

But I think the main point, though -- one of the things about communications is that there's also different languages and different ways and different traditions of communicating.

But the main thing is that if we talk long enough, we can resolve our problems. The thing is, I think that our communities have the patience and the skill to communicate, to dialogue, until we resolve the problems. Because we're not going to go away.

I said this the last time, and I think I've said it every time I speak at this opportunity. That what is in crisis is not our communities. We have to be really clear about that. The African-American communities, the Mexican, Latino -- the various Latino communities -- all the communities of color -- I'm going to say it that -- are not in crisis. They are not in crisis.

What is in crisis is the industrial system. The way we're relating to the earth is what is in crisis. And it's not our relationship, it's not our dominant relationship.

Right now there's three things about our communities. Our

communities are sitting -- whether Native American or in the core cities -- we are sitting on literally the infrastructure that in some cases was abandoned or in some cases were put there because it was not seen as prime real estate. But now we are sitting on prime real estate and there's some folks that want it back. And we're going to be displaced again and we have to be prepared for that.

We have to permit for the future, to put it another way. We can't permit based on the past. We have to permit for the future.

MR. TURRENTINE: Charles.

MR. LEE: Thanks, Haywood. I wanted to just make sure that you know as a point of information that we have reconvened the Interagency Workgroup and we are now meeting regularly on a monthly basis. We're trying to think through how to make that more effective on a whole number of things.

So I just want to make sure that everyone realizes that we not only have heard you about those kinds of questions but have been very concerned about that in the past several months.

I do want to make sure that we also understand -- I want to talk to Luke's point about this whole notion of the way NEJAC operates and its relationship to the Agency, what he calls "agency capture."

I do want to make sure that you know that from my point

of view as a DFO of the NEJAC that I've been very concerned about that. I want to kind of talk to you about this and I want to ask for your input and participation in addressing this question.

Also, we want to make sure to make available every opportunity for you to exercise some leadership because that's what is going to be needed here.

As we move towards trying to address, which is, I think, an exceedingly necessary and worthy thing to do in terms of offering policy advice of a systemic nature, there is a natural kind of movement away from environmental justice communities because the locus of discussion and activity is different.

You know, we have seen basically in simple terms this is the difference between the idea of having "broad policy advice" versus "site specific questions."

I think the real question here is how to take all that we've learned -- I mean, in terms of all the years of the NEJAC -- and figure out a transformation of the policy process.

That's why I think in the past year efforts like the waste transportation effort and the Border Roundtable in terms of going out there and really engaging in the communities, that's been where a lot of the policy questions begin to emanate and hopefully we have a situation where environmental justice does really begin and end in

communities.

So I want to make sure you understand that that's an issue that we are very concerned about and we really do need your thoughts about this whole question. This is an ongoing issue.

I was going to conclude by -- Barry wasn't here so I was going to conclude on behalf of Barry and myself, but since he's here, I'm going to conclude based on myself, if Barry doesn't mind. I want to make sure that I and Barry -- and I'm sure he'll agree with me -- you know, really think all the people that made this NEJAC meeting I would say in my own opinion a real success.

I want to thank you, the members of the NEJAC, all the members of the subcommittees, all the people that came to present to us, and all the people from the various communities and other groups that participated here with us that were in the audience. A lot of the value of the NEJAC is that informal interaction that really does lead to a lot better understanding of both the issues and also of building of bridges and collaboration.

I want to thank -- echo Barry's thanks of the Office of Environmental Justice staff, the contractors, the EJ coordinators, the DFOs.

I also wanted to point out that we need to thank and express a note of appreciation of all the -- as Luke pointed out

before, a large number of people from EPA's various program offices that were here. You know, the fact that Jeanne Fox, Bill Yellowtail, Gregg Cooke, Jerry Clifford, Laura Yoshi, Gail Ginsberg, so on and so forth -- senior EPA, Alan Hecht, senior EPA management spent a tremendous amount of time here, which translates into real concrete actions.

I could tell you that going back to the early days of the NEJAC when Tim Fields was here, you know, that made a huge amount of difference in terms of the concerns being translated into actions. And so this is something that I would think that you need to realize.

Part of what I picked up from the EPA staff that were here, they came here both to participate but also came here to learn. I think I picked up a real sense from them that these are things that really have made the issues of environmental justice real and is something that they found to be truly a very, very informative and educational experience.

I want to make sure to thank Haywood Turrentine for doing a magnificent job chairing this very difficult meeting. I just want to say, Haywood, it's been a real pleasure working with you both in terms of preparing for this meeting and in conducting the meeting.

I want to thank Barry Hill for his leadership and the Office

of Environmental Justice. I think he has in many ways made it possible for us to do our work.

I also want to thank and make sure that everyone understands that at least from my own personal point of view -- and I think I speak for the Office of Environmental Justice staff -- our real deep appreciation of the abiding support of Steve Herman and Sylvia Lowrance as the Assistant Administrator and Deputy Assistant Administrator of the office in which the Office of Environmental Justice resides.

So, with that, I just want to conclude by saying that I've been at EPA now six months and I think it's been like six years now, right? I came here with a number of goals, one of which was to really try to help instill a high level of intellectual content and rigor to the environmental justice mission at EPA and a strong sense of value. I think I'm personally very pleased that I think this NEJAC is a reflection of that.

The other is to -- I read an article a couple of months ago entitled "Collaborative Learning." It's really -- see, the process that we are engaging in a process of collaborative learning between many, many different people, in particular between you and EPA. It really is the case that there is a lot to learn from each other. I don't think that it would have been possible to have done the things that

we've done at this meeting without that really being the case.

So, with that I want to thank everyone for your participation at this meeting.

MR. TURRENTINE: Thank you, Charles. Barry, if you choose to have a couple of parting shots. And then Steve. After which I will make my closing statements and this Fourteenth meeting of the National Environmental Justice Advisory Council will be adjourned.

MR. HILL: Well, Charles basically said it all. All I want to say is that planning for the May meeting starts tomorrow, so you guys will be getting requests for conference calls next week.

But thanks again for everything. It's been extremely successful and all of your hard work has paid off. That's it.

MR. HERMAN: I have nothing to add. I just want to thank everybody for their participation and be assured that we're listening and we're going to try and follow through on everything that's said. Thank you.

MR. TURRENTINE: Thank you.

I would like to thank Steve, Sylvia, Barry, Charles, and the entire staff of the Office of Environmental Justice for the cooperation that you've extended to me during this planning period and during this conference.

I want to say to the members of the Council, I hear you when you talk about the long hours that we meet. I promise you I hear you. And I've tried to do something about that. I don't apologize for trying to stay on an agenda because had I not tried to stay on the agenda, I would have probably have heard it from more of you about the long hours that we work. And I will continue to try and do that.

I also want to point out to you that in keeping with the spirit that I do hear you and I know that it is a concern, that I will be more forceful in the planning of the agenda for the May 2000 meeting.

Now, what do I mean by that? In the planning for this meeting we had some very good dialogue -- Charles and I did, along with other staff people -- regarding the panel presentations, the number of people to be participants in that process, and even the number of panel presentations to be made.

We agreed to disagree on the final agenda. I think we had a wonderful meeting. We had I think phenomenal information that came out of the panel presentations. I think all of you would like to have had more time for dialogue with the panelists. But the agenda was so full that we didn't have an opportunity to do that.

We will take that into consideration as we plan for the May 2000 meeting in Atlanta. I do hear you and I will make sure that that voice is heard in the Planning Committee for the May 2000 meeting.

I cannot promise you in any way that the meeting will not last 12 hours a day, but I will promise you this: that whatever the final agenda is, I will do my level best to keep us within that agenda and we will get through the process, we will collect the information that we have coming before us.

I think one other point I want to comment on -- I think Luke alluded to this in his comments -- and Charles and I've had some discussion on this already. We have to fashion a process whereby follow-up and follow-through is the order of the day.

When people come before us and make comments, when panels come before us and make presentations, when you make recommendations, we have to follow-through on that and we cannot allow it to fall through the cracks. And if nothing is done about it, we at least need to report that back.

So there has to be a process, a mechanism if you will, whereby we do a better job of reporting back to the Council and to those of you who come to these meetings what we've done in our efforts to take the advice that we get from you and to fashion that into some kind of a policy statement and what, if anything, happens to that.

So I think we're going to do a better job of that.

Ladies and gentlemen, we are but one body, the Council.

We can do and receive an awful lot of information. The work does not end when we adjourn this meeting; it really begins. We have to go back in our collective communities and our collective stakeholder groups and continue the efforts that have been started during this process. We have to impact those with whom we work, live, eat, play and pray in a way that we may or may not have been doing in the past. The collaboration that has to take place is more real today than I think it ever has been.

I'm not sure who all is listening, but I do know this much: If we're not convinced that those that we're talking to are listening, the maybe we need to talk a little bit louder, a little bit longer, or maybe we need to jump and down and scream and kick and shout. But we have to make sure that that which we say is being heard by those that we say it to.

The people who come to us, we can meet them in their neighborhoods and we can talk with them as individuals. And I think we should go back as individuals and do everything we can. But as a Council, we have to marshall this process and make it better.

I think Barry, in particular, for authoring the notion for an issue-focused NEJAC -- I think it has been invaluable and I think it's only going to get better.

I think each of you, especially the subcommittees, we

charge you with the responsibility to develop a strategic plan for your subcommittee and each and every one of you did it. Each and every one of you have worked tirelessly in carrying out your strategic plan.

I think the products that you see come out of this process are testimonials to the seriousness with which you've taken your tasks, and I want to say thank you, and I want to encourage you to continue to do that.

With that, I would say to all -- Vernice, you have something you need to say?

MS. MILLER-TRAVIS: Yes. I just want you to know that really I don't feel I need to have the last word, but this sort of came to me and I had to ask Charles the history of this to get some context and, actually, probably Clarice is the only one who really knows.

On August 7th of year we lost one of the leading lights of the environmental justice movement. She was -- was it Enforcement or Public Participation that she sat on? She was an original member of the Public Participation Subcommittee and she was also one of the original persons who had conversations with Administrator Riley, Carol Browner's successor, about the creation of the Office of Environmental Equity, which is now the Office of Environmental Justice.

So that you all have a context, there was a lot of

discussion, a lot of battle with the Environmental Protection Agency during the Bush Administration to acknowledge -- during the Reagan Administration which then became the Bush Administration -- to acknowledge these issues. And so what's happening here is the result of the struggles of a lot of people, one of whom, Dana Ann Austin, passed away on August 7th from complications from a stroke and kidney disease and kidney failure.

I just wanted to speak Dana's name, somebody who if she were still here and still alive and still a resident of the District of Columbia, would be here running back and forth up to the table telling us things that we forgot to say or things that we should remember to do. And so I just wanted to put Dana's name into the circle. That we'll never forget her.

MR. TURRENTINE: Thank you so very much.

(Applause.)

MR. TURRENTINE: I would conclude by saying to all of you, do have a safe trip home, have a busy holiday season because you've got resolutions and votes to take.

(Laughter.)

MR. TURRENTINE: And the Chair would entertain a motion to adjourn this Fourteenth Meeting of the National Environmental Justice Advisory Council.

MR. COLE: I move that we adjourn the meeting.

MS. JARAMILLO: Second.

MR. TURRENTINE: So moved and it is thus ordered.

(Whereupon, at 4:23 p.m., the meeting in the above-entitled matter was adjourned.)