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National Environmental Justice Advisory Council Meeting

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Baltimore, Maryland

Monday, December 9, 2002

NEJAC Members Present

Peggy Shepard, Chairwoman
Larry Charles
Veronica Eady
Judith Espinosa
Eileen Gauna
Tom Goldtooth
Richard Gragg, III
Walter Handy, Jr.
Robert Harris
Lori Kaplan
Pamela Kingfisher
Rev. Adora Iris Lee
Harold Mitchell
Mary Nelson
Graciela Ramirez-Toro
Wilma Subra
Jana Walker
Kenneth Warren, Esquire
Terry Williams
Tseming Yang

EPA Representatives:

Barry Hill
Charles Lee, DFO

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E V E N I N G S E S S I O N

(3:02 p.m.)

Introductions and Welcome

MR. LEE: Good afternoon. Can I ask that everyone come into the room. Good afternoon. Hey, Marva, can you tell everyone that we are ready to start.

(Pause.)

MR. LEE: Okay. Can we get started? Richard, can we get started. Good afternoon. It is my distinct pleasure to welcome to the 18th public meeting to the National Environmental Justice Advisory Council. My name is Charles Lee, and I am the designated federal officer for the NEJAC.

I am beginning this meeting because Peggy Shepard, the chair of the NEJAC, is slightly delayed, and she will be here about 4:00 p.m.

So, without any ado, let me ask that everyone on the NEJAC introduce themselves, starting with Veronica. Just who you are and where you are from.

MS. EADY: My name is Veronica Eady. I am the chair of the Waste and Facility Siting Subcommittee. I am with Tufts University in Massachusetts.

MS. ESPINOSA: My name is Judith Espinosa, and I'm at the University of New Mexico in the HR Institute. I'm also on the board of Southwest Transportation Policy Project. We are transportation advocates.

MS. GAUNA: Hi. I'm Eileen Gauna. I'm from Southwestern Law School in Los Angeles. I'm the chair of and air and water subcommittee.

MR. GRAGG: My name is Richard Gragg. I'm from Florida A&M University Environmental Sciences Institute, and I'm a member of the health and research subcommittee.

MR. HARRIS: Robert Harris, Pacific Gas and Electric Company, San Francisco, vice president of environmental affairs there.

MS. KAPLAN: I'm Lori Kaplan. I'm the commissioner of the Indiana Department of Environmental Management. I'm on the executive council and the health and research subcommittee.

MS. KINGFISHER: Pamela Kingfisher, Indigenous Woman's Network, Austin, Texas, and I'm acting chair of the health and research subcommittee.

REVEREND IRIS-LEE: Reverend Adora Iris Lee, United Church of Christ, and I serve on the health and research subcommittee.

MS. NELSON: Mary Nelson, Bethlem New Life, and I'm on the waste and facility siting subcommittee.

MS. SUBRA: Wilma Subra. I'm from Louisiana, representing the Louisiana Environmental Action Network. I'm on the air and water subcommittee, and Ken Warren and I are co-chair of the pollution prevention environmental justice workgroup that is going to present tomorrow.

MS. RAMIREZ-TORO: Good afternoon. I'm Graciela Ramirez. I am the director of the Center for Environmental Education Conservation and Research of the American University of Puerto Rico, and I chair the Puerto Rico committee.

MR. WILLIAMS: Good afternoon. My name is Terry Williams. I'm from the Talulap tribes in Washington State.

MR. WARREN: Ken Warren, from the law firm of Wolf, Block in Philadelphia and chair elected to the American Bar Association section of environment. I was co-chair of the task force with Wilma Subra. Co-chair of the workgroup on pollution prevention.

MR. LEE: Welcome. We are going to have a number of welcomes from the following people. First, J.P. Suarez, the Assistant Administrator for the Office of Enforcement Compliance Assurance, U.S. EPA. J.P.

By J.P. Suarez

MR. SUAREZ: Thank you and good afternoon. Thank you, Charles, and thank you, Barry, for all the work that you have done. I want to really first start off by thanking the members of the NEJAC committee to come here and take time of your busy schedules and

participate in what I can tell you is a very important to Governor Whitman and to this Administration and to really express our appreciation for the important role that the NEJAC plays to EPA.

And just to let you know, the partnering and the interaction that we have and that we benefit from is something that is incredibly important to us and to which we are all indebted to the NEJAC for the voice that they bring to the environmental justice concerns that we all have.

Let me start by just introducing myself a little bit. As Charles mentioned, I am the Assistant Administrator for Enforcement and Compliance Assurance. I was confirmed in that position by the U.S. Senate the beginning of August. By the way, Veronica, I am a Tufts grad; a fellow Jumbo.

I have been in that role now for about seven months. And one of the things that is important to me, and indeed, one of the things that I was really pleased to see when I came down to EPA, is the fact that the Office of Environmental Justice is housed in the Office of Enforcement and Compliance Assurance, because from my perspective and where I come from it is probably one of the single most important functions that we can do to make sure that no community bares more than its fair share, that we are making sure that the work of OEJ is incorporated into the work that we do in the Office of Enforcement.

And as you know, this agency or this office within the agency is some 10 years old, and we actually recently celebrated the work that Barry and his staff have done in bringing the Office of Environmental Justice to the forefront of where we all need to be thinking in the agency. But I can tell you that no one is resting on their laurels and there is much work to be done, and indeed, we need to continue to move forward to make sure that we see our goal of environmental protection for all.

From my perspective and from where I stand I believe that the protection that we have all realized is necessary is only going to be complete when we fully weave environmental justice into all of the programs in all of the offices in the EPA.

It is a key priority for every office, but I can tell it is a key priority for my office, and there are many opportunities for us in our day-to-day operations to bring environmental justice to a reality, to sort of where the rubber meets the road, and we can do that. We must do that.

I would like to spend a moment with you just talking about some of the ways that I think we would like to do that and then also invite you to, please, offer up suggestions, comments, advices for us that I can take back to the Office of Enforcement to try to realize the goal of environmental justice for everybody.

I guess the important thing that we can do with environmental justice is in our implementation, and one of the ways we do that -- and it may sound like a real inside the beltway thing, but it really drives how we approach environmental justice, and that is putting it into our planning and budgeting process, including our agreements that we enter into with our regions that dictate the kind of work they are going to be doing over the course of the next few years.

We need to make sure that our regional offices and our state offices recognize how important it is for us to start factoring in environmental justice priorities into the work that they do so that we understand and so that everybody understands what we believe the priorities are and how we need to go about carrying them out.

We also need to make sure that in our case selection process we are carrying out the priorities of this Administration, and I'm going to talk a little bit about what I mean by some of the strategic case targeting that we can do. But obviously the planning and the budgeting process is not the only part that matters.

We need to start making sure that we are carrying out today and as well as in our plans in the future. One of the ways that we are trying to do that, as I think many of you know, is in the context of our supplemental environmental projects, which are projects that are add-ons or sort of attachments to a normal civil settlement that is negotiated through of our Office of Regulatory Enforcement.

What we have asked the office to do is in the Office of Regulatory Enforcement is to -- and indeed, our set policy now

specifically emphasizes that consideration of environmental justice issues in the settlement of an enforcement action so that we can get some direct and immediate environmental justice benefits to our communities as quickly as possible.

Our office is also piloting efforts to make sure, where possible, we are implementing the injunctive relief that we often times get as a result of our civil settlements in environmental justice communities first. When a company is willing to spend hundreds of millions of dollars to clean up its operations, lets make sure that where we can we are making sure that the operations that they have in EJ communities are being addressed immediately.

We also, as I said -- I think we need to bring some strategic thinking into how we go about doing some of our environmental justice planning and targeting, and I think that one of the ways we can do that is how our agency uses some of the data that we collect. I know it is never sort of -- it is never wise to compare yourself to the IRS in any capacity, but I am told that one of our databases, the PCS, the Permit Compliance System database, is the second largest government data base behind only the IRS' database on taxpayers.

The wealth of information that we have in that database is nothing short of staggering. Well, I believe that we need to start taking that data, start analyzing it and start to use it to do some smart targeting, some smart compliance assistant work and look at non-compliance rates in environmental justice communities to try to drive some results based upon the information that we have.

I know through the help of Barry we were able to include in one of our systems an Enviro Mapper, which is a program that really allows us to do some fairly complicated analysis on environmental justice issues and indeed compliance rates in our environmental justice communities.

This is one of the ways where I think we can use the data, the research and the experience and the resources that we have to start taking some strategic looks at compliance histories and then deciding on a strategy about how we can approach compliance to get companies into compliance, stay in compliance and eliminate the

environmental impacts that they are having in our communities.

We need to look at all of the tools that are available to us and figure out how to incorporate EJ into the use of all of those tools, be it compliance assistance, be it incentives, be it monitoring or be it good old fashioned enforcement, and we need to be able to use each and every one of those tools, especially in our environmental justice communities so that we can start doing some of the tragic and smart targeting that Governor Whitman speaks about quite frequently.

Of course, with all of the efforts that we are taking, with the work of the NEJAC being done, with the advice and recommendations that you have given us there is obviously more work to be done, and we need to continue in the strides to reduce the risks of environment harm in our communities.

And one of the things that we need to do is not just capture that information, but communicate it well. We need to make sure that our communities understand the successes and also the failures of how we go about doing our job. We need to communicate well with the public, and we need to make sure the public understands not just what we can do, but what we cannot do when we talk about the work that we can do in the Office of Enforcement and Compliance Assurance.

I think where the NEJAC, in my view, critically important, is we also need to continue to listen well. As a public agency sometimes we do not listen as well as we can, as well as we should, indeed as well as we must, and so we must continue to get out there and listen to the communities, to understand, to get the feedback and then help us make the decisions we need to make about some of the smart targeting and smart enforcement work that we can do.

Those are some of the things that I think that we can and we must do. One of the other areas that I would like to see us do and I am working with Barry on and we will continue to work with the Office of Environmental Justice is in order to insure that environmental justice is integrated into all of our programs, is to provide the necessary training to all of our staff so that they understand how to make EJ issues real, rather than something that they read about in

the paper or on our strategic plan.

We must continue also our outreach so that everybody understands what we are doing. One of the things that we are looking for the NEJAC to help us on is in the area of how we go about delivering some of our compliance assistance tools, and we would love some feedback and some input from the NEJAC on how we can go about designing and implementing those compliance assistance tools that can help us get to the regulate community and work with the regulated community to help them get their facilities into compliance, stay in compliance, and indeed, moving beyond just compliance.

I just want to wrap up by again expressing my thanks to the NEJAC for the work that you do, the commitment that you all make to trying to make sure that we are doing everything we can as an agency to insure that no community is left behind and that we do insure that we have environmental protection for all both now and for our future generations.

And on behalf of Governor Whitman, I just want to thank you for your efforts, and we look forward to our positive and constructive relationship over the upcoming years, and I thank you. Thank you, Barry.

(Applause.)

MR. LEE: Thank you, J.P. One of our partners in holding this meeting is EPA's Region 3, which is the host of this meeting, and I want to introduce Tom Voltaggio, the deputy region administrator for EPA Region 3. Tom.

By Tom Voltaggio

MR. VOLTAGGIO: Thank you, Charles. As the host I do, of course, want to welcome the NEJAC members and the attendees of this conference to Baltimore here. Of course, the topic of pollution prevention is an important one. Not only for the country, but for Region 3, the middle Atlantic region of the country as well.

The active involvement of all of the stakeholders is extremely important in order to insure fair treatment to all.

Region 3 supports the principles of environmental justice and

will continue its efforts to improve our programs to assure the protection of human health and the environment. I am very proud of the work that our office does in the area of environmental justice, and I would like them to stand up so that you can see them.

Number one, so that in case you have any concerns or issues you would like to raise about issues that are in the Region 3 states, you can go to these folks throughout the conference. Samantha Fairchild is the head of the office. Could you stand, Samantha. I saw Reginald Harris. Reggie, are you here? Is Hal here? Hal Yates. Okay. He is outside. Okay. Is anyone else here, Samantha?

MS. FAIRCHILD: No.

MR. VOLTAGGIO: No. Okay. These are the folks that if you have issues, please go see them. If you can't fine me. I think that they do an excellent job, and I think that they are of great help to the national program office in implementing the environmental justice program at EPA. I think they do a great job.

Active involvement in issues of environmental justice started pretty early for us in the middle Atlantic region of EPA. Mainly as a result of concerns in the City of Chester Pennsylvania back in 1993. I can't believe it has been that long ago.

Reginald Harris, Pat Anderson and I worked on what I believe to be the first cumulative risk assessment of an area, of an EJ area, in the country. We investigated a number of environmental impacts to the community with the best scientific information that we had at the time. We looked at air sources, we looked at motor vehicle sources, we looked at exposure from lead base paint, we looked at exposure from untreated water, we looked at a number of areas and came up with what we thought was, for its time, reasonably sophisticated analysis of the types of exposures that people in that city were getting.

I think it led the way towards other kinds of analysis that have since been done. The important part of that was not just the analysis, but in rolling that analysis out to the community. We were involved in a multi-year process of looking at what the data showed

and, most importantly, working with the community to see what can we do to try and minimize those impacts, and that started us on the road to really looking at the types of issues that occur within an environmental justice areas.

We also were involved in the Baltimore Urban Risky Initiative conducted, of course, right here between 1995 and 996. It was a joint effort by the City of Baltimore, the Maryland Department of the Environment and EPA Region 3 to identify environmental issues of concern and to address them through on the ground action items.

Some examples of the kinds of things that we found in that was that there was a fish consumption survey that was conducted by MDE. It was the most comprehensive study of subsistence fishing in the Baltimore Harbor conducted at that time.

We had the Baltimore Public Schools conducting indoor air pilot programs that trained school system heating, ventilation and air conditioning workers, the HVAC workers on how to maintain school air handling equipment in a manner that helped it to operate more efficiently, and thus, lowering emissions.

There is ongoing an auto body/auto repair shop initiative, which I will be showing you a later on this afternoon, in the Park Heights community of Baltimore City. That is bringing together citizens from that community, MDE and EPA in a cooperative effort. So working with our states in our region in order to develop a more proactive, cooperative relationship in order to better serve the public.

We think that our environmental justice program at EPA Region 3 is best served is if it is an interlocutor between the communities and the program offices and the state offices where there are concerns that are raised. If we can bring folks together, if we can increase the sensitivity of what some of these issues through our now close to nine years of work in the area, then we think we have been successful.

The answers don't always come easily. The answers don't always come. Sometimes we don't have the answers for it. But what we want to be sure of is that the issue is the issue at hand and not communication problems, insensitivity, lack of recognition of

impacts. We want us to be talking about what the actual public health or environmental issue is, and that is what our role is; to be sure that we can bring folks together in order to do that.

So, I again want to reiterate my welcome to you all here. From the looks of the agenda I think we will have an excellent conference, and I thank you for being here. Back to you, Charles.

(Applause.)

MR. LEE: Thank you, Tom. Another of our partners in holding this meeting is the Maryland Department of the Environment, who is also host and we are in the host city where they are located. In fact, before I introduce Denise Ferguson, I want to say the Maryland Department of the Environment is holding a reception for the NEJAC this evening at 6:30, and all are welcome. Denise.

By Denise Ferguson-Southard

MS. FERGUSON-SOUTHARD: Good afternoon. As indicated, my name is Denise Ferguson-Southard, and I am the Assistant Secretary for the Maryland Department of the Environment.

It is my privilege and pleasure to welcome the NEJAC to Baltimore City today and on behalf of Governor Paris Glendening and Secretary Ray Pecore, whom you will be meeting later on this evening at a reception that we are hosting our relatively new green building that is in an empowerment zone in a brownfields area not from our location here.

Maryland applauds the National Environmental Justice Advisory Council for holding its 18th meeting in Baltimore. I understand that one of the themes for the meeting is the policy issue of is there a relationship between pollution prevention, waste minimization initiatives and the issue of environmental justice, and we believe this is particularly an opportune topic to be discussing at this time.

We in Maryland strongly support addressing and integrating environmental justice into our many state programs, and pollution prevention is one of the many programs that is targeted in this effort. We think that advancing environmental justice through pollution prevention is part of a transition to a new vision of environmental responsibilities shared between business, government and impacted

community members.

As we move from our contemporary framework into new relationships, pollution prevention strategies and approaches can shift our limited resources into more productive revitalizing work, assisted and enabled by empowered and engaged community members.

There exists today enormous opportunities to build upon the natural synergies between environmental justice and pollution prevention in areas such as community revitalization and sustainable development. Some of them most promising appear around brownfields restoration and redevelopment, around smart growth and more integrated transportation and land use planning, around alternative fuels and environmental management systems, which are increasingly being adopted by businesses, including local community businesses.

Frankly, we are fully involved in a community based project, one that Tom Voltaggio just mentioned a few minutes ago in the Park Heights neighborhood of Baltimore that has adopted both EJ and P2 principles in its directives to improve the environmental and economic vitality of the community.

My understanding is that you will be hearing much more about that project in greater detail later on today, and I think we are interested in hearing your insight into how successful we are being in integrating these various priorities in addressing environmental justice concerns and integrating it in a way that is meaningful and significant for our communities.

So, in closing let me just say, as a NEJAC alum, I am very proud to be here today and to witness Baltimore as a host city for this venerable organization. Not only are we involved in looking at all of our programs, in terms of integrating environmental justice into our daily activities, but Maryland has engaged also in a process that is akin to the NEJAC.

We have the Maryland Environmental Justice and Sustainable Community Commission that has been engaged for a little over a year now where we are looking at how to really extend ourselves,

reach out to our communities and engage them in an intelligent conversation and really truly identify how we can best address their concerns to the greatest extent possible not only in our environmental agency, but across state government in a way that is meaningful, sustainable and that will live on beyond any of our tenures within our agencies.

So, it is with those words that I welcome you once again. It is a great time of the year to be here in Baltimore City, and I hope that it is an engaged discussion for each of you. Thank you.

(Applause.)

MR. LEE: Another one of our partners in NEJAC meetings are the impacted communities, and we want to welcome Cleo Holmes, who is with the Concerned Citizens of Eastern Avenue in Washington, D.C.

By Cleo Holmes

MR. HOLMES: Thank you. I'm glad to be here. I appreciate the opportunity to address you today. I welcome NEJAC to the beautiful city of Baltimore. The charming character of this fine city awaits your leisure as you adjourn from your daily tasks.

I am so pleased that you have come here to do this most critical work. Your being here this week will benefit this city, its people, as well as attendees to this four-day conference.

As our communities grew, we became more sympathetic to each others causes and concerns. Communities helped each other to weather the growing pains of our society and the growing pains our society encountered as progress created both positive and negative results. I would like to offer these many results as bricks of our foundation.

As our society progresses, environmental justice concerns and problems will continue to become more apparent. Officials, community leaders and activists and lay persons have come together with diverse issues, needs and desires to be heard.

All communities all over the country are in need of your expertise, your guidance and your compassion. Welcome their comments and discussions; hear their heartbeat of these issues

coming forth; work together for the common goal of success.

We have assembled here to provide recommendations for the public policy question: How can EPA better promote innovation in the field of pollution prevention, waste management in regulated areas more efficiently to insure a clean, healthy and sustainable environment for all people, including low-income, minority and tribal communities.

Pollution prevention is to foster a sustainable environmental behavior that will result in a sustainable environmental future for all. The numerous initiatives to reduce waste and pollution, to increase water and energy efficiency and to alter transportation patterns were some of the first transitions to result in sustainability.

Through the EJ -- through the EJ road ahead is unknown, the future initiatives and transitions required to achieve the sustainable environmental justice needs your continued dedication and resolve. NEJAC, the charge before you is obtainable. Use the bricks of your foundation. Communities are in need of your chartered mission.

Continue to advise and administer with the confidence that NEJAC is in the public's best interest as you build positive community coalitions that will produce many sustainable environmental Charm Cities all over this great nation so the sustainable environmental justice future will reflect your job well done.

I look forward to addressing you in the public comment period and welcome to Baltimore.

(Applause.)

MR. LEE: Thank you, Mr. Holmes. And lastly, this meeting is focused on pollution prevention and environmental justice, and it is fitting that a particularly important partner in this effort is the EPA's Office of Prevention, Pesticides and Toxic Substances. And we are really pleased to hear from the Deputy Assistant Administrator from OPPTS, Bill Sanders.

By William Sanders

MR. SANDERS: Thank you very much, Charles. I am looking at the time, and it seems that we have until 4:00, and I promise you I

am not going to stretch to take all of the time between now and 4:00.

But I do want to say that it is both a pleasure and a real privilege for me to be addressing you and to be welcoming you at this juncture, particularly as we begin to look at briefly addressing two of the most, I think, important issues that have been facing for a long time: Environmental justice, as well as pollution prevention, two things that I consider myself to be a personal advocate of and a champion of within the agency.

I should also tell you all that I first met Charles Lee when Charles Lee was with the United Church of Christ, and this was in 1990, those of you who might remember way back to 1990. The University of Michigan's conference on Waste and the Essence of Environmental Hazards.

I met a lot of folks there, including Bob Willard and Beverly Wright that came into the room. Where is Beverly? I saw her come in about two minutes ago. She is here somewhere where. But a lot of folks who became very prominent in what was to become the environmental justice movement.

The conference itself resulted in a letter that was provided to former administrator Bill Reilly, and that letter resulted in a series of meetings between Administrator Reilly and the environmental justice advocates and ultimately led to the creation of the 1992 -- in 1992 of the EPA's Office of Environmental Equity. Of course, which is now called EPA's Office of Environmental Justice.

That was a meeting that I was not supposed to be in attendance to. I was a division director in Chicago at the time doing a lot of laboratory and other work. This was perceived I think as an issue of hazardous waste, and so the letter to Region 5 came into our hazardous waste office.

The division director called me on the phone and said, you know, they have got this conference. I have no idea what this is about. Are you interested in doing this? And I said, it looks very interesting to me. Certainly I am interested in doing that.

And so, that was really my introduction, along with a number of my colleagues in the agency's introduction, to what was then called

environmental racism. Of course, we know it became environmental equity and then environmental justice, but that was the introduction to a lot of us.

And that was the start of my personal commitment to environmental justice, along with a number of the colleagues that we have at EPA and at the state agencies really wanting to make a difference on environmental justice.

I would also tell you that there are a lot of folks in the state agencies -- and, in fact, there are a lot of folks in EPA -- that felt that this EJ stuff, this environmental injustice stuff was not a problem. And so there was numbers of years that we set about on educating ourselves on a number of these issues and talking with our state colleagues and educating the states about the issues as well.

I did bring along two things that I wanted to mention just briefly, because these were things that never occurred in the agency before that I think were very much turning points.

One is something that we don't do anymore, but it is an EPA journal. This came out in March/April of 1992, and it was a journal that was focused completely environmental justice. It was called *"Environmental Protection: Has it Been Fair?"*

And this was really, really -- we were delighted to see this in the agency, but very surprised, frankly, that EPA, a federal bureaucracy, would put out a document like this. And it talked about things like the Michigan Conference, a Turning Point.

Actually, I wish I could show this to all of you because it has a picture of a lot of people, including Charles Lee when Charles Lee had a head full of black hair. I was not in the picture, but I will tell you at the time I had a head full of hair by the way. So I envy Charles, that he has a head full of black hair.

And we look at a number of the issues. I think it is interesting to look a little bit on what was going on back then and what is going on now. I will just read you a title: *"Farm Workers among the least protected; they suffer the most from pesticides."*

This is an issue that we continue to deal with that certainly has

not going away and we are dealing with still: *"Health concerns for fish eating tribes; government assumptions are way much too low."* Well, we have been dealing with this issue for a number of years, and it is a huge issue right now that we are dealing with with our tribal communities.

And we talked about things, such as expanding the EPA; a challenge to EPA; an environmental justice office is needed. This was a point in time where we didn't even think we would have an environmental justice office. And then in June of 1992 something else happened that was really tremendously -- you know, sort of shook us up in the agency, and it was this report. *"Environmental equity reducing risks for all communities,"* and this was a workgroup to the Administrator.

The response to this report from the environmental justice community was underwhelming. Actually, it was a human cry for those of you that were around at the time, that a number of folks in the environmental justice community didn't appreciate this particular report, but it was one that served to move the agency forward and it was one that became sort of the calling cry for the creation of the Office of Environmental Justice. So those of us who were around at the time at least appreciate the fact that we were doing such a report.

And we also looked at a number of issues over the years. We had something called a Chicago Cumulative Risk Study that we were doing on lead in our office, as well as other places. It had a real big issue for the agency. Those of you remember something called Allgail Gardens in Chicago that we spent a lot of time on. Also known as the Toxic Donut. It began to raise the awareness of those in the agency and outside of the agency of issues that we were dealing with in environmental justice.

But I came to EPA, to our headquarters office, in May of '95, and I was presented with another opportunity and that opportunity is as the office director in the Office of Pollution Prevention and Toxics. It is difficult, Charles, to figure out what all of those Ps mean. In OPPTS we confuse everybody in the world on that.

But we were presented with an opportunity to be sort of co-sponsors of the health and research subcommittee, and I really felt that to be a privilege, and we have been doing that for a long time. Since nearly 1995 as well.

That is a very brief history of environmental justice in terms of where we have been; a little bit of smidgen of what our involvement has been. But EPA also has a long history not only in environmental justice, but pollution prevention as well.

And interestingly enough, as we started -- at least my life in environmental justice started in 1990. I think a lot of people recognized the movement started before then. But for a lot of us it really raised our awareness in the way that we felt that we needed personally to do something about it.

Also in 1990 we had the Pollution Prevention Act that was enacted, and that is the other thing that we will be talking about today and I think in both of these areas we have really come a long way in pollution prevention. We have been concentrating an awful lot of our efforts and agenda on industrial sources. I think we are now beginning to figure out ways to move beyond that, and I think an awful lot of what we have been doing over the last decade or so has been sort of figuring out where the low hanging fruit is and sort of picking the low hanging fruit.

Although I do like the way some of our southern folks talk about low hanging fruit and they talk about catching all the slow rabbits, in my mind it is a bitter picture. I don't think we have caught all of the slow rabbits yet in this area of pollution prevention. So we still have some work to do.

But I think we first saw this intersection of environmental justice and pollution prevention through our environmental justice pollution prevention grants program that we operated between 1995 and 2001, and in that particular program we distributed over $16 million in grants and over 200 grants for the program.

Well, let me just conclude this welcoming by just letting you all know that I, along with the rest of you, are very much looking forward to this meeting because it really represents a truly exciting

opportunity, I think, for us as we look at these two things.

Today we believe that there are a host of benefits in promoting pollution prevention, especially as a means of achieving environmental justice objectives. There exists today enormous opportunities to build upon what I think a lot of us think are natural synergies between environmental justice and pollution prevention, particularly in areas such as community revitalization and sustainable development.

I think we have come a very long way over the past decade, both in pollution prevention and in environmental justice, but, needless to say, preventing pollution in the first place is the most proactive way to address disproportionate environmental impacts. It has been proven that this can be a win, win situation, although I must acknowledge there are many out there that we still need to reach.

And we still have a long way to go to better understand the ways in which the broad array of pollution prevention tools now available to EPA and to others can best be utilized by environmental justice communities and tribes. We also have much to learn regarding how to build capacity in environmental justice communities and tribes.

And lastly, we still have much to be taught on building collaborations between all of the stakeholders to apply pollution prevention more effectively. We do hope to engage all of you on these issues so we can truly make pollution prevention a reality for environmental justice communities.

With that, I just want to do one additional thing, and that is to recognize at least two folks from our office that really have provided yeoman service to this particular conference. And that is Aretha Brockett, if she would stand for just one moment, who is our co-DFO for the health and research subcommittee. And Sharon Austin who has been doing yeoman's work also in preparing for this conference and the workgroup report. Thank you very much.

(Applause.)

MR. LEE: Thank you, Bill, and thanks to all of the presenters for giving us the perspective and a great way to start this meeting. At

this time the chairperson of the NEJAC has arrived, and I wanted to ask, Peggy, if you wanted to say something?

MS. SHEPARD: Good afternoon. I'm sorry I wasn't here with you at the beginning. They wouldn't quite let me on the train I thought I should be on.

But I just wanted to welcome you all and just say that pollution prevention, which is the theme of our meeting here over the next few days, is a significant issue for our communities. It can decrease the exploitation of natural resources and improve public health amongst susceptible and vulnerable populations that live primarily in environmental justice communities.

I also want to thank the workgroup, which was chaired by Wilma Subra and Ken Warren, which has produced an excellent report. Readable, accessible, lays out recommendations and concerns that have been expressed by stakeholder groups with incentives recommendations and I really congratulate the entire workgroup for a very excellent report.

I would also like to say that the section on barriers to advancing environmental justice through pollution prevention I read with much interest. But I think I must assert that the lack of political will and the leadership in this country and the Administration on pollution prevention is the critical obstacle, and unless we have an external localization and campaign to help implement these recommendations, they may not go the way we would like them to go.

So, I look forward to the discussion of the next few days and to working with you all to insure that our recommendations are implemented and considered seriously. Thank you very much.

(Applause.)

MR. LEE: Thank you, Peggy. There are a number of executive council members who have arrived since we did our introductions. So I think it is important at this point for them to introduce themselves before we move on to the next part of today's program. Larry.

MR. CHARLES: My name is Larry Charles. I'm executive director of a community based organization called ONE CHANE that

suddenly became an environmental justice group and we have been doing that for about nine years now, and I am glad to be here.

MR. GOLDTOOTH: My name is Tom Goldtooth, director of the Indigenous Environmental Network, and I'm here as a proxy for Anna Frasier, who is with the Citizens Against Ruining the Environment. She is the member here and, in fact, this is her last meeting. So, it is good to be back here on the executive committee and see some familiar faces and new faces. Thank you.

MR. SUAGEE: Hi. I'm dean Suagee. I'm the director of the First Nations Environmental Law School, and I'm a member of the indigenous peoples subcommittee. I'm here as a proxy today for Jana Walker who is an attorney in private practice and the chair of our indigenous peoples subcommittee and the vice chair of the executive council.

MR. YANG: Hi. I'm Tseming Yang. I'm an associate professor of law also, at Vermont Law School, like Dean. I teach courses in international and environmental law and also environmental justice, and I have been on the NEJAC now for a couple of years. I'm on the international subcommittee where I am also the chair. Thanks.

Case Studies on Pollution Prevention and Environmental Justice

MR. LEE: I guess we should have Neal Carman and Bernie Penner and Henri Thompson come forward. As you are doing that, the next part of the program today includes two cases studies on pollution prevention and environmental justice. The first is going to be presented by Neal Carman, who is with the Lone Star Sierra Club Chapter, and it is on the Houston Ship Channel Source Reduction Project.

(Pause.)

MR. CARMAN: Charles, do you want me to go ahead and start?

MR. LEE: Yes.

Source Reduction Project
By Neal Carman

MR. CARMAN: My name is Neal Carman, and I am here to do a presentation about a source reduction project that was conducted for about a three and a half year period in the Houston, Texas area. And the reason Charles wanted me to come and talk about this project was to consider it as a possible model that other community groups could use across the nation with environmental interest and other plants, if they are interested in doing source reduction projects.

But the first thing I want to talk about a little is why would we want to do a source reduction project in the Houston, Texas area.

(Slide)

Houston is in Harris County, which ranks number three as one of the most industrially polluted urban areas in the United States. Actually, in terms of population, it ranks number three. But it is one of the polluted areas.

If you looked at 1996 TRI data, toxic release inventory, if you look at cancer causing chemicals, there was over five million pounds released in Harris County, which ranked number one for cancer causing chemicals, both recognized and suspected human carcinogens.

(Slide)

This is a map of part of Harris County. This is downtown Houston. The Houston ship channel begins in this area, and this orange part of the map shows where there is a very large concentration of oil refineries, chemical plants, hazardous waste, incinerators. The particular source reduction project took place on the northern part of the ship channel in a community called Channelview. But this area from east of downtown Houston out through Pasadena, Deer Park, Baytown, Laporte stretches for over 20 miles. So, this is a very large industrial area.

(Slide)

Houston, Harris County ranks number one in the number of oil refineries, chemical, petro chemical plants and hazardous waste incinerators and other various plants. In the year 2000 Harris County ranked number two in the releases of cancer causing chemicals to the air and water; 4.6 million pounds.

(Slide)

The demographics. Harris county is a minority majority area. Fifty-six percent of the population are people of color. That is about 1.9 million out of 3.4 million total population. The eastern part of Harris County is where most of the industry is located.

The communities range anywhere from 30 up to nearly 100 percent people of color. East Harris County has many industrial communities. As I mentioned, these are like Pasadena, Deerpark, Baytown. Channelview is where the source reduction project took place. There is also Laporte, Bayport and many more.

In the year 200 TRI data 23 million pounds of toxic chemicals released into the air, and this involved over 190 TRI chemicals.

(Slide)

Some of these chemicals involved besides things like dioxin, benzene, butadiene, ethylene, xylene / vinyl chloride and many more.

(Slide)

One of the major barriers though to this project was the fact that Houston is part of an eight county air shed that is a severe ozone non-attainment area. And what this meant, when I got involved in the project, is that there is many regulations. It is about an inch thick worth of regulations addressing volatile organic compounds. So the question that would always come up is, well, what more can you do when you already have this very strict regulatory burden placed on industry?

In the year 1999 and 2000 Houston surpassed Los Angeles for having the highest number of one hour high ozone days in the United States, with a total of 96 compared to L.A.'s 81 days. Houston also had the highest peak one hour ozone levels at .251 parts per million, compared to less than 200 parts per billion for L.A.

I mention this because on this particular day that this even happened, which is twice the one hour ozone standard, there were girls on the Deerpark High School Track Team that collapsed and also boys on the soccer team that collapsed. And when I hear people talk about ozone in Houston, I think about the volatile organic

compounds that contribute to Houston's smog.

(Slide)

Here you can see, on the upper left, a pretty clear day in Houston, and here you can see it is a pretty bad breathing day. Very high ozone levels.

(Slide)

Okay. So now I want to get into exactly what the source reduction project constituted.

(Slide)

The community participants in Channelview represented people who lived the near plant for well over a decade. Actually, several plants. And part of the reason that these people were concerned is because they are living on the fence line or in the shadows downwind of two very large chemical plants.

Actually, these are two of the largest chemical plants in the Houston area, and I served as a technical advisor to the community people when they invited me in to help them. And the CAPLE is basically the Community Advisory Panel to Lyondell Chemical and Equistar Chemical plants, and then there were also many plant people that were involved in the project.

(Slide)

This is basically a representation of a small group meeting. Many times we had sometimes as many as 20 to 30 people, especially a lot of plant people.

(Slide)

The purpose of the project basically was reducing emissions to promote a cleaner and healthier environment by making elimination of emissions at the source, a process early in the plant, a priority over minimizing emissions once they had been created.

Now, one of the reasons I wanted to just point out why these community people were so concerned. Besides the fact that these plants emit a lot of toxic chemicals, in 1989 there was a very deadly accident at the Equistar plant, which was then called Arco Chemical, and 18 men died and some of them were never found.

And so, when we did the plant tours of that particular plant, we

did go over the grassy grave site where there is human body remains. But some of the men were never found. And then during this project I would also point out that two more men died in the spring of 2000.

(Slide)

The project mission and purpose basically was to create a dialogue between these two chemical plants and the surrounding community, and this was a tremendous challenge because there had been a very adversarial role, threats of lawsuits, lots of complaints by the citizens calling the regulatory agencies, as well as the company people at night and on weekends because of the flaring activity.

Part of the purpose was to create a two-way communication, which had not really worked very well before. Also, we wanted to look at specific possible actions that could be taken to address plant pollution. It would stress pollution prevention over pollution control. That is why it is called the source reduction project.

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The community concerns: People in the community believed that the pollution from the plant, from both of these plants, had a direct effect on their health. They were very concerned about cancers and a lot of other health issues. The company people, on the other hand, did not agree that their emissions impacted the community's health. So this was always an element of controversy at pretty much every meeting that took place for over three years.

(Slide)

Now, this is one of the plants. This was Equistar Chemical. This is actually like a chemical complex covering several hundred acres. These are different process units. It is hard to see the flares here, but there are very tall flares that are at the plant, as well as the storage area.

And then back up in here you will see homes and schools. So these are people that are living on the fence line and on the shadows of the plant. You can see there is emissions. A lot of that may be steam, but there is also chemicals in the steam. So this is just one of the plants.

(Slide)

Measuring success: Now, some of the chemicals that we were looking at were organic chemicals, such as benzene, ethyl benzene, propylene oxide, styrene and propylene. These were with respect to Lyondell Chemical. With respect to Equistar Chemicals, the chemicals that were targeted by the community people were 1/3 butadiene, benzene, acetonitrile and then propylene, ethylene, propane and butane.

There were many, many other chemicals emitted by the plants, but these were some of the more toxic chemicals and these were the ones also released in significant volume. So, in terms of measuring success, the progress in achieving what were called seven goals is really, I think, what measures the success of the project, and this was kind of surprising to me in the end.

In my first few meetings I really would not have predicted the outcome of what was going to happen three years later, and I am going to very quickly cover these goals.

One was an aggressive fugitive monitoring program. These plants have lot of leaks. They have stack emissions. They also have fugitives. These plants actually have over 1,000 pieces of equipment and benzene service and butadiene service. So they have a lot of leaks.

And one of the concerns was, well, we want to do something about all of these leaks and try to get them under better control. So one of the things that we did during a plant tour was to have the company people demonstrate how they do their fugitive monitoring program and to demonstrate this both kind of in the laboratory and out in the plants themselves.

So, I will wait until the end to go through those all. There were six citizens requests, and actually the fugitive monitoring program becoming more aggressive was the first one.

The second one was reduced flaring, because of the fact that these plants have large flares and they light up. They have a lot of smoke, and the people in the community can smell emissions, although the company would deny that their emissions would

crossed fence line or that there was anything that they could smell that might harm them. So, flaring was a huge issue.

Another one was aggressive, reactive, preventive and predictive maintenance programs. In other words, do work on the plant in order to prevent problems from occurring, such as you could install triple redundant backup systems in case you have an electronic error and it causes a unit to shut down and then the flare goes off and the community sees the smoke and may suffer also some pollution fallout from both the smoke, the fine soot particles, as well as unburned gases, such as benzene, butadiene and many others. So maintenance was very important.

The fourth citizen request was to reduce benzene emissions from a specific Lyondell process flare. Now, one of the -- the complicated parts of the project, in my opinion, is the fact that we didn't know at the beginning what possible things these plants could do to reduce their emissions.

So I think this was one of the greatest challenges for the community people, as well as the plant people, and this is something that kind of -- in a way we kind of fumbled through. But yet, we were able to find -- through the information from the plants, as well as the plant tours, we were able to come up with a number of very good reduction projects that were not very expensive and were relatively easy for the plants to do. So, one of these involved a major benzene reduction project.

Number five: Reduce styrene emissions going to the atmosphere from a specific storage tank, which was identified during a tour. And six, reduce butadiene emissions at Equistar from the flare activity.

So anyway, what happened was the creation of what is called a step-by-step process, and part of that process was to design a matrix to look at all of the chemicals and then to select the ones that were the most toxic, the ones that had the highest volume of production, as well as release into the air according to the company's calculations. And so, there were quite a few months that went into designing this matrix for targeting the chemicals because there were

too many to look at for just a two or three-year project.

I should emphasize a significant time commitment. I went to the very first meeting, and the company people were saying that unless you are willing to commit to a three to four-year project on a monthly basis, four, five, six hours at a time, then the company people were not willing to commit to the project. So that was a big commitment on the part of all of the community people, as well as the company people.

And then also, in the spirit of responsible care and continuous improvement, the source reduction project completed phase one with this report, and I will say a little bit more about phase two.

(Slide)

This is actually one of the plants, Equistar's, part of their olefins plants, and these are big factionating units, part of the ethylene, and these are walkways up on top. And so a man would be very short up there. So you can see these are very big units, these factionators. And if these had problems or they went down, this could result in a great deal of flaring from the plants.

(Slide)

So, what were some of the goals again? Lyondell -- and this is also actual reduction of some of these target chemicals, such as benzene. Lyondell Chemical, according to sampling, indicated they were able to prevent over two million pounds a year of benzene from going to the flare and by calculating a 98 percent destruction efficiency, that is over 41,000 pounds of benzene a year that would not be emitted from the flare.

And we think actually the numbers could be higher, but there was always debate about, well, how much of the benzene is not burned up. And we just said we don't want it going to the flare. So that was, I think, a very good, successful reduction project.

At the other chemical plant, in their East Plant flaring, they reduced chemical emissions from 261,000 pounds in 1996 to 74,000 in 1999. Now, this was quite significant because when I came into this project, this plant ranked number one in the United States in air releases of 1-3 butadiene, which is now a suspected human cancer

causing agent.

Also, the community people wanted to see continuous improvement. That is, continuous reductions over time. Equistar Chemical had four different engineering teams that were looking at ways to reduce what is called olefins flaring. Most of us know olefins, poly olefins, as the little plastic baggies we get at the grocery store to put our veggies and fruits in, the polypropylene and the polyethylene, and the beginning stages of it comes in the olefins units.

And one of the problems is that all of these olefin units, whether you are in Houston or Louisiana or somewhere around the country, these olefins or plastic plants are notorious for smoking flares that can literally extend 10, 15 or 20 miles. So this is a huge concern, and the community people wanted to see a lot less flaring from the olefins units.

And this was not easy because one of the things that came out is that the plant, when they have, let's say, a shutdown, they did not have a way to store the material. They had to burn it. They didn't have a way to basically recycle it. So these were strategies that are now being looked at; are recycle or temporary storage.

Another problem was the fact that the flare system was found to be incompatible with the total volume of material. In other words, when they would dump everything from their olefins cracking units, the flares would be overloaded and they would smoke. And this was a shocking revelation to the community people, although it is one that I had heard for a long time, having worked as an inspector in industrial plants in Texas for years. And so the companies are addressing that issues.

Lyondell Chemical plant engineers were looking at ways to reduce styrene emissions, and this was one area that was kind of left hanging. The particular storage tank that we wanted to see reductions in, they said it would be too expensive, that it would cost like $50,000 a ton to get the reductions, and they said they weren't willing to commit to that.

Another part of the project was looking at what is called

mechanical integrity and fugitive emissions monitoring programs to become more effective, because mechanical integrity is very, very significant in terms of all of the ways that these plants operate.

(Slide)

This is the Lyondell Petro Chemical Plant. It is hard to see some of the flares here, but they have 600 foot tall flare stacks. You can see these are different process units here. This plant covers 600 acres, and most of the meeting we had were right down -- we met -- that is one of the areas that we met in.

You can see this is a huge plant, and it was quite a difficult time, when we took tours of these plants, because I wanted the community people to get a kind of feel for all of the different process areas that we were talking about, in terms of benzene, butadiene, acetonitrile and so forth. And one of the days we toured it was a rather hot day, and it was very, very hard for the community people. We had to be driven around areas of the plants.

But the tours of the plants were extremely helpful to the community people to get an eyeball view on the ground of what these different parts of the plants look like.

Another benefit of the tours was we went into the different control rooms where the plant operators were running these different units, and these control rooms are basically usually kind of like concrete bunker buildings that are located close to the process units. So we went through a number of those.

And we were able to identify a number of eventual source reduction projects by what we gathered in those control rooms and the information from the operators and the engineers.

(Slide)

So, what were the community benefits? Reduced emissions and a potential for many more reductions, a significant reduction in flaring and improvement in maintenance and reliability and, of course, the companies always said that they wanted to do this because it helped their profits by keeping the plants on line, the process units.

Also, an increased knowledge of plant operations. This was

one of the most significant things for the community people, because in these monthly meetings the company people would come back with responses to questions and inquiries form the communities people, and this information exchange was what never would have taken place if you would have had, let's say, an adversarial relationship or fighting over a permit.

There were no regulatory agency people involved from the county, the city, the state or the EPA, and I would say at the beginning this was not easy, because the community people didn't have a very good technical grasp of what the company people were talking about. But over time people studied and gained a great deal of insight into how the plants work and don't work.

Also, the community people came to realize that they could directly influence the company cultures in a way that they did not think was possible. This was not easily seen at the beginning because meeting after meeting I wondered if the project would end at that meeting or the next month. That was always almost on the verge of kind of blowing up because of the flaring and the pollution from the plants, but thank goodness it actually did continue.

And I would say, by the end of the project, people were beginning to feel a lot more, let's say, warm and fuzzy towards each other. There was less hostility, a little less controversy.

Now, one of the things that we did also was to design a process that step-by-step -- that any community group could take and basically use this as a model. If they could talk their local company, whatever it might be; a refiner chemical company, a paper mill -- you know, you have to get their cooperation.

From the companies' benefits they saw reduced emissions, less waste, increased profits and definitely a better image in the community. There was a focus on specific emissions sources.

The plant personnel became more aware of community concerns about the specific chemical emissions. This was quite interesting, because at the beginning the dialogue between a lot of the plant engineers who weren't used to dealing with community was rather chilly and difficult at times. But like I said, as the project

moved into its third year, the feelings began to become a lot more friendly. Even on the part of some of the plant engineers.

And some of them actually came up to us and said that they liked the projects, even though they said, look, these are not going to make a lot of money for the company. But they are relatively cheap and they are the kind of things that we can do to make the plant safer for ourselves and our workers, as well as our community.

And the matrix that was used the companies also felt was very helpful to understand why the citizens were targeting specific chemicals.

Now, this particular project was indirectly related to the community advisory group, and I mention that because some of the community people had resigned from the CAP in frustration, and they didn't want anything more to do with it. They were tired going to monthly dinners and no progress being made in addressing their concerns. So they set up a separate health emissions subcommittee and that is basically how this project got going.

(Slide)

This again just indicates one of the olefins units. There are a number of crackers in here, furnaces, heaters and so a lot of pollution can be generated from this. I would also add one of the other insights that we learned; is that if these units are cooking up a batch, you might say, of goodies that doesn't fit what they can sell on their pipeline, they have no choice but to burden their flare.

And so, this was one of the things that the community people were outraged at because basically it was not necessarily due to an upset in this process area. So that is one of the things that is going to be addressed in the future.

(Slide)

So, to kind of summarize this, the project culture were very, very diverse views. I assure you that the meetings became very hostile at times, and it was not necessarily a -- I was there as a technical advisor to the community people, and if they wanted to get a little bit feisty with the company people, that was up to them.

And I did get into strong technical debates with the company

people that we had our disagreements. But, all in all -- here it talks about a small group focus. That is a little misleading because at times there were definitely 15, 20, 25 people. The companies would bring a lot of engineers to the meetings. Electrical engineers, chemical engineers, mechanical engineers to help answer questions.

And sometimes it was a little overwhelming for the community people because they felt outnumbered, they felt outgunned, but it still was manageable.

Dialogue was always very interesting. There was a facilitator that the companies paid for, and I think that the facilitator did an excellent job. She had a very, very difficult job to try to take notes and to sort of keep the process moving ahead.

I think some facilitators might not have allowed the project to really succeed. So I think you have got to have a very, very good facilitator.

And then the united focus on reducing emissions at the source was definitely maintained, and I think it was achieved, you know, beyond what we had thought at the beginning.

(Slide)

So, this is just a very simple summary then. A matrix was created that any community group could use to target chemicals and work with the company people. They actually designed a chart to look at both the pounds of emissions versus the pounds of product that would be made from the particular unit, whether it be like styrene or benzene.

The all day plant tours were extremely helpful. They community realized; they developed specific requests and evaluated the companies' responses, and I think this was a -- I have to really commend the companies because they came back with just huge amounts of technical information. They would distill it down, talk about economics, practicality; can they shut the plant down to fix this? How long is it going to take?

So this was really, to me, one of the most informative aspects of this whole process because we got to learn a great deal of how the plants operate and we got inside information that you would never

find in the files of a regulatory agency. Maybe the companies would discuss some of these things with regulators, but the citizens got privy to information they would never come across otherwise.

So, other community can use this process as a guide, and the citizens determine how corporations make decisions related to environmental issues, and a lot of it is economics without a doubt. But there is also safety concerns.

As I mentioned, in the spring of 2000 we went to a meeting, and we had just heard that two men had died in a boiler that was down for repair because the gas mixture that was in the cylinder they were breathing, supplied air, was wrong, and they suffocated before they could get them out. So it was un necessary.

(Slide)

Now, what next? This is kind of the bad news. At this point there is no more no more phase II of this project. It is pretty much terminated. One of the reasons is because right now Houston is under the gun to reduce smog and cut their nitrogen oxides by 80 percent. So the company people said, look, we just don't have the resources right now to put into this, and also some -- oh, let's say some hostile feelings kind of reemerged or resurfaced. I think pretty much this is all we are going to see from the Houston Source Reduction project.

At this point I will be happy to take anybody's questions.

(Applause.)

MR. LEE: We have allowed an hour for this case study. So, we want to open it up for questions or comments from the council members.

MS. SHEPARD: Larry.

MR. CHARLES: I want to thank you for your presentation, and I am a strong advocate that mediation and negotiation can be an effective tool for communities. And I really don't see it as a fallback position, but rather, as a breakthrough in terms of the way to get to issues that communities may not have the resources to address through legal or scientific challenges.

However, at the same time I think there are risks to using this

process that may cause a community's goal not to be fully achieved, especially providing for ongoing monitoring of certain processes. And I think in the example that you presented you showed opportunities to using this process to bring folks to the table, to identify issues and a common goal of pollution prevention and reduction.

But in the ongoing monitoring of the solution that you have provided I think you might want to speak to that in terms of how does a community, after negotiating with a company that picks the mediator or pays for the mediator, or I don't know what role the community had in selecting the company that did the testing and establishing the benchmarks -- but I think in whatever model that we advocate that this model must have with it the idea that community members would sit at the table as equal stakeholders and also have in it a capacity for funding ongoing monitoring for compliance and continuous improvements. Would you like to address those remarks a bit?

DR. CARMAN: Well, there was a lot of difficulties for some of the community people, and sometimes a few people would not come to a couple of meetings. You know, this is kind of a nutshell version of what took place in a three-year period in several hundred hours of meetings.

A lot of the community people felt very frustrated. They had previously tried to fight permits. These two plants are very large. They know they are not going to shut the plants down, the plants aren't going away and I think out of immense frustration community people felt like maybe it was worth trying to dialogue and is there any possibility of not going through the regulatory agencies.

There was a lot of frustration with the state and also the federal regulatory system; that it wasn't necessarily the answer. So they wanted to get around dealing with permitting or regulatory agencies. So this was kind of a -- it was a challenge, it was a new approach and there were several community people that were leaders that also were some of the most hostile to company people.

As I indicated, I felt, at many meetings, that this was going to be

the last meeting and the whole thing was going to go down the drain. But anyway, this might not work with a lot of communities because I think the companies were willing to dialogue, and yet, there were a couple of company people at the very beginning who were kind of in the way, and I think we began to make more progress when several people kind of backed out of the process and some new company people came to the table.

Now, let me point out one of the companies that had that terrible accident in 1989 with the death of 18 men that group of company people had a different culture. They were much more sensitive to the concerns of the community. So the two companies were somewhat different, and today they are actually one corporation.

And yet, that was another thing that kept coming up in this project, was the fact that it was like dealing with sort of a good company and a company that was a little bit difficult to really deal with.

I am not sure I have answered your questions. I think some companies probably would find this process --
they might want to open themselves up to share all of this information.

MS. SHEPARD: Mr. Carman, was there a regulatory agency involved and what was their role?

DR. CARMAN: No. There were no regulatory officials ever invited to a single meeting. The community people didn't want them there. I mean, one of the things that they kept hearing from the company people at the first group of meetings was, look, we operate not just within the law. We go beyond the law and, you know, we comply with our permits.

And so, this was kind of the mantra that the community heard over and over again. So they said, look, we don't want any of the regulatory people here because we know that they are just going to parrot what you say, that they comply. As it turns out, in the middle of the project there was a major violation against one of the plants. Actually, it was about three pages long, and it was a litany of

problems. It revealed that one of the companies was breaking the laws in many areas.

MS. SHEPARD: How would 11 people have died if there wasn't some sort of incident or violation?

DR. CARMAN: What was your question?

MS. SHEPARD: How did 11 people die?

DR. CARMAN: Oh. These were 18 plant workers who were killed in an explosion. It was a hazardous waste storage tank that was being worked on and it exploded and 18 died. In that same year I would point out 22 men died in an accident at the Phillips Chemical Plant just 10 miles on the other side of the ship channel.

So these deaths and these accidents, terrible accidents in these plants, were one of the reasons that the community people were very concerned.

MS. SHEPARD: Eileen.

MS. GAUNA: That was a great presentation. Thanks. I just have one small technical question. Did the company anticipate at all throughout the process being able to use some of these strategies for any kind of marketable reductions or offsets of any future permit at all? Was that part of the discussion?

DR. CARMAN: Yes. I think that has come up with respect to some of the nitrogen oxide reductions that were going to be gained, but I think, for the most part, they weren't going to get credits from the majority of the reductions in benzene or butadiene.

But it would show up as cleaner operations. They said that looks good in their corporate bottom line. They like telling the EPA and the state regulatory agency that their emissions are going down.

But like I said this was really difficult in Houston because of the fact that the regulation that applies to ozone forming chemicals is an inch thick, and the plants brought this regulation and they passed it around to the citizens saying, you know, look this is just one of the regulations that we have to comply with. So, you know, where are we going to find anymore reductions? Well, they found them.

They might not have found them if they were only looking at maximizing profits. But these were things that they could do that

were relatively inexpensive. Except, like I said, this one project on styrene that they said it was just too expensive right now.

But most of these changes, I would also point out, would not require any permit authorization by the regulatory agencies.

MS. SHEPARD: Okay. Tom.

MR. GOLDTOOTH: Thank you, Peggy. I am always looking for different models as we look at these many issues that we deal with. I appreciate your excellent PowerPoint presentation. It gives us a good overview.

And I am trying to make some of the connections from your step process with some of the processes that some of the networks who deal with similar issues have, and I looked at one of the models at Southwest Network for Environmental and Economic Justice utilized in Texas. And it is very similar to that model of getting a handle on the various chemicals and developing a matrix and prioritization of those chemicals. Especially community involvement is very important. That is something that our network utilizes as well.

One of the questions I guess -- I have got three questions. Real quickly, Peggy. As I looked at the power slide on the community group, it didn't appear that nay of the community members would come from people of color communities. Maybe that is just one slide and one meeting. I am looking at models for our community. Was there a strong participation of people of color from those fence line communities?

DR. CARMAN: Not at -- not -- there was not, Tom. This particular group of community people that was something that came up in the project. Like I said, actually some of the community people did not come to all of the meetings. After two years in the project it became kind of wearing on people to come to meetings five to six hours even once a month, because people were busy and this was happening every month.

Now, there are -- there has been efforts to reach out to people all over the Houston area, and so the community members and the company people had been going throughout the ship channel to talk to people of color communities, the community groups and to the

various community advisory groups to basically show them that this is a model that might work, if people wanted to pursue it. But it is a tremendous investment in time and energy.

MR. GOLDTOOTH: Okay. And with these two companies -- is it Equistar and what? Lyondell?

DR. CARMAN: Lyondell.

MR. GOLDTOOTH: Lyondell. Do they have a union workforce?

DR. CARMAN: I don't think so. No. I don't think they are unionized.

MR. GOLDTOOTH: Okay. Because I was going to ask if they were involved with this.

And then the last one was in the matrix of chemicals put together. We have had presentations, when I was an executive committee member here, of the serious issues around dioxin, and you mentioned dioxin briefly. But it doesn't seem to have been any of the various -- it didn't have the consideration.

I am just wondering if that was brought up in the process?

DR. CARMAN: We took a look at the use of chlorine in the plants. These plants don't make vinyl chloride or any chlorinated chemicals. So these are -- you know, it is possible somewhere in the use of chlorine in cooling towers or whatever as a treating chemical, but they never -- we asked several times about dioxin, and they said they had no monitoring data to support the presence of dioxin as an air emission, a water discharge or a hazardous waste because they don't make -- this is not like a vinyl chloride of a polyvinyl chloride manufacturing plant. Although there are some in Houston. So there is no dioxin emissions associated with this plant. Either of these plants.

MR. GOLDTOOTH: But that was something that was brought as a concern from community members?

DR. CARMAN: Yes.

MR. GOLDTOOTH: Yes. Because it has just been our history that when we are dealing with refiners and some of these type of plants, dioxin is a byproduct waste that is generated and usually

industry such as these and members of the Manufacturing Chemicals Association tend to want to distance themselves from assessing dioxin release. So, I just wanted to mention that. So, thank you.

MS. SHEPARD: Tseming.

MR. YANG: Thanks for the presentation again. I guess I would -- a sort of three-part question. I was trying to get at sort of how you got to this place, in terms of having the community being able to work with these two chemical companies.

First of all, you mentioned something to the effect, but I am not quite sure if you could elaborate on that. Were the companies in initial compliance with the permits? What was it that made the companies come to the table with these communities and do all of these things that wasn't otherwise there and wouldn't have otherwise led them to implement these changes themselves?

And the third part would be were there some of alternative strategy that the community had in mind if these kinds of more cooperative types of discussions had not worked, such as filing citizen suit? I mean, if they were not in compliance.

DR. CARMAN: Well, at the beginning there were no regulatory compliance issues. They were uncovered kind of in the middle of the process through a Freedom of Information request that I suggested the citizens do to the regulatory agencies to see if there were any violations popping up.

So they did uncover, like I said, midway through the process that Equistar had received a notice of violation several months earlier which had many, many violations in it, and that was quite a hostile meeting, when the citizens confronted the company of why they didn't tell them that.

Let's see. Your second question was?

MR. YANG: I guess it ties in more generally. Given that they weren't aware of any specific violation, I assume at the beginning the companies maintained they were in compliance? Or people didn't even know? So why did they then sort of come to the table?

DR. CARMAN: Well, see there is in Houston a number of

different community advisory panels. I don't know if you are familiar with CAPs. Most of the CAPs I feel haven't made much progress as far as, you know, they haven't done these source reduction projects.

But there was a Channelview community advisory panel with these two chemical companies as part of a commitment to responsible care and all that. These particular citizens got frustrated and they resigned from the main CAP. They didn't want to do that anymore.

And they had a meeting with the companies and said we would like to set up a separate subcommittee on emissions and health to do a pollution prevention source reduction project and what do you think about that? So I went to that meeting about four years ago and a whole series of company people came, and because they were committed to the community advisory panel process, although this was kind of an offshoot of that, they were willing to talk about it.

So there were a lot of people that came to that meeting, and the company people stressed that if you want to start this kind of a source reduction project, this is not going to happen in a couple of months. You are going to have to learn a lot, you are going to have to make a major commitment and then I didn't go to another meeting for a year.

And I was invited to participate as a technical advisor to the citizens to help them through this process. So there already was a Channelview community advisory panel, but it wasn't going anywhere.

Now, there were two members that were still on the main CAP that agreed to come and participate with the citizens who had abandoned that process. Okay? So I think if the citizens were her talking about it they would say don't go through an community advisory panel. They don't feel that would bear fruit because that is basically, from their perspective, the ones who resigned from the Channelview CAP and was just getting together once a month for a feel good session with the companies and a free dinner. A free meal. Sot hey didn't want that.

So anyway, I know that sounds somewhat -- it may be heard to

believe, but it started off I think very slowly. I think by the end of the project it was really hard to imagine at that point that one could have looked at the beginning and see where the whole thing was going to end up.

MR. YANG: I'm curious. In terms of the alternatives, that this process had not worked, I am looking for your judgment as somebody who has been involved in this process sort of from a firsthand perspective. Would there have been a real possibility of the citizens getting counsel and filing a citizens suit for instance?

I guess the question -- the reason why I am asking a question is part of evaluating how successful you are, this effort was, has to be made by considering what the potential alternative outcome would have been. And one of the potential alternatives I am asking you about is sort of the citizen suit.

DR. CARMAN: No. I don't think there was a basis for a citizen lawsuit. I participated in a citizen lawsuit against a refinery in the Houston area that had 15,000 violations of the Clean Air Act, and there wasn't anything like this at these two plants. So there was absolutely no basis for a citizen lawsuit under the Clean Air Act against Lyondell. And I don't think you would have made it against Equistar, even though they had some violations. But it was not really enough for a citizen suit.

So one of the points I should emphasize is these community people had been calling the companies when the flares would happen. Friday night, Saturday morning. You know, when it would happen they would pick the phone up, and they got tired of calling the regulatory agency. So they would call the company. They would call the plant managers, the environmental manager, the PR people; they would talk to them and say what is going on? Is there a cloud of toxic benzene coming our way? Is this plant going to explode?

Because see, when the flares would go off, it wasn't just a lot of light and smoke. I mean, you would feel all of this rumbling and this vibration and people would be awaken in the middle of the night. So over many years the company people had gotten used to getting these phone calls at any time of day or night from angry community

people. So I think that was another reason why the two companies were willing to sit down at the table and to try to begin a dialogue, because there had been kind of a hostile dialogue going on, if you will, for many years.

MR. YANG: So the companies sort of had a very negative reputation in the community? Is that how --

DR. CARMAN: Well, I think that they wanted to see if there was something that they could do that might maybe calm community people down. I mean, there had been news stories in the Houston area. Sometimes about the plants at Channelview. Sometimes about other plants.

There has been a lot of fatalities in the plants, a lot of upsets, and I think upsets at chemical plants or refineries are still a huge issue, because when they happen, it tends to stink in the communities. They really pollute the communities. These typically are unpermitted emissions. So they kind of get through the regulatory cracks and loopholes, if you will. I don't know if that answers your questions.

MR. YANG: That provided a lot of information. Thanks.

MS. SHEPARD: Lori Kaplan.

MS. KAPLAN: Thank you. There is no question that pollution prevention measures that go above and beyond regulatory requirements are the right thing to do, in our state we, in fact, challenge our industries to do that and what we find very often is there are cost savings. And even though pollution prevention should be done because it is the right thing to do when you are dealing with companies, showing that there are cost savings as a result; there is nothing more persuasive.

And I noticed in your company benefits that there were increased profits as a result of this. Can you talk a little bit more about that?

DR. CARMAN: Well, I don't recall seeing any specific description of the increase in profits. Both of these companies are highly successful chemical companies. So, you know, that was obvious by the large number of engineering staff, technical staff that

they had available at these two big -- these are chemical complexes. Very big.

I can't really answer specifics on what the economic benefits were. I just know what they said, that it definitely help them.

MS. KAPLAN: Okay. Thank you.

DR. CARMAN: And the one way I would say it would help the companies is if they could keep their plants running on a line for an extra day, an extra week a year, you know, they are making more product and putting more material down their pipeline. So that is where they would see the bottom line help.

MS. KAPLAN: Thank you.

MS. SHEPARD: Adora.

REVEREND IRIS-LEE: One of the slides that struck me most was the one that talked about community benefits. There were about six or seven, but the top benefit that you spoke about had to do with proven, I think you said, reduction of emissions and a potential for more to happen in the future.

By any way you look at it, I think that is good news. But then, when we got to that last slide, I really started having trouble because that is where you are talking about sustainability. And I think I heard you right, that these particular corporations were saying that it would cost more. But when you think about cost, there are a whole lot of ways of looking at that.

But be that as it may, it would cost more to sustain this kind of source reduction effort. Well, I would like to hear more about what this particular community's sense of sustainability was, because we are going to talk about prevention here these next few days and if sustaining what you have already -- if risk reduction is not a part of it, I am really scared of that.

So I am really thinking about the ethical perspective of how corporations, or those two, were going to be held accountable to continue the source reduction.

DR. CARMAN: Well, I would point out that I know that some of the citizens were becoming pretty worn down by the process, because it was a small number of community who were participating

and a couple of people who were kind of leading them and trying to get them to come to meeting after meeting.

But, on the other hand, the Houston area, next to Los Angeles, it has got the worst smog problem in the U.S. A one-hour ozone problem. And so the EPA and the State of Texas have mandated originally this year a 90-percent nitrogen oxide reduction, which was going to cost several billion dollars, and now they have reduced it to an
80-percent nitrogen oxide cut.

So both of these plants have lots of heaters and boilers and so they said they were going to have to turn all of their plant staff loose that they could to find how they are going to comply with an 80 percent nitrogen oxide cut so that Houston can come into compliance with the one-hour ozone standard.

They were telling the community people we just don't know how we are going to have enough time to work on these source reduction projects. But they did say that these things would probably go forward in one way or another, such as dealing with some flaring issues from their olefins units.

And then also -- you know, I don't really want to get into any of the kind of personal dynamics, but as I pointed out, there was some resurfacing of some differences, let's say, and that seems to have kind of brought a termination to the source reduction project. I mean, who knows. It is possible a year from now it might get started up again, but at this point I don't expect it to. I don't know if that answers your question or not.

REVEREND IRIS-LEE: Mine is one about sustainability. I hope we hear that. And then the corporate accountability. I don't expect you to answer that one.

DR. CARMAN: I would just point out that this went on a long time, and when we went public in the fall of 2000 with kind of a long press conference, the community people said they were very tired and worn down of meetings, because they would study in between the meetings and they had accumulated boxes of documents. And so quite a few of the people felt worn down.

MS. SHEPARD: Okay. Richard Gragg.

MR. GRAGG: Well, that is one of my main questions. I am glad to see that the companies are attempting and being successful at source reduction, but I am sort of concerned that we can consider this or should consider this as a model.

From my point of view, I think one of the crucial aspects of pollution prevention from the environmental justice perspective is community participation, and we are being asked to evaluate this or accept this as a model when you only have six community members here involved in this process. And then you are telling us that the community people got tired, and here is a region that you are explaining to us is one of the worst in the country as it ranks to air quality and emissions.

And you are saying that the community members weren't that interested in participating and got tired, and I suspect, if you only had six people and they were dealing with all of these issues, that I would be tired too. So I am concerned of how this was representative of the communities that lived around or near the plant, and I am also interested in who was the people. Was it the community group or the company that invited you to be the technical advisor?

DR. CARMAN: The company people did. Not the company.

MR. GRAGG: These six people here?

DR. CARMAN: These people. Yes. And let me point out that some of these people had many health problems. They have had cancers, they have had body parts removed, they have had deaths in their family and some --

MR. GRAGG: When you say the people, are you talking about these six people here?

DR. CARMAN: Some of these people and then there were other folks that would come to a meeting or two and just said they didn't have the time and the energy. But, you know, we are talking about a lot of people who have been poisoned and, you know, there were deaths that occurred to spouses and other family members. It was not easy to get other community people to want and come and participate.

There were additional community people that worked on the general CAP, but it wasn't doing anything, as far as pollution prevention or source reduction. But there were a lot of health problems, and all of these community people had health problems. Okay? As a result of living there.

And they basically called other folks, and it came down to a small core group of people who would come to the meetings. And, you know, more people were welcome.

MR. GRAGG: Well, my concern, as I said, is based on one of the problems -- one of the main problems, when you talk about environmental justice and pollution and health impacts, is that distinguishing or trying to delineate between the reality in perception of pollution. And if you can't representative participation of the community that lives around these areas, then I don't see how we can claim or use this as a successful model. Except for the point that there has been some source reductions.

DR. CARMAN: Yes. I would also point out that some of the people that live in the area work in the plants, and os you run into that a lot in all of these communities along the ship channel there in Houston. Thousands of workers and also people whose jobs depend upon industry. So a lot of these people aren't interested in coming and saying anything negative about the plants.

So this is a tremendous challenge for the people living in these communities who want to come and confront the companies about what they are putting across the fence lines, and that is why I think some of the CAP people I met -- you know, they had businesses that were being supported by the companies. So they didn't want to say anything negative. So you run into a lot of that in these industrial communities. That makes it difficult.

MS. SHEPARD: Okay. Sorry. Have you finished? All right. We have got five people and about seven minutes left. Graciela and then Bob Harris.

MR. HARRIS: I have put my down. My question was answered when you talked about the composition of the work force, whether or not it came from the community, how many came from the

community and whether or not that had an impact. I think you just answered that. So I have no need.

MS. SHEPARD: Okay. Then Graciela.

MS. RAMIREZ-TORO: Yes. In terms of long-term, what steps have the groups taken to make sure that if the group changes or the company people that are involved in the group change the advances -- you know, the movement towards reducing the chemicals doesn't stop?

MR. CARMAN: Can you explain?

MS. RAMIREZ-TORO: Okay. For the short-term it looks like everybody is working together and that the companies and the community is working together. But for the long-term is there any provision to incorporate in company policies these type of actions or anymore long-term things?

DR. CARMAN: Well, some of these -- although some of these projects in the two plants were not part of a federal Clean Air Act requirement or a state permit requirement, the plants were going in and making permanent physical and structural changes. So, you know, they weren't going to go back and undo these things in any of the projects.

As to how much they will continue to do in the future, it is all, I think really, driven by economics.

MS. SHEPARD: Okay. Terry Williams.

MR. WILLIAMS: Thank you. Mr. Carman, I also appreciate your presentation and recognize the work that went into that. I know it is difficult, and I know why people get tired participating in things like this.

One thing I am curious about -- certainly you have explained the information that was available to the citizens committee on air pollution and looking at pollution prevention. Was there any other discussion from the citizens in terms of additional information or requesting from the industry say soil monitoring or water quality monitoring within the area?

You did talk about the significant health issues. Any discussions by the citizens groups in terms of monitoring of their own

health conditions or potentially mitigating the types of impacts that may affect the soils, water or the personal health?

DR. CARMAN: A lot of personal health issues came up at the meetings, but none of the company people or doctors or epidemiologist -- and the company people had talked about trying to do some of a health survey. They did not focus on water issues. They had talked to the Harris County pollution control people.

You have to understand about 99 percent of the cancer causing chemicals released by these plants were released into the air. The benzene, the butadiene, the styrene, the acetonitrile and so forth. They went into the air, not into the water. If you look at the water discharged, I think one of the plants had zero water discharges of carcinogens and the other plant had maybe 20 or 30 pounds. So the big concern was air.

Soil, that came up at several meetings, but there hasn't been any kind of soil testing done in the area. And maybe that would have become a bigger issue in future meetings. But it wasn't as hot as, I think, air monitoring.

MR. WILLIAMS: No. I understand. I was just asking the question because the number of pounds are literally tons of emissions that goes into the air, and most of that will settle out within a short distance when you are talking about that kind of numbers. And I would have guessed that somebody had wanted to take a look at that.

And in the water, I wasn't speaking of water that is being discharged, but water from the surrounding area that would be affected by air deposition.

DR. CARMAN: Well, some of these compounds are not exactly like dioxins, which are more persistent and stable over a longer period of time. The plants could have a release and within an hour you wouldn't measure it in the air anymore. This is kind of very transient. As far as I know, you don't see much in the soil if you are looking at 1-3 butadiene or even benzene.

I mean, you would have to have it raining a certain amount of these chemicals. People did talk about damage to their paints on

their homes and to their vegetation, and they were concerned about damage to the interior of their homes. I think the biggest thing that people brought up at the meetings were their health problems.

MS. SHEPARD: Okay. And the last question is Pam Kingfisher.

MS. KINGFISHER: Thank you. It seems like this is really interesting. It is a model. We may not say that it is a totally successful model, but I think it is a model. The most interesting piece is that they are basically in compliance. They are not mandated by law to do this.

So the big benefit there is to share the story, and I think the piece of -- the economics of prevention is something that needs to be talked about to other companies and maybe that -- I guess my question is is somebody going to write this in a way that really becomes a model that is usable? The company is probably not going to go out and talk to a lot of other companies, but is the Sierra Club going to do something?

I mean, the community group is tired and sick. There are so many famous grandfather plants in Texas alone where this model could really be helpful, especially when they are out of compliance. So I am just curious about where you are taking it.

DR. CARMAN: Well, I know some of the community people have gone to the different CAPs in Houston and have been speaking to them. And one of the concerns that I hear is if you don't have a facilitator who is pretty good, you can just forget the whole thing. The facilitator will sabotage the project up front or in the very beginning stages, and I think you have to have very persistent community people.

To me, there was one particular community person who I think was sort of the primary catalyst in bringing other people on board and kind of keeping it going. But you have got to have a pretty dedicated group of community people or at least a small group of them that are willing to try to dialogue with the companies.

I think some companies out there probably don't want to make this kind of commitment, because it is a lot of time on behalf of the

company people, and we would hear that too. Sort of into the third year of the project, that it wasn't just the time they spent attending the meetings, it was the time they spent preparing to come back with answers that the community people. You know, they had given them list of questions that we needed information about.

So the company people would routinely point out that they were spending very large quantities of time trying to get answers. But yet, they found definitely economic benefits, more reliability in the operations of their plants, and so they were finding that there was a value in this exercise and it wasn't frivolous.

MS. SHEPARD: Well, thank you very much. Charles is going to introduce our next panelist.

MR. LEE: Thank you, Peggy. I just wanted to say that Neal has graciously agreed to spend tomorrow with us as well when we are having the dialogue around the pollution prevention report. So I think that anything that you wish to do in terms of following up with him on any of this -- you know, there are certainly a lot of lessons to be learned. There is nothing perfect about this real life experience, but there are certainly a lot of lessons that can be learned from it.

The other thing that I wanted to make sure that everyone knew about and make a plug again is the Maryland Department of Environment's reception at their new offices for the NEJAC and everyone. Let me just make sure. If it wasn't clear before, it is not just the council members, but everyone here attending this meeting is invited.

There is a flyer, as well as directions to MDE, and we would suggest you just take a cab. It is a five-minute ride, and that would be the easiest way.

So, the next presentation is on a project that is taking place in the Park Heights section of the City of Baltimore, and it is going to be presented by Bernie Penner, who is director of enforcement for the Maryland Department of Environment, by Tom Voltaggio, who you heard from before, and by Henri Thompson, who is a member of the Park Heights community. So, Bernie.

The Park Heights Auto Body/Auto Repair Shop Case Study

By Bernard Penner

MR. PENNER: Good afternoon, everyone. Can you hear me in the back there? I am seeing some folks shaking their heads.

MS. SHEPARD: It is not on.

MR. PENNER: There we go. All right. All right. Good afternoon, everyone. My name is Bernie Penner. I am the enforcement coordinator with the Maryland Department of the Environment, and I am here with Tom Voltaggio and Henri Thompson.

It is a somewhat unenviable point in the program's agenda. It is 5:00, which is the time that most people start to wind down, it is dark; we are hungry. I want to put in a plug again to have you all come over and see our new building. So, if you need to go up and go, I certainly understand.

Our project, as opposed to the project which you just heard about, this one is still a work in progress. We are not done yet. And I had some concerns about getting up here and talking about this project before we were done, but Charles assured me that you wouldn't eat us alive. So, here goes.

My slides are entitled "ERP and You." Is anyone familiar with the concept of what ERP stands for? It stands for Environmental Results Program, and I am going to give a very general overview of what our project is about. But in the most simple bottom line terms, we are working with auto body and mechanical repair shops in the community known as Southern Park Heights.

I think Park Heights could be identified as an EJ community, and we hope that this will be a model for improving the working relationship between the regulators, the regulated community and the residential community. Now we will see if the marvels of modern technology will work for me.

(Slide)

It worked. The Park Heights Environment Results Project. Statistics, compliance rate. I don't know if our sound effect came through or not. That was the sound of a speeding car because we are going to speed right through this.

We have three essential components to this project. We are trying to do three things at once. The first level is statistics. We are interested in finding a way of talking about compliance rates that makes sense. People talk about compliance rates, but there is no fixed definition, and it all depends on what group you are looking at.

So this project is a self-conscious attempt to go forward and talk about compliance rates in a way that statisticians can go back and replicate our work, to some extent, and we can define all of the terms that we are talking about.

All right. Effectiveness of compliance assistance. We are going to reach out to the auto body shop sector. We are moving away from the old policeman with a stick, you know, bad guys, good guys into an educational model. The role of the regulators is to educate the regulated community, as opposed to the prior project which dealt with large industrial facilities with staff that is very well familiar with what regulatory compliance entails and could come up and say we are already in compliance. That is not the case with a lot of these auto shops.

They are small businesses, and their goal -- many of their goal has been to fly below the regulatory radar screen. You don't want to start talking to those regulators because when you do, they become aware of you and they start bothering you. And when they start bothering you, you starting getting enforcement actions. You start having trouble.

So our attempts to reach out and offer good information fact sheets made people runaway, rather than come to us. So we are trying to shift that. Now you can imagine. We are dealing with regulatory agencies and regulators who have been doing this business for a long time, and they do not like to see new things. So we are going to have to prove the effectiveness of the compliance assistance that we are doing./ do not like to see new things

And finally, and perhaps most importantly for this gathering, it is our goal to improve the quality of life in this community. It is our goal to raise the awareness of the community to which shops are doing a good job and which shops are not doing a good job.

It is not our goal to drive businesses out of this community. It is our goal to make sure that the businesses that are there are doing it in a fashion which is representative of good neighborhood; good neighborship.

(Slide)

Okay. Those are screeching brakes. Why Park Heights and why this particular sector? Little enforcement presence. We looked at this area, and we saw -- you look at a map and there is a very intense -- a classic EJ definition. There is a lot of auto body shops in a fairly small area. So then the question was, has enforcement folks, traditional enforcement folks, sat down and looked at how many enforcement actions were taken. Hardly any. We want to stop that.

There were lots of shops. I just said that. Another reason that we liked the sector of auto body shops is that they are what we call multimedia. There is an air impact, a waste impact and a water impact.

As regulators, the old regulatory culture is to think in terms of -- and forgive me for using the cliche, but to think in terms of their legal stovepipe. Air folks are only concerned with the air regs. Water folks are only concerned with the water regs. Waste folks are only concerned with the waste regulations.

So they can walk into a place, the neighborhood, but the people have to live next to a facility however. They experience the whole facility, and they haven't gotten the training or perspective on a facility to break it up into this three different media. And yet, when regulators speak to the community, they speak in their language about their media.

And unfortunately, many, many regulators have come at this work with the mind set that they understand the science, they understand what they are doing. When they talk to the community, the community doesn't understand it is the community's fault. So what we are working on is changing the way in which we, as regulators, communicate with the community and that is going to require a water inspector to be sensitive to and to be aware of air problems and explain that -- be aware of and explain the air side of it.

We had a residential community that was in direct contact with a regulated community. These shops were neighborhood shops, and we had to bring together the cooperation of three levels of government. Federal government, state government and local government.

That is the reason our panel is structured this way. We have a federal, state and we don't have a Baltimore City government representative here, but we do have a representative of the community association here. So we had to get everybody working together. And if there is a term that we want to use for this environmental results projects, it is collaborative problem solving. We have a problem. Let's all find a way to identify and speak about that problem in the same words.

(Slide)

Now, the methodology. What is the method? I have to say environmental results projects have been tried in Massachusetts and Florida. Washington, D.C. is trying a very similar project with this same sector in ward five. The other sectors this sort of work has been done with is small photo processors, print shops and dry cleaners.

Breaking glass. We are breaking glass because we are breaking through old ways of thinking. There are some breakthroughs involved. Step one in the process is to identify the universe. When you speak about compliance rate, a rate says a percentage of 100 percent. But how do you define 100 percent? So we get some degree of agreement on what that means.

So we specifically delineated the neighborhood that we were talking about, in terms of the study. Then the regulators, because we love to do this; we sat down and we created a definition. How do we define the thing that we are going to count? So we defined the geographic area. We defined the types of facilities and then, and here is the surprising part, the breakthrough part, we had the community apply the definition, because perception in this regard to some extent is more important.

And so we identified facilities by virtue of permits and by virtue

of regulatory structures. But the people who have to live there, they identified the facility by virtue of what it does. So we paid the community association to go through with a global position sensor and match the definitions they saw, because it had to match our definition so we would have some legal authority.

I mean, they couldn't go picking something that the regs didn't apply to. But they went through and identified and located each of the facilities.

So, step one. Identify the whole workload. The entire universe. Two, create a metric. Decide before you begin to do your work how you are going to measure success. Create the metric up front. Now, to some extent it is true. Creating a metric up front limits what you are looking. We recognized that going in.

But the problems are so vast. If you keep changing the thing you are looking at, you don't get anything done. So, to the same extent we defined the geographic area, we defined the metric.

Now, next to that I have the acronym EBPI. This is again part of these environmental results programs, and it is environmental business performance indicators. Now, the old way of judging compliance I like to speak in terms of was black and white.

A facility has a host of regulatory requirements they are responsible for. If they violate one, they are out of compliance. Right. All or nothing. But because we are shifting out of this all or nothing good guys/bad guys mentality to an educational model, it is more like a student in school.

A student in school is responsible to learn arithmetic, is responsible to learn reading, has to go to gym and has to take technical education. They don't get one grade for all those different subjects. They get a grade for each separate section. So, auto body shops. What do they deal in? Scrap tires, waste oil, volatile organic compounds, spray emissions from their spray booths.

Each of those has a separate body regulatory requirements. What is an EBPI? An environmental business performance indicator. We had to have one type of behavior that we were looking at. So we would pick from each of these major sections a behavior

which would indicate whether or not they were getting the message.

For example, with waste oil, if the facility has a waste oil hauler, they have identified a waste oil hauler, you know, they can at least say this is the guy who comes and picks up our waste oil, that tends to indicate that at least they have an awareness of it. If you get to a facility and say who is your waste oil hauler, and they say, say what? We don't have one of those. That is a tell.

In the area of scrap tires Maryland has a fairly intricate scrap tire program. If a facility has a permit, that tells you at least they know they need to get a permit and somebody has looked at an application. If they don't even have a permit, that is a tell.

Spraying, spray painting. If they have got a spray booth, there is at least some degree of consciousness that, you know, they need to contain these things. If they are -- and I love many of the terms. I have learned a number of terms in this process, and Henri will probably correct me if I get it wrong.

But a jack leg is somebody who is going to spray your car on the curb. You pull it up into his driveway and he will spray it. That is a tell. Do they have a spray booth or do they not have a spray booth? So we create an inspector checklist, and everything in this project, all compliance assistance is keyed into those environmental business performance indicators. We are teaching to the test.

We start then -- you know, when we recognize -- we start with baseline inspections. Why do we start with baseline inspections? All right. For the big invasive facilities we know, as a regulators, we get to those facilities fairly frequently and we watch them. There is not that many of them.

But for small businesses where you have a cumulative impact, there are far too many facilities for our inspectors to get to. The beauty of statistical methodology is we pick a random sample. A significant number of that total universe. We have to identify the total universe, give each and everyone in the total universe a number and then we selected a sample, and that sample received an inspection.

No outreach had been done. Nothing. They went in cold and they went in at random and we followed the random list. We did that

inspection and from what we learned from the baseline inspection we inferred where the problems were, and we got a picture, a snapshot, of what the compliance looked like before we began.

The next step in the process is to render the compliance assistance. Actually it would have killed too many trees and since it is still a work in progress, we weren't going to be handing it out all the way around. But this is our baseline inspector checklist. The inspectors went down the line always asking the same questions.

Step two: We create and we discovered that there were two entirely different sets of folks. So we have got a plain English guide for the auto body shops and a plain English guide for the mechanical repair shops. Now, compliance assistance. What we do is we now take this book, our teaching tool, our compliance assistance tool and we deliver it to every shop in the 100 percent universe. Not just a random sample. Every single shop.

And we, as the regulators, don't do it. The community does it. The community just delivers the book and then we open up for -- we have training sessions. I am in trouble already. Okay. All right. I am running short on time.

We have training sessions and we develop a back and forth. So if the facilities -- if we find a way that we can help facilities, we work together. We draw our resources together and we try to solve certain problems.

One of the problems is waste oil. All of the waste oil. Small shops, small tanks where they accumulate their waste oil. The waste oil haulers don't like to come in and draw out tanks that are less than 500 gallons. A lot of shops don't have 500 gallon tanks. They have got the 55 gallon drums. So maybe we can put several shops together into -- you know, have them all accumulate at one location. Scrap tires are a big problem.

Again, the concept would be that we get one central scrap tire location. So rather than have each shop individually dealing with its scrap tires, they are working together. That is being a good neighbor.

We will let the compliance assistance period run and then we

have again a final round of inspections. Again, the inspectors. Not the community this time. The inspectors with their book, with the checklist, go back and again inspect a random sample set of facilities. And then the goal is we take what we saw at the beginning and what we saw at the end and we compare the two, and we try to understand what it is we learned.

(Slide)

Benefits that we hope to derive: Improved compliance. The first goal is improved compliance. Unlike the prior sector, these guys aren't necessarily in compliance. We want to clean it up. Improve the quality of life for the people that are living there.

Two, get us out of the cat and mouse game. Regulators, regulated and residential community. Get us all talking. Get each community talking to each other. These workshops will create that environment. It all depends on if -- the shops have got to be willing to play. The shops have got to be willing to participate, and what we are giving them is limited amnesty.

If they disclose a violation to us, we will not take an enforcement action against them. There is nothing unique in this. This is an environmental audit policy. Basically what we are doing is we are holding their hands and we are walking them through an environmental audit.

And hopefully, finally we hope to improve our regulatory process. We hope to gain more information about what is going on in the regulated community than, you know, you have got to catch them when they least expect it. We want to get them to the point where if we are having trouble with this, we can come to you regulators for help solving the problems.

(Slide)

The "ERP and U." Where are we? You know, I hate to promise and then not be able to deliver. We have done the baseline inspections. We are presently in the process. We are in the final draft of our plain English guidebooks. The regulators have written them and put them together so that they are happy with them, but now we are circulating it out to selected auto body shops to read it to

see if it makes sense. Can they understand what they are being told? Once that is done, we take it to the printer and start with that phase.

We are also planning the first training sessions, the introductory training sessions to show the whole community how the project is working. But we have not completed the compliance assistance phase, we have not done he follow up inspections, so I don't know if it is going to be a success or not.

And that is where we go from here. We are going to finish it, thanks to grant funds supplied by EPA. We are going to finish this project and we are going to see what -- it is one of those win-win cliches. Right? Even if we don't get any of the shops to respond, we will learn something about what makes them respond.

Finally, where do you go from here? Watch us. Let's see what happens. We can learn from other communities. We have several projects taking place all across the country. Well, I know Florida, Rhode Island and the District of Columbia. All in the same sector. And EPA is pushing -- well, I shouldn't use that phrase I guess.

EPA is putting on workshops to have to do these environmental results programs. So it is a fairly evolved compliance assistance tool. And with that, I tried to stay conscious of my time after my yellow light. I am going to turn it over to Tom Voltaggio.

You know, Region 3 in this has been -- and I am not just saying this to make Tom happy. Region 3 has been our champion. The state regulators were digging and they were reluctant, and every time we meet -- I don't know if Samantha is still in the audience here. There she is. Every time the state people sat down and said we ain't doing this, and the big thing is EPA will never go for it, Region 3 sent people down who sat at the table with us and said we want to try this. This is a new thing. We want to try it. We are here to help.

And as Tom will describe, the inspections were done by EPA. So we got all three layers. With that, can I pass the baton.

(Applause.)

By Tom Voltaggio

MR. VOLTAGGIO: How do you follow, Bernie? First of all, who

is this Bernard Penner? I never heard of him. And I know it is late, and not only is it a problem that it is so late, but I had to follow Bernie as well.

He basically handled a lot of the things that I was going to do. So I am going to go through pretty quickly just to kind of round out some of the issues.

I wanted to give you a little sense of the neighborhood looked like. Residential areas. Some of them are low-income minority areas, but have long been in need of redevelopment and revitalization. As Bernie said, we have a high concentration these auto body and auto repair shops, and the key is the community came and said we have a concern here; we think we are being harmed by it.

And one of the things that I wanted to say is there is a huge difference between the presentation that you heard on the ship channel and what you are seeing here. The ship channel project is a massive import and it is just a huge area in such a huge affecting so many people. It was really hard to get your hands around it.

This is -- you can see we have really honed down to something very small and very manageable. You can't compare these two projects because of the scope. I used to work on the ship channel 33 years ago. I was working in one of those plants causing probably some of the problems that you are seeing here today, and I know what a massively difficult thing it is to do.

But here we really tried to hone in on an area where the community came forth and said we have a problem here. We think we have an issue. Let's see what we can do to help.

(Slide)

So, one of the things I wanted to stress is how we were a partner in this effort. Of course, our office of enforcement compliance and environmental justice, headed by Samantha Fairchild, was very instrumental in working with Maryland in order to make this happen. And what did we do? We provided the money. You know, we need money to do these kinds of things.

And we thank our office of enforcement and compliance

assurance at headquarters because they were the ones that provided the money for us.

(Slide)

One of the interesting things is the community through they really had a big, big problem here, and they did have a problem than they thought it was bigger than. Actually, we found it was. They thought there 150 facilities in the area. It turns out we were only able to locate 50. Not that 50 doesn't present a problem, because it does, but it really does show.

(Slide)

And, of course, as Bernie said, these business were not captured by anyone. Not captured by us and not captured by the state, and what we were doing is trying to work together with the community.

(Slide)

Here is the deal. our headquarters provided $275,000 for this effort, and that is what is really providing the funding for making it happen. But what is this money used for? How is it that we were utilizing this money effectively? Are we just throwing money at a problem? Or are we trying to really specifically get to what it is, to an effective utilization of the money?

In fact, you can see what these activities funded. A planning and design of the project. Generation of the compliance assistance workbook, which is so important to educate the individual owners on what is it that I can do. I don't know how to do these things. You know, show me. And we were able to get that.

We also developed a multimedia checklist that Bernie showed you. It was quite an effort.

(Slide)

We also were able to use that money to hire community members in order to locate and identify these auto repair and auto body shops. And also, the money is used to perform a statistical analysis of the random inspection data that we had gotten.

(Slide)

So, what it was all about was locating facilities.

(Slide)

This map really isn't very good. Let me see if I have a pointer. Baltimore, we are right here at the inner harbor. You can see this green area is the area of concern. So we can see this is northwest of downtown. These are the major drags that go through the area of Park Heights.

(Slide)

Again, I am not going to go over this. Bernie already mentioned it. The thing that is important is that we not only had state inspectors, but EPA folks too. So we were able to again utilize not the money, but the resources. Maryland says we can't do all of these things ourselves. We did over 40 inspections from the EPA office in Philadelphia as well. Bernie already went over this. I am not going to spend anymore time on that.

(Slide)

I want to also, almost for the purpose of emphasis, repeat some of the things that Bernie said. Improved communication and cooperation was hugely important. Everyone knows, if they have been in this business as long as most of you have, that relations between state and the feds and the community aren't always the best, and what we are trying to do is utilize a very effective to help in an environmental goal, and at the same time get the benefits of the improved communications.

In developing indicators of success, this is something that we haven't done all that often, and here are some examples that we are trying to use as an environmental indicator. How much did we decrease the amount of oil and grease found in the municipal waste water treatment plant? That is an indicator. There are informational indicators of success as well of identifying the effective methods for improving compliance.

(Slide)

We helped out with the inspections, and we were able to found out that actually there are much fewer auto body shops than we had actually thought there were. So all I am trying to do there is to kind of round out the effort and let you know that what is important.

The project couldn't have started unless we came forward with some money in order to make it happen. The important thing that so many times you throw money at a problem and it is not the answer. It is having a close working relationship with the state and with the community in order to really listen to them and say, hey, what are the problem you think exist, let's see if they exist, let's put some well directed money into seeing if it does; let's work together to try to make it happen.

As Bernie said, we are in the middle of it. Maybe next year we will be able to give you a little more results. And with that, I will stand down and give the floor to the third member of our panel.

(Applause.)

By Henri Thompson

MR. THOMPSON: Good later afternoon. I promise not to hold you long. My name is Henri Thompson. I am the executive director of the Park Heights Coalition, which is a non-profit organization located in the Park Heights community.

I think it is important -- and I will be brief. But I think it is important that you have an understanding or a history of our organization and the area in which we are working in. So I will briefly just give you a quick history.

Park Heights Coalition was incorporated as a non-profit organization in 1996. Park Heights serves residents, businesses, neighborhood organizations in the Park Heights community, beginning with Park Heights Avenue, the Reisterstown Road corridor and the Wabash extension.

The mission of the Park Heights Coalition is to create and implement a strategic master plan that will focus on environmental, social, economic and physical development that is community driven and economically sound for a self-sustaining future through a block-by-block resident driven comprehensive revitalization plan so that residents, neighborhood organizations, businesses, faith and educational institutions of the Park Heights community will have the resiliency, competency, resources, education, training and the physical capacity to support

the community now and for future generations.

Briefly, information on the Park Heights community. The Park Heights community is the largest renewed district in the nation and is not a federally designated empowerment zone, and thus, does not receive the benefits associated with the economic and community development.

This community was once an upper middle class bursting through diversity and residential and business vitality. Presently, however, today the Park Heights community, like many inner city urban areas, has more than its share of crime, grime and abandoned houses, which have a devastating effect on family, children and businesses.

The average income level of the residents residing in southern Park Heights is between $15,000 and $24,000. Almost 50 percent of the community, which is 96% African American, receive public assistance. One third of the children live in poverty and in families headed by females. Over half of the units are renter occupied, with many substandard lead based paint filled conditions.

Approximately 35 percent of the youth are not in school. The teen pregnancy rate is about 14 percent, compared to the overall city rate of 10 percent. Park Heights has the fourth highest juvenile arrest rate in the city, with over 12 percent of these arrests among young people age five to six.

Health-wise our community -- over 3,000 residents have been diagnosed HIV related illnesses. Our community rates in the top five of lead poison, asthma and prostate cancer cases. To me, this is a clear indication that this community has not been viewed as investment over the years.

Its residents, children and businesses has been neglected and overlooked when it comes to economical, social, environmental and physical development. I hope these statistics can provide you with a clear idea of the changes we are facing in the Park Heights community.

Let me give you a little background on how we started. I was a former community organizer, and I attended many, many community

organization meetings over the years. I still continue to do that. I listen to some of the concerns and problems that the community shared with me. Sometimes I get beat up on. Sometimes I'm treated nice.

However, one of the concerns that we paid strict attention to is an environmental concern, and that is people had a very -- people were very concerned about the auto body shops and their locations. We have many auto body shops located next to daycare centers, next to fast food eateries and next to residential areas.

We are not quite sure what effect the chemicals that they are using has on the environment and the soil itself or in the health of our community.

In the year 2000, as a result of all of these concerns, Park Heights Coalition drafted a Park Heights Revitalization plan, which took into account all of the various elements of education, health, environmental issues. And then, in the year of 2001 we were visited -- I guess it was heard by EPA and MDE, and so we were visited, in the year 2001, from representatives from the Environmental Protection Agency in Region 3 and the Maryland Department of the Environment.

They toured our community and saw for themselves the number of auto body shops and repair shops that we had located at the various locations and how they operated. The project -- as a result of this, I believe the project was created.

Let me say that before then I saw EPA and MDE as an agency. After our meeting it wasn't no longer just an agency. It became people. I had an opportunity to hear and share with others, such as Mr. Reginald Harris and Bernie and others. It became a face-to-face dialogue to where we started to relate to each other, and out of that we started to come together and understand the importance of this project and understand the importance of the community involvement in working together.

This project, as Bernie has stated, is a compliance project; however, our organization was chosen to be sort of like a go between or an ambassador between the agencies and the

community. We have a very good relationship with our community, being the business community and the residential community.

We pride ourselves on that, and we were very, very skeptical at first, as far as getting involved with another agency. We had turned down other agencies that wanted to come into our community because we know firsthand it was to use us, abuse us and just leave. We felt differently about this particular project and the people that was involved, and so we said, yes, we will do it.

And as a result of that we find that this project is worthy of continuation. Our business community, they were a little skeptical too, which is a natural. One of the question there asked is why us.

Well, we had to be able to explain to them that it is not just you. It is a total whole look at the environment and the economic development of our community. And so, as a result, I had an opportunity, along with one of the people that I was able to hire through this grant -- I had an opportunity to go out with the inspectors.

And what I found is that sometimes you look, but you really don't see, and it was until I got into some of these shops that I said, oh, my God. What is going on here? Bernie had mentioned about painting cars out in the open. Painting cars and sanding cars. In one place we found one gentleman had his garage in the back of his house and he was sanding and painting cars in the alley right across from where someone was growing a garden.

I don't know if he knew the effects of the chemicals and things that he was using, but this program provides an opportunity for us to not only regulate some of these business, but also to educate these business owners along with the community. I think that is very important. We have made progress. We have made great progress.

One of the most important progresses we made was relationship building because you know and I found out that agencies speak their own language. And, quite frankly, I was confused with a lot of the things that they were saying and I got kind of discouraged.

But we worked through that, and through efforts of Bernie and Andrew Sawyers and Don Jackson we came up with a plan to have

their information presented in laymen technology, laymen user friendly information. So they were very open to the auto body business owners. We sat around the table, and they invited them.

They said here. Take this. Take this book. You take it. You go through this book and you mark it up. You make it user friendly for you. You make it in the terminology where you can understand it and then bring it back to us and we will put in a book form that we will distribute throughout the community.

I think that was very, very important because these business owners are trying to make a living. We understand the importance of these businesses in our community. I myself use a local business because I can't afford to go back to the dealer or to someone on the outside. These businesses are vital to our community, from an economic standpoint and from an economic standpoint, as far as them providing jobs.

Some of them provide training for local community residents. Local community people are employed. Local community people need these businesses to have their automobiles repaired. As I stated, this is a low-income area, and we just can't afford to take our cars to dealers. However, we do understand the importance of these businesses being regulated and coming into compliance.

Will every one of them make it? No. We understand that. It is sort of like teeth. If you have rotting teeth, you know you have to take them out to support the good teeth. I am just using that one. You understand what I'm trying to say. So we know that all of the businesses will not be in compliance and some will have to go; however, we are really interested in those that want to comply, those that want to elevate their business.

And through the program that is going to be provided, they will have an excellent opportunity to do so through training, education and hopefully financial support. And so, we are very excited about this program. We are very excited to be a part of it; however, we implore you. We ask you to continue your support. We need the financial support. We need the financial support not only for the agency, but for the community to be able to have the necessary

resources and personnel to go out and engage these business owners, along with the residents, and provide them with an education and an understanding to where they won't be in a confused state.

People know that there are things going on in their community, but they don't know how to address them, and I think that is important; for us to play a real important part in that.

And so, in ending, I would just ask for your continued support of this project because this project, as Bernie stated, can be a model. A model that can be replicated, duplicated throughout the country. Park Heights has been neglected for too long, and we ask for your support for the community. Not only the community, the business community, the residents and most of all the children to improve the quality of life in our community. Thank you.

(Applause.)

MS. SHEPARD: Thank you all for the presentation. We have about 10 minutes for comments or questions. Larry.

MR. CHARLES: First of all, I want to thank all of the presenters. I think the information given from one standpoint or another added value to our committee, both in terms of what are some of the right things to do, and also we learned from some other aspects from the presentation that enlighten us to some areas where we might want to make improvements.

I hope we weren't too rough on any of the presenters. We appreciate the work and the time that you all put into this. I want to ask Henri.

The thing that I appreciate the most about the presentation is that there are two, I think, key points that are highlighted in the story that you just told. Inside of it, first of all, is the facility that capacity building is not a one-way street, but rather, a two-way street.

But as we work to improve the knowledge and comfort of the community members participating in this process, there is also a need to work to improve the comfort level and knowledge of the regulators. You said that your involvement with the regulators was foreign, that you saw them as an agency and then you began to see them as individuals. And so, I appreciate highlighting that there is

work to be done on the part of the regulators as well.

But when you have people like Reggie who is from the community that is impacted by this, it makes it easier, and it underscores the point for EPA, for the state agencies and the city agencies to understand that maybe one of the first strategies in effectively providing environmental justice and pollution prevention even is to have a diverse staff to begin with; to have balance around the table as these issues and policies are discussed.

The second thing I appreciate in your presentation, Henri, is the idea that a community has to confront that fine razor thin line between economic development and the protection of human health. That is an ethical question that I think will plague all of us as we try to draw balance in accommodating the needs of the infrastructure, the retail and commercial infrastructure within our community, as we try to correct our past faults in terms of the way these industries operate.

So, I just want to commend you and your community for highlighting those two points --

MR. THOMPSON: Thank you.

MR. CHARLES: -- and having us understand clearly that all communities are at different levels of understanding and preparedness to participate in this type of a process, and I am hoping that the workgroup, which I join our chairperson in applauding -- that the framework outlined in here will establish the standards and key principles that would compose a proper set of elements for a model in addressing pollution prevention.

So, I really, Madam Chairlady, look forward to the discussions on pollution prevention as we move forward, and I think we have got a good starting point here, thanks to the presentations made.

MR. THOMPSON: Thank you.

MS. SHEPARD: Okay. Ken.

MR. WARREN: I would like to extend Larry's congratulations, which was appropriately directed to the community and reiterated, but extend it to the government agencies involved. I think that government, in this case, has really bent over backwards to involve

the community and acted as a facilitator.

I think that is an extremely valuable role for government, and all concerned at EPA and at the state level and at the city level should really be commended for that. And also, the creative use of metrics that you have come up with to take a look at compliance before compliance assistance in some statistically verifiable way and then go about measuring it after compliance is rendered I think is really a very valuable contribution.

I have one question, which any of the presenters should feel free to respond to. It seems to me that this is a good example of where EPA has exhibited enforcement flexibility. It has chosen the compliance assistance route rather than the enforcement route, and the community has been supportive of that.

What I am wondering is if that is a model that is generally usable throughout environmental justice communities ore are there factors specific to this community that makes it work here and might not be appropriate elsewhere?

MR. VOLTAGGIO: I will try from EPA. The basic fundamentals of these programs where we use the compliance assistance is that we want to emphasize those areas that we wouldn't ordinarily get to. There is no means to assure compliance because the individual sources themselves are so small to be below the radar screen, and these environmental response programs basically are dealing with trying to get better compliance through assisting them.

And these particular sources are not the big facilities that we would normally inspect. We like to go through all types of industrial sectors. We did some work with dry cleaners while back. Again, another area that would normally fall below the radar screen. But we recognized that there was a problem from them.

So we go in and we try to educate those folks about what it is that they need to be doing. So we try to emphasize compliance throughout the spectrum.

But in a project like we talked about here the major emphasis is these are not industries that we would normally get to. So if we can invest a little bit of time and a little bit of money, that is leveraging

tremendously our effect and hopefully get voluntary reductions and a better understanding by that regulated community of what they need to do to improve the environment. So that is one of the major factors that I look at.

Of course, compliance assistance through all factors, through all sectors, but it is most effective, I think, where we ordinarily wouldn't have gotten there and this really help. Bernie, you may have some other things that you want to say.

MR. PENNER: I want to mirror what Tom said; however, it is very difficult to get the enforcement flexibility to work and we had to do an awful lot of assuring; that, okay, how bad can a waste oil spill be?

So I think, if you look across the board at EJ potential issues, you have to look at it violation by violation. And we have written into the protocol of this study that if an inspector or member of the community identifies a violation which is what we identify as significant and potentially impacting health, an enforcement can and will take place.

The effect, however, of that to the study is if we take an enforcement action, that facility is dropped out of the statistical study, because now we can no longer say it was the book that changed their compliance. It was the enforcement action. So we always have the possibility to go in and take an enforcement action where necessary.

And I have to say, if I could rack up hours spent around tables debating and discussing, you know, you get into the water area about what we can let pass and what we can't let pass -- and we really -- at this moment we stand on this cusp which says, well, we'll know it when we see it.

You can write all of the if, when, maybes, what if, what if. You will go on forever. So, we will respond when we see it.

MS. SHEPARD: Okay. Bob.

MR. HARRIS: I think this is a good example of how the levity process certainly can work. I am curious about one other element here. Watching the slides I detected, in looking at the neighborhood,

visual pollution, and visual pollution can have a devastating impact upon a community.

So I was wondering whether -- maybe, Henri -- you involved maybe the local agency, the local ordinance of the city, to just simply make the places look better.

MR. THOMPSON: Well, yes. We have done a study and continue to do a study with Morgan State University School of Engineering, and we studied brownfields. We also have contacted the city agency, because when you get involved in areas of blight and regulations, you have to -- that means you are bringing in an amount of different agencies within the city.

We're talking about sanitation and then we're talking about housing and, you know, we have to bring them all in. So we are in the process of really trying to bring that into some sort of form.

MS. SHEPARD: Okay. Pam.

MS. KINGFISHER: Thank you. Bernie, you really answered part of my question, but I still have a question about the limited amnesty. Was that a signed MOU? You sort of told me it was breakable. So I was wondering what that arrangement was. And then I have one more question.

MR. PENNER: The legal structure of the amnesty is the Maryland Department of the Environment, in conjunction with the EPA guidance document, has what is called an environmental audit policy. The environmental audit policy has certain prerequisites, but the -- and I can show you the policy. It would take too much time now.

But basically, if a facility, in the course of doing an environmental audit, discovers a violation and they, without being required to, report that to the agency and enter into a return to compliance plan, the agency, using its enforcement discretion, which is provided by law, will forego taking an enforcement action.

This is across the board in the State of Maryland. So what we are doing is we are viewing this checklist as a agency guided environmental audit. So, if they identify something on the checklist, we will work with them to return to compliance.

If it is a violation that is not on the checklist, there is nothing provided and the one ticklish area that we are in here with the -- you know, there are some potential zoning violations. There is other violations besides what is on our checklist.

MS. KINGFISHER: Well, that was my next question. How did they also fly under the radar of the zoning regulations in this community? How did this all happen?

MR. PENNER: Again, getting regulatory agencies to sit down at the table and to agree to give up any piece of their -- Baltimore City is a sovereign jurisdiction unto itself. They can take whatever enforcement actions they want.

However, the city also has a vested interest in seeing this project work. So they -- again, it is one of these of we will know it when we see it. If we have a facility that is working with us and is clearly trying to get itself together, they will perhaps try to resolve their zoning problems as well.

And we believe, given the lay of the land there, with one or two clearly bad actors, that is a grey area that we can work out.

MS. SHEPARD: Okay. The last two are Eileen and you.

MS. GAUNA: Okay. I have one quick and one longer question. The quick question is I didn't catch the time frame of when the project started and when it is anticipated to end.

And the larger question is -- you know, it is striking to me how if you come in with random unannounced inspections and then you follow it up with community members visiting these facilities and you have got an under regulated and under inspected sector, that that seems like a recipe for hostility and resistance from the part of the regulated community itself, because they have gone for years without regulation and now, all of a sudden, even though it is supposedly a carrot instead of a stick, it seems that there would still be some economic benefit to non-compliance that would outweigh this push towards compliance, even if it coupled with an audit policy and training and all of this sort of stuff.

So my question is how do you assure compliance over the long run when the program is no longer in play and you have a lot of

attention focused on this relatively unregulated sector? How do you plan or anticipate to keep up the benefits of the program that you have harvested thus far?

MR. PENNER: I am going to give Henri an opportunity to follow up on the non-hostility portion, because we are relying on Henri to help us with that.

The time frame it is -- the grant money is a two year project. We are behind by about six months. It was our original hope that we would have everything finished up by the end of the state fiscal year.

I can get those numbers. June/July of '04. So we might need to be asking for a six month extension because of the difficulties in getting the book out.

You know, again, I have to see those things visually to chunk out what the time frame is, and maybe -- we have a chart, and Jerry is over there. He knows precisely what the date is. He keeps me on target.

MS. KINGFISHER: But just roughly, the date that the program started?

MR. PENNER: When we really started coming in with it was the beginning of this past state fiscal year. So we are going to say July of '01; is when we had the funds that were available. Though we were thinking about it for a whole year before that.

Continuing the project? That is one of the reasons why we are getting the community involved, and I am going to let Henri respond.

MR. THOMPSON: First of all, I want to say that we have to continue. It is very important for us to continue. I understand. We know that this a project that has begun in sort of like a small scale, but for the sake of the overall community we have to find ways of continuing to bring in resources that can help change this entire community, this effect that this industry is having on our community now.

As far as those being selected randomly, I, like others, were very skeptical. I had a sense of mistrust and I was quite unsure of how this thing was going to work out, and so I asked a lot of questions and I had concerns about how the community would

receive this project.

Like I said, we have a relationship with the community; however, when you talk about agencies and regulating and being in compliance, that makes it a different ball game. And so, one thing we found that -- and I have to say that through this process I was able to hire a gentleman that had a fantastic relationship with the business community.

He worked for the city. He was very well known as a fair person throughout that community. And so, when we first went out and started to interact with the community, we found that they were very, very receptive. We thought, when we accompanied the inspectors, going in and feeling that hostility. We didn't encounter any.

What we did is we went in and I introduced myself as someone from the community, and I introduced the inspectors. And they opened their doors. They said, we have nothing to hide. We welcome you to come in. And as we went through, we started to explain to them the other possibilities of a program like this; the benefits of a program like this.

And I must say that we got involved. EPA and MDE. I appreciate their approach, because their approach was we don't want to come in with a big stick. We can come in with a bit stick and close shops down or do what we have to do; however, they wanted to make an effort to help support these businesses.

I was very receptive to that, and that is one of the reasons why we got involved. And to today the business owners, they come to the table, and so we have a very good relationship building from the onset. So we hope to continue that.

MS. KINGFISHER: Can I ask a follow up question?

MS. SHEPARD: Quickly.

MS. KINGFISHER: Just if you think the program itself has given the community capacity to monitor ongoing violations. Has there been any technical building of capacity to the community members themselves?

MR. THOMPSON: Go ahead.

MR. PENNER: We are really not that far down the line yet.

MS. SHEPARD: What kind of capacity would you be looking to build, Henri?

MR. THOMPSON: We would like to build capacity building between the business owners and the residents of the community. We would like to have everyone educated to the fact of this industry, along with building capacity with the various agencies and the community.

MS. SHEPARD: And what resources do you need to do that?

MR. THOMPSON: Money. Money. We need personnel. We need personnel. We need methods of being able to go out and interact with the community, educate community, to be able to hold various workshops and training so that they can get an understanding of what is actually happening in the community, because we have a lot of concerns that haven't even been addressed when it comes to this industry.

People complain often, as far as the business owners and their practices, as far as even automobiles being left on the curb. People repairing automobile out in the open and painting out in the open.

So what we want to do is actually educate the community through relationship building on how we can help improve the quality of life in our community.

MS. SHEPARD: Okay. And finally, Dean.

MR. SUAGEE: Thank you. This is not so much a question as just a comment. I think this sounds like an interesting project, and I look forward to learning more from it.

I heard people refer to this as the model, and I just thought that gives me the opportunity to bring up a point that we struggle with when we were working on the
pre-meeting report, and that is the difficult of taking models from the non-Indian world and applying it in the Indian country context.

Some of the language that I came up with that found its way into the report on page 107 brings up some aspects of this issue, and that is that in this issue you have got the community, you have got the government regulatory agencies and you have got businesses, and in the Indian country context those are often all the same entity.

You have the tribe as government, you have the tribe as the environmental justice community, the tribal members who make up the tribe, and in many cases you have -- to the extent you have a business, businesses that you want to regulate, they may well be tribally owned enterprises, tribally chartered enterprise.

So you have those three basic roles all being played by the same entity, and I think that creates a unique set of challenges that we need to address and take these lessons from the non-Indian world in pollution prevention and apply them in Indian country. And I just wanted to make that comment today. I think it will come up some in the discussion tomorrow I'm sure as well.

MS. SHEPARD: Okay. Thank you.

MR. GOLDTOOTH: Peggy, one quick question?

MS. SHEPARD: Quickly.

MR. GOLDTOOTH: That was a nice presentation. I wasn't clear whether or not -- the types of businesses we are talking about. Are those also backyard, under the tree type of auto repair shops too as well? Are they all businesses of people who own them outside of the neighborhoods or do they live in the neighborhoods?

MR. PENNER: We have from baseline some demographic about who are the owners who live in the community and who are the ones who do not live in the community.

The question of whether they are under a tree or a curbside business, we are, to some extent, limited to businesses that do have some kind of fixed address that you could geo-code, that you could go in with a global position sensor and say, beep, here it is.

We know that there are -- you know, I don't know what is the correct term to use. Mobile business? You know, they will take a buck. He has got his toolbox and he will go somewhere else. And we just can't get them.

We had to weed out, just because it was a whole different set of regs, scrap yards. You know, the difference between a guy who is -- I mean, is this really like an auto salvage scrap yard operation or is it auto repair? A lot of times those two travel together.

Another one is car washes. We had to slice out the car

washes. So we spent a lot of time and energy on this definition and who is in and who is not, and we were very blessed. In any project it is the personnel you have got doing it.

This man who the community sent out, he was not a 9:00 to 5:00 kind of guy. He went out at 11:00 at night sometimes. I mean, we did do some over after hours looking.

MR. GOLDTOOTH: Okay. Why I ask is I would suspect some of these businesses might be small home type of businesses, someone trying to supplement their income, and in a way, the project pays informants. I mean, it is a good project though, but pays snitches to snitch on maybe a neighbor who is trying to make ends meet by fixing somebody's cars.

You know, they need to be educated, if they are going to go into that business, on how to dispose of oil filters and the tires, et cetera. That is why I asked that question on the makeup of these businesses and how the dynamics of this program influences the working relationship of people in that community and that neighborhood. You know what I mean?

MR. THOMPSON: Forgive me, but I am not too comfortable with the term that you use as far as snitches. I am not sure I admit that.

Yes, a lot of these businesses are backyard businesses. A lot of them are people working out of their garage, people working with their portable toolboxes. Some businesses are located at 000 today, and the city comes in and tomorrow they are located at 001. They are mobile. However, we understand that everyone needs to make a living, but at what cost? But at what cost? I don't believe that we can continue any longer to let the practices that are going on today to continue. We would do our utmost, along with the other agencies, to try to educate and assist as many as possible.

Again, like I stated, everyone is not going to abide by the rules. When you have repair shops spilling oils and other chemicals that's located next to daycare centers or next to fast food restaurants or residential houses, then there's something that's not quite right with that, because it's jeopardizing the health and the well-being of the

community. Of the overall community.

When you have people spray painting cars on the outside, not only their health, but the health of the community is at jeopardy.

And so some of these we know we will lose by the wayside; will fall off by the wayside. Some is necessary to fall off by the wayside. But it is those other ones that really want to be in compliance, that really do want to do the right thing and those are the ones that we are interested in.

We look down the road further as a community. Through economic development. We look to hopefully one day develop an auto body park where all of these auto body shops would be centrally located, because right now we have auto body shops next to houses, in communities, in backyards. I mean, they are so scattered that we really need to get a handle on it. And so if the term is I am perceived as a snitch, then so be it.

MS. SHEPARD: Thank you very much, Henri, as well as the entire panel.

(Applause.)

MS. SHEPARD: Larry.

MR. CHARLES: I just wanted to congratulate the chair and the members of the committee and the presenters as well and take this opportunity, after everybody is done asking their questions, to bring a process issue forward.

For many years prior to NEJAC I sat in the audience and observed the goings-ons, and I really enjoyed today. I thought that the process that we used today and the structure of today's activities was very beneficial to us.

There is one thing that I would like to do to preserve the tone that has been set and the process that is underway now and that is to formally move the adoption of the agenda that we have here in order that it would be the official guide for us to get through each day's work.

It is a very important thing before us in discussing pollution prevention and taking the good work done by the committee and the testimony by others and finishing a product at this session. And I

would like us, as a council, to formally adopt the agenda that we have and use it as a guide to get us to a point where we achieve a result at the end of this conference.

So I, therefore, formally move the adoption of the agenda as printed. Thank you.

MS. SHEPARD: Any conversation? Any discussion?

(No response.)

MS. SHEPARD: You have moved and it is probably seconded. Are we ready for a vote?

(No response.)

MS. SHEPARD: All in favor?

(Chorus of ayes.)

MS. SHEPARD: Anyone opposed?

(No response.)

MS. SHEPARD: Abstentions?

(No response.)

MS. SHEPARD: The motion is carried. Thank you.

We are officially adjourning, and I would just like to remind you about the reception that is hosted by the Maryland Department of the Environment tonight from 6:30 to 8:30.

It is at 1800 Washington Boulevard, and we have instructions on how to get there. If you need those, please come up front, and we will let you have that.

Also, I would like to let you know that we convene again tomorrow at 8:30 a.m. here in this room. Thank you all for coming.

(Whereupon, at 6:24 p.m., the hearing was recessed, to reconvene December 10, 2002, at 8:30 a.m.)