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National Environmental Justice Advisory Council

Public Comment Session

June 20, 2006

Members Present:

Richard Moore, Chairperson

Sue Briggum
Charles T. Collette
Eileen Gauna
Jodena N. Henneke
Richard Lazarus
Harold Mitchell
Juan H. Parras
Shankar Prasad
Andrew Sawyers
Wilma Subra
Connie Tucker
Kenneth Warren
Benjamin Wilson

EPA Members Present:

Charles Lee, Designated Federal Officer
Barry E. Hill

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Keynote: "---" indicates inaudible in the transcript.

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Keynote: "(*)" indicates phonetic spelling in the transcript.

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

(7:00 p.m.)

Public Comment Session

MR. LEE: Well, why don't we get started. This is the public comment period for the NEJAC meeting. We have at this point, five people signed up. And are the people that are signed up here yet?

MS. : Three of the five have checked in at the registration desk. I don't know if the other two have. But they are in the order that they registered.

MR. LEE: Okay. So, who here has registered to make public comment.

(Show of hands)

MR. MOORE: Would you identify yourself? Okay, great. I am sorry I didn't see you. Okay, so Richard do you want to say something.

MR. MOORE: Well, I just wanted to say before we get started that, like most of our meetings, this -- or, all of our meetings on the NEJAC Council, the Public Comment Period is a very important time for the Council to hear testimony in regards to some of the issues that we have been discussing.

And so with that, the ground rules, for those that haven't testified here before, each person is asked to testify for five minutes, and we have a timekeeper. And the

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timekeeper will keep us -- you can see that the paper thing there. So she will keep us up with that. And then if we go a couple of minutes over, that can be worked out, but we would just ask people not to go on and on, and try to give us as much information in that short period of time as you can.

So, I think then, is Albert here from NRDC?

(No response)

MR. MOORE: Okay, so when he comes in, we will --- him. Linda, I think you had your hand up. No? Okay, so we are going to ask Linda Safley, from the Environmental Crisis Center to provide testimony. If you wouldn't mind, Linda, I think we are doing it right over here, no? If you could just come up to the microphone there.

And then the Council, if you have any questions, then you will deal with the questions, and we will go on with the next person. Yes, ma'am. You have to push that little green button to talk. Not a little green button, but it is a big green button.

Comments

by Linda Safley

MS. SAFLEY: Okay, hello. Shall I start now?

MR. MOORE: Yes, ma'am.

MS. SAFLEY: Okay, my name is Linda Safley, and I am from the Environmental Crisis Center. I am the Executive

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Director, and have been for 14 years in Baltimore, Maryland. And I speak for my activists, brothers and sisters in the grass-roots organizations.

Environmental justice, good grief. As we enter into another season of storms, we realize we are not prepared. Toxins are in every part of our lives, the discharges are at all time highs. Why? Because we are allowing corporations to destroy our good health.

Restrictions and regulations have been reversed, spills, leaks, and water shortages are not unusual. This has to change if we want to save the planet. The environmental movement is not dead. Most of us are working day and night and will never ever lose hope.

Hazardous waste needs to be disposed of in a responsible way. Because we are shipping high-level, radioactive waste to Yucca Mountain, and it is still going on. We have had successes blocking the plans to drill for oil in the Alaska Wildlife National Refuge. Saving some trees, fiercely going after polluters, but we can do better.

Leaders like Lois Gibbs, the National Resource Defense Council, and others, have put their lives on the line, give us hope. The love of nature is ---. Birds, plants, and trees are all valued. Outlawed lobbying has to stop.

How many tree sitters have we seen, young and old,

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chaining themselves to the trees and to the earth; yet, this has to stop. But God bless them for their courage in defending nature.

I have heard people say, forget about the environment, it is all politics. Yet, I know in my heart, it is very important for all of us to work together for a truly green sustainable planet.

And we have concerns. Number one, they are planning to build 16 more nuclear plants. The Department of Energy in this country. And nuclear plants use a lot of water. We need the water for our crops to grow the food.

And we also are talking about bio-diesel fuel. If they are chopping up the farmlands and selling off the lands, you know, that people need to grow their food, and to have agricultural waste, in order to develop more better bio-diesel fuels for the vehicles, there is not going to be any land left in order for us to do that.

The other thing is transporting hazardous waste in not a safe manner. Not very long ago, there was a chemical explosion under the City of Baltimore, transported by trains. Under the city, and there was a chemical explosion which released seven deadly chemicals in the air. That was the only time Green Peace came to the City of Baltimore.

And one of the issues was, there is dioxin still in

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the air, and deadly chemicals from that explosion. And they still are transporting high radioactive waste to Yucca Mountain.

The other thing is the corporations are getting away with everything now. Because there has been a lot of rules and regulations relaxed, and a lot of us are very concerned. This is going on like we are going backwards, instead of forwards, into the future. It is five years into the millennium now, and many of us have not seen many changes with some of these corporations.

They are just like paying the government off, and getting away with poisoning people; particularly, after Hurricane Katrina, which they call cancer alley, we want to know what kind of chemicals was in those neighbors. And eight million gallons of oil were left in the Ninth Ward, that was left like residue. The toxic chemicals and oils in those neighborhoods. Thank you.

MR. COLLETTE: Linda, Chip Collette. I wanted to apologize. I got jammed in the elevator, stopped at every stop, and never showed up. And I am sorry I came in at the middle of your comments. But I will take them to heart. We chatted out in the hall.

MS. SAFLEY: Thank you.

MR. COLLETTE: Thank you.

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MS. SAFLEY: Oh, are there any questions?

MR. MOORE: Any questions? Eileen. Comments.

MS. GAUNA: I just had a clarification. You talked about the use of a lot of water to produce bio-diesel fuels.

MS. SAFLEY: Not water, agricultural waste. Which they are planning to build more plants to make bio-diesel fuel out of like the waste of vegetables. Like vegetable oil.

MS. GAUNA: Okay.

MS. SAFLEY: But it doesn't take much to transport like a motor into another motor to run the vehicle. A high-grade vehicle on that substance.

MS. GAUNA: Okay, so I guess I am confused as to what your point was behind that. Do you suggest other energy sources as an alternative.

MS. SAFLEY: Well, we can't --- as in the farmlands. They are selling off the farmlands. Like in Maryland and Frederick County, there is like track houses, and it has to do a lot with real estate developers. Like buying the land and selling it off, and building these ugly looking track houses they have. Because we need that land to grow our food.

MS. GAUNA: So you are actually advocating for other types of energy sources, other than bio-diesel.

MS. SAFLEY: Right. Alternative energy technology.

MS. GAUNA: Okay, I just wanted to make sure that I

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understood where you were going with that. Thank you.

MS. SAFLEY: Okay, you are welcome.

MR. PRASAD: Linda, further clarification on that. Are you suggesting bio-diesel is not an alternative source of energy that should not be promoted? Or are you suggesting that bio-diesel should not be produced in a way that would take away more growth?

Because the whole challenge of your --- one on one way, we want to reduce our dependency on fossil fuels. And, the whole world is looking for alternative sources of energy. And it is not one energy source versus the other.

It is always going to be a mix of them, because until you find an alternative ideal source as a hydrogen mix, which at this point in time, it is commercially not feasible to produce in the --- we need. So, there is going to be this kind of a debate that will go on.

So, your point of bio-diesel is not in the mix, or is it okay to be in the mix?

MS. SAFLEY: No, it is okay to be in the mix. They are planning to make a higher grade of bio-diesel fuel because the grade that they have now isn't working too proper. But they are talking about electric vehicles, but they have problems with them as well.

MR. PRASAD: Thank you.

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MS. SAFLEY: But you can find more information about that at hybrid.org on the Internet. And other alternative energy technologies for buildings. Because that is what we advocate, is building rooftop gardens on top of like the abandoned buildings. Because the City of Baltimore has 60,000 abandoned buildings, and 20,000 homeless people in the City of Baltimore.

And there are also many abandoned lots, and these could be utilized for energy.

MR. PRASAD: Thank you.

MS. SAFLEY: You are welcome.

MS. SUBRA: Hi Linda, I am Wilma Subra from Louisiana. When you talked about the oil and spilling into the Ninth Ward, were you talking about the Murphy Oil Spill?

MS. SAFLEY: Actually, I was talking about after Hurricane Rita, we lost eight million gallons of oil in some of those neighborhoods in the southwest.

MS. SUBRA: Okay, thanks. Because the Murphy spill was not the Ninth Ward, but was St. Bernard. Just for clarification.

MS. SAFLEY: Okay. Okay.

MS. SUBRA: The Ninth Ward is in Orleans, a separate parish. Thanks.

MR. MOORE: All right, thank you. Council members?

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Juan.

MR. PARRAS: Linda, my name is Juan Parras, and I am from Houston. And I was listening to all of your concerns, and one of the concerns that really strikes me is, because it strikes me even at home, is the transportation of hazardous cargo through communities. Just yesterday evening, you know, there is 134 railroad track crossing in my community. And just yesterday, I had to stop at one of them that is about two blocks from my house.

And I must have counted at least 20 chlorine rail cars in this train. So, you know, 72 rails on the train. So, I am very concerned about that, and I am glad that you brought that up, because it is an issue that -- you know, Houston is potentially one of the targets for terrorists. And the transportation of chlorine rail cars through communities is a real concern.

And, in fact, I think they already have an ordinance here in Washington, D.C., how they transport chlorine tanks. So, anyway, I just wanted to tell you thank you for bringing that up, because it is a serious concern to us in our community.

MS. SAFLEY: You are welcome.

MR. MOORE: Anyone else from the Council? Comments or questions?

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(No response)

MR. MOORE: I just wanted to second Linda, basically, what Juan was saying. One of the major issues that we are working on in New Mexico is transportation; particularly, the transportation of nuclear waste coming in from different places into Carlsbad, New Mexico.

So, very clearly, we struggle a bit also in the attempt to remind the Department of Energy, and some of the others, that those villages that those trucks are going through, all the way starting from the northern tip of New Mexico, to the southern tip.

For example, in Wagon Mound, New Mexico, a village of 360 some residents, they are not equipped at Fire Department. Most of those are volunteer fire departments under resourced, like all the other entities. And so transportation is no question, a very crucial issue.

I would like to thank you on behalf of the Council for your testimony.

MS. SAFLEY: You are welcome.

MR. MOORE: And please, stay with us for the rest of the evening if you can. Thank you.

Did Albert return from NRDC? Okay, who is here presently when we asked to raise your hand that is here to give public comment? Are there others here?

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(Show of hands)

MR. MOORE: Okay, it was John. No?

(Members speaking without microphones turned on)

MR. MOORE: And what was your name, please, in the back?

MR. BUI: Huy Bui.

MR. MOORE: Okay. So, if you would join us first, and then, John, will go with you afterwards. If you would join us from the back please.

(Pause)

MR. BUI: Can I start?

MR. MOORE: Yes, please. If you could just come to the table. You walk in, you swallow, and you begin your testimony.

(Laughter)

MR. BUI: Okay, I will do it. I have another partner bringing the handouts later. She will be here shortly.

MR. MOORE: Let me just ask you a question then. We could go -- John, I think, is ready. If you want to wait.

MR. BUI: Okay, I can wait. I love to wait.

MR. MOORE: Okay, thank you.

(Laughter)

MR. MOORE: Okay, it's John Ridgway from the

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Washington Department of Ecology. Thank you, John.

Comments

by John Ridgway

MR. RIDGWAY: Thank you. Good evening. I have a few comments in follow-up to your discussions this afternoon on the Unintended Impacts Study, that I didn't want to distract your great process to get that report moving along. So I thought I would provide a couple perspectives to provide some clarity and points that I think you may want to keep in mind. And then, I have a couple general points.

The first point I would like to make is regarding the discussion on the IPA for using an employee from EPA to help communities deal with Brownfields redevelopment types of projects. I would like to kind of put a parenthetical clarification around that, that is not easy to put into a report. But, I think it is important to keep in mind, mostly for EPA.

And that is that you can't just assign anybody to this kind of a job. It has to be somebody that understands environmental justice, who understands the relationship between communities, government, be it local, up to federal. Somebody who is looking for odd hours, because it is gong to require working weekends and evenings. That sort of character goes a long way, you know, on the job description to make that

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kind of a resource work the way the subcommittee intended it to work.

And, yet, it is hard to put those things into a job description, but for EPA to keep that in mind. And it also requires a good long-term commitment. It is not the kind of six-month temporary placement just to help get the process going. That person needs to be there throughout the process to help all the entities involved.

The second point, on demographics. Our subcommittee went through a lot of effort to understand what does that mean to do a demographic assessment. There is no one answer to that. And a couple thoughts here: The U.S. Censes data is better than it has ever been before; specifically, in the year 2000 as far as looking at language issues in more detail than ever before.

That also presents a problem in that comparative assessment for trends. It doesn't exist yet, you only have year 2000. More importantly, the demographic assessment that we were discussing does not necessarily get answered by U.S. Census data. That may be the first step. It also needs to include utilizing local experts; that is, community members, business members, perhaps city council or staff perspectives.

To find out who is there that the Census doesn't count. Particularly, the homeless people, the renters, the

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migrant farm workers, depending on the community. These are people that are often lost in the census process, and yet they are the most impacted adversely in these kinds of projects.

So, the advice behind that demographic assessment is, let the locals have a good opportunity to say, those are the local businesses there that are on the margins. And if you redevelop, and you bring in new retail space after you clean it all up, are they going to be able to afford the new rent? Is that mom and pop business going to be there still?

That kind of local input can go a long way to support EPA's understanding in local communities of whether or not there were adverse impacts or not. Hopefully, if you do also a similar assessment at the end, which I think is very important, you can get a sense and reassurance that it did work. That they still had an opportunity to maintain those local businesses, and/or housing, the people who are on the margin can afford to get back; which often does not happen.

My third point is on the recommendation number six, as far as -- and I talked on this briefly -- the local zoning issues. The question was, what are some examples. And, again, I want to reiterate, this is not to drive local zoning by any means, but to share with them data about contaminated sites, about EJ communities to the extent that these other entities are aware of that already locals may or may not be

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aware of that in their zoning considerations.

Compliance history with businesses. That can be shared, it is usually readily available, but local zoning people may not always think to take these things into account. As our subcommittee Chair, Andrew, stated, this helps enable the locals to do a better job in their zoning.

And to Connie's comment, again, by no means, is this to dictate what local zoning does. It is to provide extra resources, opportunity for discussion, so before the zoning decisions are made or modified, they have all the information available that they can use to make a good decision locally. And, certainly, we have to respect that. It helps the process along, it is not intended to drive local zoning.

My third point to the question about doing this demographic assessment, who cares? Perhaps, developers don't care about doing an assessment at the end, and I didn't hear that. But, absolutely, the residents do care. They care very much about what is in this report, in general. And they also care to know how the process went along. So, it is important that we keep that in mind.

And in that regard, the report audience, clearly, is EPA; but, the local communities that provided all this information to us, and the many, many others that are in similar situations, they too are the recipients of this

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guidance. And I hope that you will appreciate that.

The draft has already been out for review, and certainly I hope and recommend that EPA have some sort of a plan to distribute this report in a meaningful way so that communities will know it is out there. Often, they don't know, and I hope you can build that into your distribution process when it is finalized.

Moving onto just a couple quick general comments. I know that tomorrow and Thursday you will be talking about emergency response issues, in regard to hurricanes. One of the things I have learned at the state level as far as emergency planning -- and I have been involved with it quite a bit for the last 15 years dealing with hazardous materials and other things -- sometimes people have a hard time understanding where environmental justice might have a relationship to emergency management, emergency planning. It is somewhat of a stretch for folks.

In our state, we have 28 tribes that are federally recognized. We have more that are not. Not more than 28, but we have additional tribes. And one of the things we have learned in Washington is, when doing emergency planning, as well as response, it is important to work with the indigenous peoples to identify in those plans, not only how you are going to protect the infrastructure and the people, and their

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physical possessions that also their heritage, historical sites, things of that nature. And emergency managers often aren't thinking about that. It is not by a conscious choice, but they get wrapped up more in the big explosion and protecting lives. Which is appropriate.

But, to the extent they can build in ahead of time planning for protecting traditional sites, we found that Washington, it has built additional respect and coordination between emergency response entities and the tribes.

And, finally, I would like to thank you for reinvigorating NEJAC, it has been a couple years since you have had a public meeting of this nature. And, again, as a representative from a state agency, this is the only show in town for state environmental justice resources to find out what is going on. It is a great resource, and I thank you for keeping it going.

Any kind of training or coordination you can provide, if only during your national meetings, to maybe invite state EJ people, whether they are formally in that position, or in fact they are dealing with it because nobody else is. I would encourage you to consider that in your future agendas, it has been very helpful. And I thank you for the opportunity to learn from all the experience that you have brought over the years to state entities. And I will leave it

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with that. Thank you.

MR. MOORE: Thank you very much.

MR. RIDGWAY: And I will also submit these in writing to you as well.

MR. MOORE: Thank you, thank you. Connie and then Eileen.

MS. TUCKER: John, you warm my heart.

MR. RIDGWAY: Oh, good. Thank you.

MS. TUCKER: I will tell you, we don't run into a lot of state employees with the kind of commitment that you have, so you really do warm my heart.

I just want to clarify my position around number six. It wasn't my concern about outside folks trying to control local decision-making. I have been the victim of -- throughout my lifetime mostly -- the victim of local decision-making. It is not that at all. It is just the reality. Know the reality of land-use planning at the local level.

And somehow we need to have the recommendation reflect what you just said. That given, maybe hopefully in the 21st Century, given all of the information, better decisions can be made about land-use planning. And I don't think the number six recommendation reflected what you just said. If we can somehow get it to reflect that, then we have accomplished a lot with that unintended impact

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recommendations.

MR. RIDGWAY: I intend to address that specifically. I will send comments to both Andrew and Kent by tomorrow. So, hopefully, the draft that you see will reflect that in the next week.

MS. TUCKER: Okay.

MR. MOORE: Eileen and then Richard.

MS. GAUNA: John, thank you for your presentation, and your participation in this all. Your comments have been really very, very thoughtful, all of them.

I would like to follow-up on one particular comment that you had, and this was the idea of utilizing local knowledge to help get a clear resolution of what exactly is -- who are the invisible communities and how are they impacted within the course of the assessment.

And, while it is a really good idea to do that and, certainly, strongly supported, I can see how that might tend to fuzzy up the methodology a little bit, and lead to squabbles about methodology, about assessment reports.

So, I would like for you to address your thoughts on potentially how one might try to avoid that. And also, it appears to me that once you do get a better resolution of these invisible communities and how they are impacted, that where do you go from there?

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Do you tighten up clean-up standards, do you impose permit conditions that are more stringent, do you require mitigation measures? If you go that extra route, which you should, to have a truly protective project, that is going to provoke opposition from the developers, who are obviously going to have to spend more money and so forth.

So, secondly, I wonder if you could address that dynamic and give us your thoughts as to how those two unintended consequences of the unintended consequences may play out?

MR. RIDGWAY: Okay, I will try. Briefly, to the first point about a demographic process of assessment. Absolutely, you are right on. That needs to be clarified upfront. So, what will that entail? Well, certainly looking at the most current demographic data from the Census would be the first step.

And that is fairly clear as far as how that data is collected and assessed. Usually, at the state level, if not locally, more frequent assessments are also done. It may be on a subset of demographics. I think in this case specifically though, you need to clarify what you are going to look at, and what you are not going to be distracted by. There is too much data in there often.

But, the locals can help provide information about

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what resources know where the homeless are, and how will they be impacted. City government may or may not address that. I don't expect that the developers, necessarily, are the experts to do this.

I think this is where local government, and/or EPA extra help, can provide some information here with the Census data, and/or official governments don't recognize. They can also help identify again, local businesses that may have just started up in the last six months. And the State Department of Revenue or Licensing may not be aware of them. The locals can help fill in those cracks, I think.

I am not suggesting extra rules, regulations, mitigations, with the one qualifier that when you go out and you ask those questions, it will be those locals that they say, well, we have got a particular problem over here in this one block, we would like you to take a look at that.

And that may change the scope of the work a little bit, as far as making sure that something that is known to some folks is known by everybody. And then, to weigh that in respectively as to whether or not that is a key issue. And whether or not that Brownfields project is the place to address it, or maybe it is somewhere else. It might be local health, it might be some other resource.

But I am not suggesting, nor did the subcommittee,

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that there would be any extra rules or mitigation in that.

MS. GAUNA: If I could just follow-up. So you don't really see that as much of a problem, or as acting as a disincentive in any way from the perspective of the developer? You think that that can all be worked out and not present much of a problem.

MR. RIDGWAY: I think all the stakeholders have to decide upfront how they are going to look at it, who will look at it, what kind of a report might they get out of that. So that, number one, it is clear; and, number two, if they do an assessment at the end, it is comparable. They are going to be looking at the same issues.

MR. MOORE: Okay, Richard and then Ken.

MR. LAZARUS: Does Connie have a quick follow-up?

MR. MOORE: Connie?

MS. TUCKER: I am confused. If you make it a part of the application process -- or the application requirement, or a requirement to receive the grant, it is not going to happen. It won't happen otherwise.

MR. RIDGWAY: I don't know how to address that, Connie. I just don't think developers are usually the ones to understand this kind of demographic assessment. Maybe the guidance in the report, and this is what we were trying to say is, that it should be done by, perhaps, the local government,

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or somebody involved with the project. And, certainly, the developers. They need to be aware of this, they may have extra information to provide as well. But, there is no one entity for doing a demographic assessment.

MS. TUCKER: Maybe the regional EPA office, I mean, as a pre-requisite to granting, if that happens. If we don't recommend a step in the process, it is just not going to happen.

MR. RIDGWAY: I agree. And maybe that is a good suggestion from Connie, is that the regional EPA coordinators, the one from Region X isn't here right now, so I have got to be careful, but they might be a good -- I mean, that is just 10 people that maybe EPA can train to help understand how this process, and put together some recommendations on what that kind of a demographic assessment would look like. And maybe they could do that, that is a good suggestion.

MR. MOORE: Richard.

MR. LAZARUS: Yes, I also want to thank John for his testimony and echo something that Connie said about how pleasing it is to see someone here from a state. This is just a quick information question. What is your role? I mean, what position do you have in the Washington Department of Ecology in terms of -- is it an official environmental justice position, or is this something that you have taken on more on

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your own initiative?

MR. RIDGWAY: It started as a default to a question that came from our state legislature as to whether or not environmental justice was an issue in our state. And my background in community right-to-know, that question fell in my lap. I got so many questions that it became a full-time job. And it was officially created, established as the state's -- excuse me, the Department of Ecology's Environmental Justice Coordinator. I have been active in that role for the better part of 10 years.

MR. LAZARUS: Okay, thank you.

MR. MOORE: Ken.

MR. WARREN: As the author of the who cares comment, I would like to thank you for the opportunity to explain what I may have meant by it, and try to talk about some larger concepts, which I would appreciate your input on.

One of the frustrations I think that I have is that environmental laws tend to take a snapshot approach. What I mean by that is you can look at the demographics at the beginning of a process, and you can look at the demographics at the end of a process. And if you find that you have had changes in demographics that you don't like, it may be too late.

MR. RIDGWAY: Oh, I agree.

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MR. WARREN: To do something about it. And what I meant by, who cares, is that you are looking at it after the people who you didn't want to be adversely affected, have already been affected. And so it becomes an academic exercise, to some extent, to document the fact that bad things have happened. But when you say those people care, they only know because they have been dislocated, or gentrified, or moved, et cetera.

And the kind of process I think that we ought to be moving to is one that might take a NEPA approach in the beginning, which is to do a full assessment, but then NEPA then goes on the shelf most of the time. Like you have a NEPA report that is on the shelf.

MR. RIDGWAY: That is my experience as well.

MR. WARREN: So, if you took NEPA and integrated it with a mechanism that had some sort of adaptive management, or continual improvement aspect of it, then you could watch the process as it was occurring, and have the ability to do course corrections when they could still be meaningful to do.

So, some people talked about maybe integrating NEPA with environmental management systems, which talks about continual improvement. But my thought is that if you predicted, in essence, at the beginning of the project what type of gentrification could occur, and then you had some set

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of mechanisms -- and I would like to think being part of NEJAC that it would be a collaborative process -- whereby the community and the developer would work together to say, these are the course corrections that we think we need, or the changes to the plan that will result in an outcome that would be acceptable to both the developer and the community.

And then, you monitored it on an ongoing basis to make sure you got that result. Then, I think, those of us who are trying to develop this process would be people who cared, because we would effect the outcome, as opposed to simply document at the end that the outcome was bad.

And you would involve the business community in the process, so that it wasn't somebody dictating to the business community what should be done, but it was this type of collaborative mechanism yielding a result that is hopefully beneficial for everybody. So, maybe that is panacea, but I would appreciate your thoughts on that.

MR. RIDGWAY: Very briefly, I agree. To make a recommendation to do an ongoing assessment we thought would fall on deaf ears. So, at least to do one initially, then you identify these issues so that like you say, you can start the tracking all along in the process.

But it is no different than what this group is doing, you are asking after the fact, what were the unintended

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impacts of projects that were otherwise considered relatively successful. And we did that, and as a result of that, you have some guidance to work with now. So I think doing an assessment at the end doesn't necessarily have to fall on deaf ears, or be too late. Hopefully, our recommendations to you aren't too late, they will apply to other kinds of locations.

But, I agree with you, we need to track it all the way along. Identify the issues up front, make sure you have the best information available, and track it all the way along.

MR. MOORE: Okay, any other comments or questions?

MR. WILSON: I feel compelled to say that I disagree with Ken. I appreciate the idealism of being able to track something all the way through, but I have never represented a developer that wanted to change its plans in the middle of the street. And in short, they are looking for certainty. If they survived the NEPA process, they are like a kid who has passed some exam to graduate to 12th grade, the last thing they want to do is take the exam again.

So, I understand, and I think it would slow development, it would slow projects even further. And realistically, in my opinion, from a developer's standpoint, I really don't believe they would go for that.

Now, you can say, well, tough nuggies, you don't

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have to go forward and that is the process we are going to have. And I think you would see much slower development, and much slower change.

MR. RIDGWAY: I will just make a brief comment here. We clearly were not trying to speak much for the developers. And I think the question was very good for that reason to bring it up, that they are part of the stakeholders here. And to the extent we can extract guidance for future developers out of this report, or anything else that NEJAC comes up with, is a good question and point to bring up.

But I think a lot of these concerns are going to be born much more long-term by the residents and the local institutions than the developers. But they are part of it too, so to that extent, if we can provide relevant guidance or questions to suggest they consider in their process, I don't think that could hurt.

MR. MOORE: Thank you, John. Shankar.

MR. PRASAD: I wish I could share the same optimism that is being expressed around. From what I have seen, it is almost a dilemma where you have to bring in a balance. And what the communities and in the general population is looking for is almost a zero risk. Opportunities are zero risk kind of growth.

Are we really ready to go there, is becomes the

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challenge both at the local level and the state level. And if you are looking at a revitalization project, or something in that corner, the people who want that, they have placed these to be risk free. And the question they ask is, am I safe? Can you guarantee that to me? And we cannot.

MR. RIDGWAY: That is correct.

MR. PRASAD: And the question becomes that it becomes a relocation issue. Can we afford it? And then the growth, people talk about the urbanization is the way of future. Urbanization is the way of life today. And so you will see the encroachment of lands, growth of the refined capacities is to the maximum today. And our dependency is still there. So the refineries have to expand, our energy demands really continue.

So the growth in the energy sector, which essentially relates in one way or the other, comes to some kind of --- and some risk. So the question is drawing a balance as opposed to saying that we will be able to provide an absolute safe -- that is a ---, no doubt.

And as you said, it becomes a stakeholder process, but as this process are nice to talk about, those processes do not have -- unless they have an implementation schedule and a mandate attached to that, that process will not happen.

So, to a large extent, while it is nice to say an

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alternate resolution, dispute resolution process, or bring them together, unless it is required, we cannot ask a business to go and do that assessment. And unless it is required within the part of the organization by a mandate at a bill, or some regulatory process, EPA, or whatever that agency cannot do that because that position does not exist.

MR. RIDGWAY: I would qualify that a little bit. That even though things are not required, the community members do come out and they demand some things. In fact, many things, that are not required. And by providing a venue for that to happen, there is an increased chance, in fact, they will have them.

MR. PRASAD: I will agree. But in order to establish that framework, in order to make those things happen across the board, the --- agrees, that is a different issue. But if we as a policy-maker wise want to adopt something that should happen in some scale of project, with a big or major -- verify, identify, and prioritize.

But otherwise, it is only in a --- in suspense of those communities, and the political will, and the leadership which is willing to take the extra step, is only on those occasions that kind of an action will take place.

MR. RIDGWAY: I agree.

MR. MOORE: Richard.

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MR. LAZARUS: No.

MR. MOORE: Oh, I am sorry, I didn't have the microphone on. Ben or Ken.

MR. WARREN: No.

MR. MOORE: Okay, was there any other?

MR. SAWYERS: No, I will stay out of this one.

(Laughter)

MR. MOORE: Okay, no other comments here?

(No response)

MR. MOORE: Okay, John, thank you very much for your testimony.

MR. RIDGWAY: Thank you very much.

(Pause)

MR. MOORE: If you could just please introduce yourself for the organization you are with and the location. Was I to understand that there was going to be someone else testifying with you?

MR. BUI: Oh, she is here. I will introduce her later.

MR. MOORE: Okay.

Comments

by Huy Bui

MR. BUI: Mr. Moore, members of NEJAC, Mr. Lee, thank you very much for this opportunity. My name is Huy Bui.

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I am Executive Director of NAVASA, National Alliance of Vietnamese American Service Agencies, a national membership organization, comprised of 35 Vietnamese local faith-based and community-based organizations across the country.

I am here today to speak on behalf of the Citizens for a Strong New Orleans East, which is a coalition of national and local organizations, and faith-based organizations, who want to ensure that the communities of color, and who have lived in New Orleans East prior to Katrina, can return home.

And also, one of our partners of the coalition is Lisa Hasegaw, National Capacity. Do we have more copies to pass out to the audience.

MS. : We are going to make more copies.

MR. BUI: Oh, okay. Thank you.

And in this particular public session, we would like to call to your attention to ongoing environmental races in New Orleans East, to illustrate the roadblocks to community input on concerns and decision-making, and to approach a process which can be a template for other such environmental issues.

This is an issue of targeting vulnerable communities of color from toxic landfills while other viable alternatives exist. The EPA, the Louisiana Department of Environmental

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Quality, or LDEQ, and other government agencies, are clearly ignoring environmental justice policy considerations that are under the purview of NEJAC and the Office of Environmental Justice by targeting this community for landfill and bypassing community input in this decision-making.

First, I want to read a little bit of context for the landfill situation.

"The new landfill is located on 16,600 Chef Menteur Highway in New Orleans east, covers 100 acres, and will be 85 feet tall. The site was previously wetlands, and then barrow pits were dug for levees. Waste management, operator of the site, asserts that the pits made it attractive for debris disposal. While, groundwater in New Orleans East flows from one to five feet below the ground, hurricane debris can be pumped 30 feet below the ground. Therefore, there is a significant threat the waste will intermix with the groundwater becoming polluted, and migrate off site. The landfill is less than one mile from the communities of color and working class neighborhoods, including the highest concentration of Vietnamese Americans in the United States and the multiple African American communities."

And next, I want to present some growth blocks to

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communities and grass-root input.

"The New Orleans East community is interested, and passionately engaged in this issue because of the environmental impact to their long-term health, and has not been included in the planning process. However, this is our belief that LDEQ, Louisiana Department of Environmental Quality, has neglected its responsibility to protect the environmental health, safety, welfare of New Orleans East residents, and has systematically excluded them from participating in all aspects of planning."

We have a few examples dealing with three parts of the process: investigation, enforcement, and action. There are time limits, so I can't go through all of them. One example is the zone standard expanded.

"Three landfills were previously proposed for this area, and three proposals were defeated at the zoning level, after which management proposed this disposal site, New Orleans Mayor Ray Nagin suspended the zoning ordinance for this site, cutting out City Council and public hearings. Waste Management simultaneously pledged 22 percent of the dump's revenue to the city, an estimated of $10 million."

So, you can see more examples down there. And we understand

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the tremendous and impressing need to clean up all the neighborhoods in New Orleans, and we support this fully. We believe that $10 million of additional revenue to the city has motivated LDEQ to exclude the communities of color from planning and decision-making process, and allowing Chef Menteur to continue to operate in a way that could be harmful to these neighborhoods, despite potential solution proposed by the community.

This included a comprehensive plan to institute nighttime hauling, which would obviate the need to use Chef Manteur site. And there the example is illustrate -- a broad failure on the part of LDEQ, again, Louisiana Department of Environmental Quality, to enforce and act on illegal dump site in New Orleans East. This is emerging evidence of widespread dump post-Katrina. And there is also evidence that there were at least 23 illegal dumpsites located in the marginalized communities within a five-mile radius of New Orleans East.

And additionally, there are more than 12 illegal automobile junkyards with some cars packed with water and wetlands. Furthermore, this is emerging evidence and wider dumping within New Orleans East.

We are supporting rebuilding New Orleans. We are for a rebuilding plan, which appropriately balances the ongoing health and well being of New Orleans East residents,

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and the need official and economically clear debris and rebuild.

In terms of ensuring health and rebuilding, we propose that in this effort, New Orleans does not extend damage that has already occurred. We applaud the National Environmental Justice Advisory Council for your leadership and efforts to prevent negative consequences that would effect vulnerable populations.

In the Gulf Coast Hurricanes Workgroup Recommendations, which is tomorrow, NEJAC identified three core concepts that EPA should employ with regards to identifying, communicating, and coordinating with vulnerable populations.

Because there were 50,000 Vietnamese Americans impacted in the Gulf Coast, and because Asian Americans are not considered a vulnerable population, we strongly recommend that NEJAC make special effort to gain additional community input from Vietnamese American and other Asian American communities, and advocate to before finalizing the recommendations.

We specifically support NEJAC's recommendation to EPA that will maintain accountability within this context. We strongly suggest that NEJAC take three steps. First, to maintain state's accountability to ongoing oversight the EPA's

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non-action letter to in the wake of Katrina allowed LDEQ to operate within an environment without accountability.

The second is to re-engage state government agencies. Oversight of state government agencies, such as the LDEQ, should ensure that they institute active mechanisms to ensure community engagement and participation in decision-making; particularly, within communities of color, in all aspects of investigation, enforcement, and action.

Last, the EPA should actively track, engage in, and enforce specific high stakes environmental policies to ensure public safety and health; particularly, in post-disaster situations. Again, we strongly recommend the National Environmental Justice Advisory Council Gulf Coast Hurricanes Workgroup solicit and proactively seek input from Vietnamese and other Asian American communities in the Gulf Coast. That we look forward to working with you to make this happen. Thank you.

MR. MOORE: Now, in terms of -- Lisa, were you testifying on this same issue?

MS. HASEGAW: (Not speaking into microphone)

MR. MOORE: Okay. Well, just as we begin to open this up for discussion, we wanted to thank you for coming a long ways to be with us here, and to provide this testimony.

I think that as we begin this dialogue here, that we

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stay very clear in terms of what the venue is, one, of the NEJAC Council, and the EPA. And I have had the opportunity to read a lot of the documents, almost probably all of the documents in regards to this issue, and sincerely I am saying this, I am very familiar with the kind of struggle that you are talking about, a little bit differently. And many of us on this Council are also.

So I wanted to open it up for discussion, but I just want to really be clear with the Council members what our venue is, what our charge is, and what the responsibilities in this particular issue are regarding the Environmental Protection Agency.

So, Connie, you had your card up, and then Wilma.

MS. TUCKER: Well, I knew that there were some Southeast Asians in New Orleans, and Louisiana, and I am happy to see that we finally get to hear from you. We had our last public NEJAC meeting in New Orleans, I guess, that was over a year and a half ago. And we had people speaking on your behalf. And I took offense to that, so I am smiling that you have finally come forth.

I know, and I am sorry I can’t offer anything else but to say that I do know, just from my own observation, that the dealing of waste in New Orleans, and even outside of New Orleans, is a serious problem. And I also recognize, and I

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say this not wanting to make my friend sitting over at the opposite side of the table unhappy but, I have become very cautious when I know that waste management is involved, because I know how they deal, especially, with local governments.

Having said that, I really am at a loss for any kind of recommendation to make to deal with this process, and I am hoping that there may be others here in the audience who are, or around the NEJAC, who may.

MR. MOORE: Connie. Wilma.

MS. SUBRA: Hi, my name is Wilma Subra, I am from Louisiana, and I have been working with Father Vien.

MR. BUI: Oh, good. Good.

MS. SUBRA: To the members of the NEJAC Council, just clarification. The basis of the issue that he described to you is rooted in the hurricanes, and the emergency authorities given to various entities and agencies. And in the case of the landfill that he is talking about, the Mayor of New Orleans changed the zoning in the area where it is located, using this emergency authority, and not getting approval from the City Council.

Secondly, the Corp. of Engineers used their emergency authority. And they used it correctly, they had the authority to do it and they did it. Secondly, the Corp. of

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Engineers used their emergency authority and permitted the process to move forward, again, without the public notification and the public comment period.

And thirdly, the Department of Environmental Quality granted a permit to the facility, again, using its emergency authority without getting public notice and public comment period. So that is the basis, and that is what the workgroup dealing with the hurricanes has dealt with. And you are going to hear those recommendations tomorrow.

And I am not minimizing the other issues, but as a basis, that is why the situation is as he has described. So, I think what you are talking about, Richard, is separating the two. One, the emergency authorities that are allowed to these agencies in natural disasters, or manmade disasters, which is what we had, both a natural and manmade. And then the other environmental justice issues.

So, I think the Council will have to decide whether or not they are going to consider, one, the emergency authorities and the things we have been dealing with on the hurricane workgroup, and whether or not we will take up the other EJ issues. So that was just a point of clarification.

MR. BUI: We just, with Father Vien, Lisa and I, have come up with this recommendation and ---. We have this letter to each of you, and I want to make sure each of you

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keep one copy of this.

MS. SUBRA: Thank you.

MR. MOORE: I want to also thank you, Wilma, for a bit of that clarification. That is exactly -- excuse me, Connie.

MS. TUCKER: Are you going to be here tomorrow for the unintended --

MR. BUI: Yes. Yes, I am.

MS. TUCKER: Okay.

MR. LEE: Can I say something?

MR. MOORE: Yes. I just wanted to -- that helped to kind of separate them out, because I think a piece -- although we won't particularly concentrate tomorrow on a specific issue within the report, while the issue being emergency, but we won't be discussing specific cases around that particular piece. So we will also be addressing some of that tomorrow.

Charles, and then -- and then I wanted to open it up for clarity on the part of any Council members. And then, I wanted to just go back through, Charles, at some point when we are finished here, the three particular recommendations that were being presented to us on the last page at the end, just to see very specifically what is the venue of the NEJAC in this regard, what is the venue of the EPA. So, if we could do that too. Charles.

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MR. LEE: Yes. I just wanted to offer, and give everyone here, including members of the audience here, some perspective. Those of you on the NEJAC know, this is not an issue that is new here. You should know, and thank you for coming here and speaking to the Council, the NEJAC Council has been discussing this issue for about a month now, because we knew as part of the work being done around the Gulf Coast Hurricanes Workgroup report, this issue, obviously, has come up.

And there are a host of issues that we will be discussing tomorrow that relate to this particular situation. And those include, as Wilma said, the issues around public participation. Particularly, public participation during a period of time in emergency situations where there are emergency waivers. So that is one.

The second one has to do with the clarification and communication around emergency waivers. And I think in the discussions around the workgroup, it was very unclear to members of the public exactly how, under what conditions, and to what degree and what are the limits on waivers that are during emergency situations.

A third has to do with identification and communication with vulnerable populations, especially, with different diverse cultural backgrounds. So these are just

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three of these issues that, I think -- I mention that because it is the -- this Council is to provide public policy advice to EPA.

And the charge of the Council, as far as Hurricanes Katrina and Rita are, what advice to better, more effectively, address the needs of vulnerable populations in natural disasters, such as Hurricanes Katrina and Rita, looking prospectively forward. So that is on the one side.

On the other hand, I think it is important that members of the Council, and the persons here in the audience know that there is also another track on this that has to do directly with dealing with the particular situation in New Orleans East, around that particular landfill. And we are not in a position to -- meaning, myself and the Office of Environmental Justice -- to speak directly to it.

But Shirley Augurson is here from EPA's Region VI, and we have been in communications with EPA Region VI around activities that they are undertaking to intervene and to address working with the Army Corp. of Engineers, and the Louisiana Department of Environmental Quality, and some of the other players involved here.

So I think that it is important to note that this is not an issue that, as far as what Richard said about understanding what are the parameters under which NEJAC can,

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should be acting on this. It is to understand the public policy implications, the issues involved, and offer advice in that sense. But I don't want you to kind of leave thinking that there is nothing being done to try to address this issue, specifically.

MR. MOORE: Chip.

MR. COLLETTE: Thank you, Richard. Huy, is that --

MR. BUI: Yes.

MR. COLLETTE: I am Chip Collette, and I am from Florida. And needless to say, we have had a little experience with hurricanes, eight in the last three years. I won't mention the name of the last one. Okay.

(Laughter)

MR. COLLETTE: But, we have had more experience than any other state, including Louisiana and stuff, on recent hurricanes. Katrina caught you all by surprise. There is emergency planning and stuff, but if you have compatriots or members of your organization in Florida, I would love to invite you to Florida. Come look at our emergency management.

Over the period of time, we have learned, we have now got -- don't stop with your comments here. You are a community organization. Go back in the future with the input of community organizations. We now stage and have pre-identified waste disposal sites for solid waste when a

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hurricane comes through. Not if a hurricane comes through, because we are going to have it.

So that we learned the hard way, just as you are learning with Katrina. But we now actually have a stage -- we have considerations for environmental EJ community, say down around Immokalee, and in the sugar growing area, you know, to make sure evacuation is covered for.

But take your comments. And what has happened now, you have to do the emergency planning. We still issue emergency orders for disposal waste. You have to, because you have got to get the waste out because there is a health problem. You have to sort it. But we now have waste disposal sites, solid waste segregated, pre-marked, pre-permitted, pre-designated, so that when a hurricane goes through, while we issue the permits -- and we have done it with community and local input.

So, don’t stop your comments here. Go back and say, okay, fine, everything wasn’t done perfect with Katrina. But let’s use this to build for the future. Okay, we have when we have another hurricane, we are going to have a solid waste disposal problem. Let’s identify sites now that that can be taken care of. That will help.

And I just want to offer you help. So go back and keep working on it. Thank you.

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MR. BUI: Thank you very much. Sure, we are working very hard on this. We have a coalition of a lot of national and local organizations, and at the national level, working with national capacity. And here, we are, basically, in Washington, D.C., and we work with Father Vien and the church, and a few other local organizations. And also, we also partner with other communities of color, including African American communities.

MR. MOORE: Thank you. Connie.

MS. TUCKER: I just think it would be interesting, so that we can know what happened, and also we can learn from our mistakes, is to inventory the landfills that result from the hurricanes. I have heard the complaint about --- siting of landfills in vulnerable populations -- in communities where vulnerable populations live.

So I want to see that even with a Black mayor, whether or not the phenomena of environmental racism still exists. I mean, to site disproportionately the waste from the hurricanes in communities where vulnerable populations reside, no matter the question about land value, et cetera, it does result in actuality in a disparity impact on vulnerable populations.

So I would love to see if it is possible to see exactly where the landfills that result from Katrina and the

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other hurricanes are in Louisiana. And I predict, based on just the comments even outside of New Orleans parish, that we will find them mostly located where people of color live.

MR. BUI: Low-income, no voice.

MS. TUCKER: Yes. So would it be too much for us to request -- or, perhaps, that can come up tomorrow to request an inventory of where these landfills are.

MR. MOORE: Okay. Is there any other questions or comments? Ben.

MR. WILSON: Well, first of all, I should reveal my bias. I do a great deal of work for agencies in the City of New Orleans for many years. And I don't necessarily agree with the statement that Chip made earlier about that people are surprised about Katrina.

I think they were -- as we now know, there were plenty of warnings. And this is not the forum to talk about all the sources of blame, and I think they are federal, state, local, however you want to measure. And there are individual responsibilities that human beings have as well.

But what I do agree with what Chip said, and I expect it is already in the report Wilma is going to present to us tomorrow, but if we do not learn from these, if we don't record the lessons learned -- and those lessons learned are lessons learned by EPA, lessons learned by FEMA, lessons

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learned by our state and local government -- then we really ought -- well, that would be unconscionable.

So you spoke of identifying places where solid waste can be taken. It seems to me the contractors should be lined up, emergency contracts negotiated in advance of that. They are not necessarily direct environmental issues, but I think you talk about communications issues. The ability to communicate with other state, local, and federal government agencies in the time of disaster when communication is knocked out.

Those things effect how people survive. Being able to identify -- again, it is not necessarily strictly and environmental issue, in and of itself, but clearly where do evacuees go in the time of an emergency, and do we have places set, do we have routes set? What is our game plan?

And so there is all this business about homeland security, but it seems to me it is incumbent on those who are sworn to protect and defend to be prepared in that type of emergency. So, Chip, I couldn’t agree with you more, and I think that I am very eager to hear the discussion tomorrow. Because this is one place where the so what really does matter.

Because as Chip said, there will be a hurricane again, more likely in Florida than Louisiana, but it could be

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in Texas, it could be anywhere. And quite frankly, we are talking about in the context of a weather issue, but if you were from California, you might be worried about earthquakes. If you are in a different part of the country, you are worried about wind and floods, and whatever.

So, it seems to me NEJAC would be very well to be as specific as possible about making certain there is a strong understanding of the lessons learned. And if there is any good that comes out of this, it seems to me that that what needs to happen.

MR. MOORE: Okay. Any other questions, comments, and then I wanted to go back into this document just for a second. Jody.

MS. HENNEKE: One of the things that -- as most of you know, I represent a state environmental agency -- and one of the things that I agree with and, certainly, with Chip in advance of -- it is not in advance of a situation, it is in advance of emergencies. Because you know they are going to happen, and when they happen, you don’t have time to think. You have to have already practiced it through.

One of the items that was mentioned was I think I heard you see 23 illegal dump sites. Without having landfills authorized to accept that waste, you are going to have many, many, many more illegal dumpsites, which become even more

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problematic.

So I think it is incumbent upon us to try to give as good a recommendations, as well thought out a recommendation as we can. Some of us that were part of the workgroup that we are going to be talking about tomorrow, hashed through, and fought over, and scratched through some of those recommendations.

But I think we need to keep in the back of our minds that without something authorized, you are going to have a whole lot more unauthorized. And that becomes hugely problematic for the communities that they are in.

MR. MOORE: Thank you, Jody. Any other comments or questions?

(No response)

MR. MOORE: I wanted to, just for some minutes here, go specifically into this. And the reason why I wanted to take these three points that are being recommended here is because, at least from my experience from being on the NEJAC Council before, that sometimes communities leave with expectations that, in fact, maybe the Council can make recommendations about, or maybe it is a venue of the EPA, or maybe it isn't.

So I just wanted to go back and just go to these three points. I think the first one was -- the recommendation

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was to -- three steps -- to maintain state's accountability through ongoing oversight. The EPA non-action letter of the wake of Katrina -- well, I won't go into reading that, but that is the first one.

Okay, so can we speak to that one just for a minute in terms of a recommendation? Specifically, to this. The suggestion is, if I am understanding the recommendation -- do you want to restate that for us?

MR. BUI: The first recommendation?

MR. MOORE: Yes.

MR. BUI: First, maintain state's accountability through ongoing oversight. The EPA's non-action letter in the wake of Katrina allowed the LDEQ to operate within an environment without accountability.

MR. MOORE: Okay. Is there any particular response or clarifications to that?

MS. TUCKER: That falls under RCRA, doesn't it?

MR. MOORE: That is what I am trying to get clarity to, so.

MR. COLLETTE: What non-action letter was that?

MR. MOORE: Could you speak to that please?

MS. TUCKER: It is just mis-information.

MR. BUI: Can you help me on that, Lisa?

MS. HASEGAW: (Not speaking into microphone) We are

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actually trying to find out as well. It is more ---. We heard -- I am Lisa Hasegaw, Executive Director of the National Coalition for Asian-Pacific American Community Development. I know that there are people before me, but the letter, we heard from Father Vien and others, that there was some sort of a waiver, or a non-action letter that was issued by the EPA. And I think that this has to go with the emergency waiver and, again, people were just unclear about what that was.

I think people understood that it needed to happen, but they were unclear about whether that was the pressure point, or the lever that allowed that dumping to happen. And whether the reinstatement of EPA regulations would stop the dump. And I think that that was just something that they were trying to pursue as one potential option to stop the dumping. Does that make sense?

MR. MOORE: Okay.

MR. COLLETTE: Thank you. Yes.

MS. HASEGAW: We were trying to get a copy of the letter, but we haven't yet.

MR. COLLETTE: It probably would be -- I was thinking it might have been a waiver for the emergency situation.

MS. HASEGAW: Right.

MR. COLLETTE: That clarifies it. That is a

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different end.

MR. MOORE: Okay, is there any comment or clarification? Yes, Jody.

MS. HENNEKE: I want to make sure that we are reasonably clear on this, and things -- reasonable isn't reasonable -- to make sure there is not more confusion that there already is. My appreciation, and I may be wrong, but my appreciation is that this is a construction and demolition landfill. My appreciation also is that the authority for C&D landfills is almost exclusively that of the states.

I think the only oversight possibility that EPA -- and I don't even know if it is EPA, I think it is more the Corp. of Engineers -- so, I think the way that this is stated, it could be, and probably is, confusing of to what oversight responsibility EPA would have to the State of Louisiana.

MR. MOORE: Okay. Now, this is exactly what I wanted to do, was to get this clarity. Because we are all going to leave here at the end of someday, and then we are either going to wish that we would have came back and got the clarification before we left; or we would attempt to try to figure out how to get the clarification; or, in fact, if it was decided in terms of oversight, in terms of this first one, that there was nothing that could be done in terms of a recommendation from this Council, or the EPA.

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Then, my other concern is from past experiences, that there is some communication back to the community group so that we are all on the part of this Council, so that we are all very clear of what is being asked of us. So that was helpful. Are we still on number one, Wilma?

MS. SUBRA: And it would be great if Tim Fields was here. But, as Jody said, this is C&D demolition debris landfill. And because of the situation with the hurricane, household waste is also mixed in and allowed. The Department of Environmental Quality, state agency, allowed household waste to go in with it.

But the primary jurisdiction is state, not EPA oversight. Now, EPA has oversight of water issues, and it has oversight of air issues, but the primary issue here is C&D and some garbage. So, it lies with the state.

Now, EPA is functioning in the Katrina area, dealing with a lot of the debris and dealing with the Corp. So then you start getting the blurred lines, but those lines deal more with the collection type thing, as opposed to how it is disposed of.

So, the disposal part is primarily with the state. So you may want to wait until Tim gets here tomorrow and can tease out the different aspects so that when we say, EPA needs to be doing the oversight, we need to be sure that that is

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clearly statutory oversight.

MR. MOORE: Okay.

MS. HASEGAW: And just another clarification. What is then the authority of the Office of Solid Waste and Emergency Response in that regard? Because we thought that maybe it was a solid waste issue, and we were trying to figure that out as well.

MR. MOORE: Now, let me just ask this question before we go into that. Is that something else that we are going to be discussing tomorrow, the question that is being asked here?

MS. BRIGGUM: It is the same issue.

MR. MOORE: It is the same issue. So, is it the consensus of the group that we should hold those comments until tomorrow, until Tim is here? If that is agreeable, we are going to hold that until tomorrow.

(Members nodding their heads)

MR. MOORE: Okay, was there anything else in terms of one? Do people see where I am going here?

MS. HASEGAW: Absolutely.

MR. MOORE: Okay, now was there anything else in terms of number one?

(No response)

MR. MOORE: Okay, could you please clarify the

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second one for us, please?

MR. BUI: To engage state government agencies oversight of state agencies such as LDEQ to ensure that they institute active mechanisms to ensure community engagement and participation in decision-making; particularly, within communities of color and all aspects of investigation enforcement and action.

MR. MOORE: Okay. Comments, questions? Wilma.

MS. SUBRA: I think if you divide it into two, that the state agency has the authority. And where you are wanting public engagement and participation, this is the issue we are covering tomorrow.

MR. BUI: Okay.

MS. SUBRA: And I am assuming you meant under the emergency rules, as opposed to under non-emergency situations. That is already in the state regs.

MR. BUI: Okay.

MS. SUBRA: So, if you are talking about on the emergency rule, making sure you have community engagement and participation, that is a recommendation coming forth tomorrow. When you say in all aspects of investigation, enforcement, and action, if you are meaning how it falls on the existing state regulations, then we will have to look into that.

But, primarily, that is covered under normal

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operating procedures, as opposed to emergency. So, I am not clear whether you are talking about under the emergency or under normal.

And the things that are going on at the landfill from the state agency, they are going out and doing inspections just like they would do normally, not saying, well, we found these things wrong, but you are under emergency, so it is okay to do it. That is not the case at all. They are doing the inspections under normal operating procedures. So I guess I am not clear in that one issue.

MS. HASEGAW: I guess if we are going to make this a broader issue, it comes around the risk communications and who is accountable for what. So I think the community groups locally have been running around trying to figure out who makes what decision, who is responsible for what.

Who is accountable to who, because people are going like this, and I think that that is the main issue. So I can't really answer your question, because I think that it is just -- unclear to the question reflects the unclarity that community groups have about the process. About emergency versus non-emergency.

MR. MOORE: Okay. Any other clarity on point number two? Comments.

MS. HASEGAW: So, in terms of addressing it, I would

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just leave it to this committee to place a caveat on whatever comes in response. That this is under emergency situations.

MR. MOORE: Great. Thank you.

MR. LEE: The other thing that this request brings up is the many, many, many different agencies that are operating within an emergency. So that, you know, there is a -- like Wilma was saying, I mean, there is the Army Corp. of Engineers, there is the Louisiana Department of Environmental Quality, the city and city agencies all have a role.

And EPA's specific role in all this is really, as defined in terms of emergencies, in terms of the assessment and mitigation of hazardous materials.

So, I mean, all of these I think we will have to clarify when we go through the report.

MS. HASEGAW: Right.

MR. MOORE: Okay, if we are prepared to move on, I just wanted to take the last point. Could you just clarify that for us please?

MR. BUI: EPA should actively track, engage in, and enforce specific high stakes environmental policies to ensure public safety and health; particularly, in post-disaster situations.

MR. MOORE: Okay. Any comments, questions, clarities?

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MS. SUBRA: I think this one gets back to whether or not EPA has primary jurisdiction or does it fall on the state. And is this just aimed at the landfill situation. I mean, we had hosts of other -- all the chemical plants were allowed to operate, a lot of the issues.

So, if you are aiming specifically for the landfill, that is a state jurisdiction, so it is going to be really tough. If you are aiming for the broader, all the things that went on as a result, we are covering that tomorrow.

MS. HASEGAW: Right. I should just note that this was also written before we had a chance to look at your draft recommendations. And I think that everyone was actually very pleased that a lot of these broader issues were covered. So, just in terms of the context of this, this came sort of independently of looking at the workgroup's recommendations.

MR. MOORE: Good. Thank you. Was there any other comments or questions?

MS. SUBRA: No, but that is very nice to hear her say. That last part.

MR. MOORE: Yes, we really do appreciate that. And, quite frankly, the Council has dedicated a lot of its work -- to all the work that we had to do -- but in this particular case, a lot of that. Eileen.

MS. GAUNA: I just wanted to thank you for your

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comments, and as we go through the report tomorrow, I think that this is a really -- it crystalizes a lot of issues for us in a very important way.

And one of the issues that I look forward to thinking about is exactly how in the wake of these post-disaster situations, the EPA can foster a better information as to what these fracture jurisdictions are, and where you go to for what sorts of things. To be able to help communities know where they need to go, instead of thinking that the problem lies here, where it must lie in state agencies, and so forth. So I look forward to our discussions on that. And thank you for your comments.

MR. MOORE: Juan.

MR. PARRAS: Yes, I would just kind of state something that, you know, we talked about unintended impacts. And it is very strange, and I think we are going to have to deal with in the future with also is the fact that we go from being an Environmental Justice Advisory Committee, and then environmental justice issue is thrown in another community of color.

So that, to me, I think we need to talk that out in the future, how in trying to work doing environmental justice to one community, we do the same thing to another. It is like they always say, not in my backyard.

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And I think we have never -- or, as far as I am concerned, I don't think we have ever run into this where we are actually trying to avoid that issue from happening, and then allow it to happen in another community of color. But that is, I guess, for further discussions.

MR. MOORE: Okay. Shankar, and then I think we are prepared to move onto the next testimony.

MR. PRASAD: Thank you for taking the time to come here. And, in fact, you bring us back some of our memories, as we had the North Ridge Earthquake, many people -- and we had a similar kind of a disaster where in the similar situation, the waiver was given and you ended up with having about a mountain of debris being put in a residential neighborhood. And added to that, some of the hazardous waste was brought in as well, and just dumped on that.

So the whole area, which is probably about three blocks, and about 40 feet high, right in the middle of all the neighbors. The closest house was about 15 feet. And it is still going on, and it has taken us almost 10 years to resolve that issue.

So, I think, what Chip said is to learn from these things and to see how we can avoid this the next time. Because those things will happen, and we have to be better prepared for it. But thank you for coming here and alerting

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us to that fact.

MR. MOORE: Okay, Ben.

MR. WILSON: Well, I would like to join everyone else and thank you for being here. And as I was thinking about this issue, I was trying to find something that might be something of an analog. And I was having trouble, because I can't really find something quite like this. Though, it was not environmental anyway, there is an analogy in mind in the Korematsu case.

You may recall the internment of the Second World War. The idea there is an emergency, and there is a discreet and --- minority that somehow our government felt it could not trust. And I think in a decision that I think is very hard to justify, made a decision and never really undid that decision.

And so I have a great affection for New Orleans, and still do a lot of work there. And so I, certainly, would be an advocate of one, and have been an advocate of my client being able to deal with environmental issues in a context of an emergency.

But I think the third point that is being made here is kind of the most important of all. If I am at some point going to waive my general procedure, it seems to me that it is still incumbent to monitor a situation. And because what sometimes appears to be an emergency, turns out not to be, and

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what is an emergency for a while, is not an emergency forever.

So, it seems to me that in some proper context, personally, what I would like to be able to see NEJAC communicate is there is still an obligation to continue to monitor a situation. And the clients that I represent in New Orleans, they have an obligation to protect their citizens. And I don't think it is a bad thing to be monitored to make certain you are doing it right.

And in this disaster what we had, which is different than what we had ever had before, we had EPA, as an example, as a partner helping us to address a problem. At some point, when we get through the problem, like the dog and the cat. we will snarl at each other and, perhaps, assume the traditional roles. But at some point, it seems to me that this really is an important issue.

The other thing that I would say, which is not able to say it in this context, I don't know the details of this specific case, and I would not ascribe any ulterior motive to waste management, other than they, (A) were interested in doing business, and they had a way to do that. So I think it is wise to question, but I disagree with any -- you know, absent evidence, of any suggestion of anything that was done that was somehow illegal or anything else like that.

I don't represent them, I don't have -- but I just

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think that it seems to me that our mission is first and foremost, to be able to make specific recommendations that ultimately protect environmental justice communities, and hopefully help us, as Chip was suggesting earlier, to avoid disasters. Or to mitigate, really, disasters. Because you never really avoid them, in the future.

MR. MOORE: Okay. Well, thank you very much. We appreciate your testimony. We hope also that you will be able to stay with us tomorrow as we go through the report, and so on. Lisa, do you have comment?

MS. HASEGAW: Well, I guess I am number six on this, so I will just wait for that and do my comment then.

MR. MOORE: Thank you.

MR. BUI: Thank you very much.

MR. MOORE: Thank you very much.

Now, let me just get a show of hands so I won't have to go through the list of who is here now to do public comment.

(Show of hand)

MR. MOORE: Okay, I know Lisa is here. I just wanted to -- so is Lisa the only one that is present at this time that is on this list to do public comment?

MS. : Claire just left.

MR. MOORE: Claire left. Lisa, could you join us

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please, again, and have your seat back.

MS. HASEGAW: Sure.

MR. MOORE: Thank you. And you could reintroduce yourself please.

Comments

by Lisa Hasegaw

MS. HASEGAW: Sure. Thank you for having me here today. I am the Executive Director of the National Coalition for Asian-Pacific American Community Development. And we partner with NAVASA, but we are a separate organization and we represent community development corporations, non-profit community developers across the country that work in low-income, Asian American and Pacific Islander communities.

And we also bring greetings from Asian Pacific Environmental Network, and I also work closely with Peggy Saika, who I know used to be a member of the NEJAC. So, I am honored to meet you all. Charles, I have heard a lot about you. So, I am happy to be here today.

Specific comments, I did have more of a chance than Huy did to actually look at these draft comments. So, before I go through some of my specific comments about your draft recommendations, I just wanted to ask if is now the time to give those, because there is no other public comment period, is that correct?

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MR. MOORE: That is correct.

MS. HASEGAW: Okay, so I think you about the specific case, and I did want to allow them to just go ahead and provide that testimony, but I will focus mine on comments.

So, with regards to response and recovery, I just want to -- this first issue in terms of community partnerships and collaborative problem-solving, I would recommend that there be specific, maybe a listing of national or local or regional organizations that can provide assistance; particularly, with language access issues that happen again and again.

North Ridge, I was there at North Ridge post-L.A. riots; post-September 11; post-Katrina. Language issues, again and again. You know, and North Ridge was Korean and Thai. You know, and here in New Orleans, it is Vietnamese. And so I think that there are national organizations -- we are always called upon late in the game with regards to language access issues. And this is not just the Asian American communities, but it is in a lot of communities with regards to language access. And it always seems to be an afterthought. So, with regards to community partnerships and collaboratives, I would just make that recommendation.

I don’t know if you would like to make a specific reference to the Title VI, Limited English Proficiency Law,

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and Executive Order that is still in place with regards to language access. I can provide additional information on that as well.

I did ask if we could provide written comments specifically on this draft, and they said that I would be able to do that, and I will.

With regards to this issue of communications, I think that one of the issues in the Asian American community -- although Asian Pacific Environmental Network is there doing a lot of wonderful work in terms of prevention in the Bay area communities, I think that, generally, Asian American communities have not been at the table, and have not been part of these dialogues around environmental justice.

I, myself, even though I am close friends with a lot of people who work at APEN, felt like I had to lean a whole new language when we started getting involved with New Orleans East, the Vietnamese community.

Our initial engagement was around long-term community development, and ensuring that Vietnamese community voices were at the table with regards to the consolidated planning, and really a lot of the stuff that is going on with housing issues. And then all they wanted to talk about was the landfill. So, we have been having to really beef up on all of our lingo and reconnect with APEN, et cetera.

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So, I think that with regards to providing some simple maps about who is accountable for what at federal levels, at state levels, at local levels, and the role that corporations, like waste management, or whatever, dumping, or whatever companies. Because I think that it took us three, six months just to kind of figure out who is who and what is what, and we still don't have the answers.

So, if there are some sort of 101 post-disaster, I think, in prevention and education to communities; particularly, those that have not been as involved, that would be another recommendation. And that has to do, I guess, with -- I guess I am skipping forward, because you have a lot in here about risk communications.

So, again, my repeated comment around language access. But not just language access, because Father Vien, as you know, speaks perfect English and is able to communicate. It would have been helpful for him to have tools in Vietnamese to share with his parish, parishioners. But, I think it is also about ensuring that particular communities are at the table.

Because I know, for example, colleagues at HUD ensure that there are certain documents that were translated into Vietnamese, but they never got to who they needed to get to because the partnership with community organizations

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weren't there.

With regards to this waste debris and sediments, specifically, there was this focus on, I think, the removal and whether or not it was safe to return. I think that it would really strengthen this particular description of this particular issue, and also the recommendations, if there was a little bit more that was added around concern about where the debris gets placed.

Not just how quickly it gets -- where it is in the beginning, and making sure that those communities where it is left, or where it is -- I don't know if I am making any sense, but I think the focus is really on getting it out of communities, but I think there needs to be additional information about where it gets placed.

The U.S. Army Corp. of Engineers, it is this issue of folks want to get it removed as quickly as possible because it is a health hazard. So, if it is a health hazard and it is being dumped right in your backyard, then I think that that is really what the concern of the local groups really is. So, I think that more specificity there, I can provide.

I think that there is a lot here with regards to public health concerns. My last comment just would be that you also include housing and community development advocates as partners. Because I think that a lot of organizing,

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similar in a parallel universe, is going on in the housing and community development world. And it is not just public health concerns, but I think that housing, community development, and planners would also be important to include in this plan. Thank you.

MR. MOORE: Thank you. Comments or questions?

(No response)

MS. HASEGAW: We will provide our comments in writing as well.

MR. MOORE: Okay. Thank you very much.

MR. LEE: Richard, one comment. And this is in preparation for tomorrow's discussion, is that first of all, I want to thank you for those comments. There is a question of how to make sure that these become part of a process in which there is a -- in terms of the procedures around preparation for emergencies. And then also operationalize a process for the response.

And, you know, Grant spoke to that before, so I just want to make sure that in terms of recommendations, which are really going to be very helpful, that is one area of recommendations.

The other has to do with a lot of the issues that Lisa had raised, and will be raised in other context, have to do with issues outside of EPA's statutory authorities. But

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that does not mean they are not real issues, and are not ones that does not need to be addressed. But, you are making recommendations to EPA.

So, thinking about the kind of process, or set of recommendations that allows for much more of an integrated, comprehensive type of response, I think, is something that the workgroup has really struggled around. And thinking about that will be really helpful.

I don’t know if you want to add anything to that Wilma, but I thought those were two areas where these recommendations begin to point to in terms of tomorrow’s discussion.

MS. SUBRA: Right, and thank you for yours because they fit in with what we are going to be discussing tomorrow. We have done the best as the workgroup could do with all the information. And when you talked about not having input from people in housing authorities and people doing redevelopment, we are there to -- we are the ones in the field doing that. So, the input from all of those organizations came through the individual members of the workgroup; even though, a workgroup member wasn’t a housing redevelopment.

So, we took all of those into account as we worked through the process. So, looking forward to giving you presentations on that tomorrow as we work through it.

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MR. MOORE: Good. Thank you Wilma. Lisa, thank you very much. Did you have a last comment you would like to make?

MS. HASEGAW: Yes. Just one of the things was whether or not we could potentially get -- you know, we scrambled today to get folks from New Orleans on the call to help bring some comments and have a presence here tonight, but would it be possible to have a conference call -- I know you have sort of winding down, but would it be possible, even if it is not official public comment, just to even have a dialogue or a conference call with community organizations and stakeholders?

I know, Charles, you have been in touch also with the White House Initiative on Asian Americans and Pacific Islanders, and Piyachat, who is at EPA. And I know that I think that EPA, broadly, not necessarily NEJAC, but EPA is going to try to play sort of a facilitative role. So I am just wondering --

MR. LEE: See, this is the reason --

MS. HASEGAW: Is that separate from this completely?

MR. LEE: Well, yes and no. This is the reason I started off, I made the comment about there is different tracks in terms of addressing this issue. Now, I think that in terms of a discussion to get more input from the Vietnamese

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community, or other communities, in terms of the development of the recommendations from the NEJAC, that is one thing.

MS. HASEGAW: Yes.

MR. LEE: And I think we will discuss the practicality of that.

MS. HASEGAW: Okay.

MR. LEE: The second is, of course, that EPA plays an ongoing role in terms of the response in New Orleans and throughout Louisiana. And that is why I mentioned the fact that EPA's Region VI is on top of this, is dealing with this, and I would encourage an ongoing discussion there.

I mean, just one thing that I should mention also, Larry Starfield, who is the Deputy Regional Administrator from Region VI is going to be here tomorrow. So, I think that you should pursue that track as well.

MS. HASEGAW: Right. I just appreciate being able to come here and also see that these issues are being dealt with on a broader level, and in a preventive way. So, I appreciate all the work you guys have done. Thank you very much.

MR. MOORE: All right, thank you very much.

I just wanted to make one last call to see if any of the other folks that signed up to testify are here this evening.

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(No response)

MR. MOORE: So, with that then, my last comments are that, one, I would like to see us respond, and that is why I wanted to go through those particular three steps that were being recommended there. To respond in a prompt as possible manner to the recommendations that have been made.

So, thank you all. If there are no other comments, have a very good evening, and we will reconvene tomorrow morning at 8:30.

(Whereupon, at 8:46 p.m. the meeting was adjourned to reconvene at 8:30 a.m.)

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