

US EPA ARCHIVE DOCUMENT

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PROCEEDINGS

MR. TURRENTINE: I declare this meeting, the Sixteenth Meeting of the NEJAC, officially open for business today.

One thing I'm going to mention from my administrative notes that I've neglected to mention each of the other times -- and it became apparent last night that I should have mentioned it all along -- and that is the fact that NEJAC is a Federal Advisory Committee that was established to provide independent advice to the EPA Administrator.

I want to make that point because I think quite a bit of the discussion last evening centered on what we were doing and what we weren't doing, and I think it's necessary for me to say to especially the public, that this is what we're chartered to do and this is what we can do, and no more.

I'm going to turn it over to Charles at this point, who will take us to the first part of the agenda. Charles.

MR. LEE: Good morning. Last night, or yesterday at 4 o'clock, we were supposed to have a number of updates on significant developments since the last NEJAC meeting and we weren't able to go through all of them because of time. So if you look in your agenda, there are a number of those listed in the 4:00 p.m. to 5:00 p.m. session. They were going to be around the Federal Facilities Working Group update, the update on Mossville, the legal memorandum from the Office of General Counsel and the EJ Training Collaborative, and one on the 800 Hot Line number.

We're going to order these in this way. We heard about Mossville. We're going to hear about the EJ Guidance the legal memorandum.

Barry Hill is going to be giving that update. And then we're going to hear from the EJ Training Collaborative and then the Federal Facilities Working Group. Rose Augustine is going to give that report.

So, at this point, let me turn it over to Barry.

NATIONAL ENVIRONMENTAL POLICY GUIDANCE

BY MR. BARRY HILL

MR. HILL: Thanks, Charles. As Charles said, I'm going to do a PowerPoint presentation on the National Environmental Policy Guidance. Now, during the course of this presentation I'm going to talk about briefly the Environmental Justice Training Collaborative and the OGC memo and the Interagency Working Group. All of them are very much connected to each other, as you'll see.

One of the things that was most important as far as trying to put this guidance document together was to come up with five reasons for the document.

The first purpose of the document is to provide a conceptual framework for explaining environmental justice as a civil rights and an environmental issue, and consequently to develop sound policy in this particular area.

What we had done was, as all researchers do, to examine all of the papers, all of the documents, all of the publications that were issued by the agency over the last couple of years in this particular area. What we were looking for was the framework.

We found that there wasn't any document that spoke from this particular point of view. So that was one of the reasons why we developed this particular guidance document.

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The document is not intended to be a simple cookbook. Environmental justice is not an easy subject. It comes up in a variety of forms and so you can't have a ten-page document that simply spells out what environmental justice is or is not.

It's also difficult to come up with a one-size-fits-all operational manual. Environmental justice can be a siting issues, it can also be the clean-up standards and levels at a particular contaminated site. So, again, it comes in many forms.

The document is intended to provide guidance as it relates to this issue, policy for EJ coordinators and environmental justice people working in the program offices here in headquarters and to come up with a systematic approach to understanding what environmental justice is, or better yet, what environmental injustice might be.

The title of this document is "A Guide to Assessing and Addressing Allegations of Environmental Injustice."

You have to make a determination as to whether or not the allegation of environmental injustice has any validity. You cannot simply accept something that's being said, or a complaint that's being lodged. You have to make a determination as to whether or not, again, there is some validity to the allegation. Now, once you determine that there is some validity to the allegation, you have to address it.

The purpose of the guidance document is not to conduct a thorough investigation and to render an opinion as to whether or not environmental injustice does exist. What's more important is the coming up with an approach as far as addressing the issues and concerns in that particular community. So that's the title.

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The second purpose is to come up with a substantive framework for explaining the program, what we do and why do we do it as a practical matter. Environmental justice is not just simply a collection of activities that the agency is involved in. So, what do we do and why do we do it, and it must be based upon existing environmental laws and regulations.

As we travel across the country, the thing that keeps coming up consistently is what is your authority to do this. Is this an unfunded mandate? Why are you requiring states to do this in PPAs and other things? So, that is essential; what is the basis for this particular program?

The environmental justice program is not just a community relations program or a training program. In the regional offices and headquarters we focused on community relations and on training at the very inception of the program. But it's much more than that.

The thing that it is not: it's not a preferential treatment program or an affirmative action program.

The thing that we have to respond to consistently is whether or not environmental justice only belongs to minority and low income communities. The answer is no, it belongs to everyone, it's just that those communities have not received environmental justice and, therefore, we are focusing as an agency on those particular communities.

The environmental justice program is embedded in the agency's regulatory program and grounded in existing environmental law and the implementing regulations. This is where we talk about the OGC

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memorandum. That's why that memorandum was so important, so essential, to the environmental justice program.

The Executive Order is a memorandum that's issued by a President and he is going to say, like he has said, what should be the focus of his administration.

Now, a new President can come along and change that Executive Order or eliminate it entirely. So, if a program such as this was based solely on an Executive Order, the environmental justice program would be in a very difficult situation. So it must be based, and it is based, on existing environmental laws and regulations. And OGC will talk about that when they get here.

The third purpose of the guidance document is the realistic framework for assessing again the validity of an allegation of environmental injustice. How do you do it as a practical matter?

One way that we determined that was most important was developing environmental justice indicators. Sets of data around various issues.

This model that you see is an expression of environmental injustice. The indicators are social indicators, who lives in those communities, what is the breakdown, what is the makeup of that particular community? The economic indicators, what's happening -- it's a low income community, high income community? The environmental issues, you have to have an environmental problem, as a practical matter. And then, finally, health, which is most important to the communities throughout this country and throughout the world.

On top you see public participation and on the bottom access to

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information in order to make a sound decision and to be involved in the environmental decisionmaking process. That is environmental justice. If you think about any community in this country, you can use those indicators to make a determination as to what's happening in that particular community.

If things are out of kilter, if it is imbalanced, you have environmental injustice.

So this is a model, this is a way of looking at the issue from a pictorial point of view.

The fourth purpose: to provide a realistic framework for addressing an allegation of environmental injustice. You assess and then you address.

We use the laundry list of these indicators because of the fact that many of the indicators are not things that fall within the basic mission of EPA. For example, health is not something that EPA is involved with on a daily basis; it's more so the Department of Health and Human Services. But this is a roadmap for understanding and addressing those environmental injustice situations.

You have economics. You may have the Department of Commerce, you may have the Department of Labor.

Social issues. Obviously that's something that EPA does not deal with as a practical matter on a daily basis.

So the next thing that we had to think about is, once you have the indicators, once you see that something is wrong, how do you address it? A realistic framework for developing and implementing a holistic approach; that's what the integrated federal agency action agenda is all

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about, bringing federal agencies to the table at or about the same time in order to address the concerns of the community.

And the concerns are multiple. You will not have simply an environmental problem. You will have housing problems. You'll have economic problems. You'll have transportation problems. So on and so forth.

The whole idea is to bring those agencies, whether or not they're federal, state or local government agencies, or other resources like industry resources, to try to address the problems in those particular communities. The whole idea, again, is a different way of doing business.

Right now what we have is federal agencies saying, that's not my job, that's not something that I do. And so what will happen is that a person from EPA will only deal with the environmental issue. Then they will give you the telephone number to HUD or to the Department of Labor, whatever the case may be.

The whole idea, again, is to bring all of the federal agencies with their resources to the table at or about the same time.

It's simple. It really isn't rocket science. And it works.

We've talked about the Interagency Working Group, we've talked about the action agenda. And there are key areas: to promote greater coordination, make government more accessible and responsive to communities, initiate these demonstration projects and also to ensure integration of environmental justice into the policies, programs and activities of all these federal agencies.

Now, what is the plan? What are we doing with all of this?

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We want to finalize the guidance document. We've been working on this document since February of this year. Had regional input, headquarters input, and we've integrated the comments and concerns as best we could to try to make sense out of conflicting thoughts and ideas from the various regions in order to come up with a document. Now it's going to seek the advice from the public and also the NEJAC as a practical matter. The goal is to try to get something in the Federal Register by the end of this year.

Very much related to this guidance document and very much related to the OGC memorandum and very much related to the NEJAC meeting of November 1999, we relooked at the permitting process -- and remember, it was the Clean Air Act, the Clean Water Act and OSWER that were at the table. So it makes sense to come up with training modules for conducting these environmental justice assessments in those areas.

We have, again, the OGC memorandum that focuses on those three programs. We had the meeting in November that focused on those three programs. And so that's where the training modules are going to focus their attention, and this is related to the Environmental Justice Training Collaborative where all of the regions and headquarters offices, state and local government and citizens groups have come together to form this collaborative in order to try to produce and to develop these modules for training.

What we're also going to do with respect to the guidance document is coming up with standard protocols for conducting these environmental justice assessments. What do you do when something

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is submitted on paper alleging that there is an environmental injustice problem? What do you do as an agency? How do you form a team? Who should make up that team? What should be the approach as far as doing the initial assessments?

The conclusion is that it's a complicated issue. It's not easy. It's not simple. It's going to require creativity on the part of the EPA people and others that have to deal with this particular issue.

Now, remember, the goal is not to investigate and to arrive at a conclusion. Unlike Title VI, the responsibility or the goal is to arrive at a conclusion as to whether or not there is use of federal money being used for discriminatory purposes. That's not the purpose of this particular guidance document. The goal is to engage in constructive and collaborative problem-solving.

It's not a question of waiting several months or years for a conclusion as to whether or not your allegation had any validity. What you're trying to do is to resolve the problems, the health problems, the environmental problems, and the social problems.

What's also very important is that you have to engage other stakeholders. They have to be brought to the table, bring their resources, and try to address the concerns and the issues in the various communities.

That's a thumbnail sketch of what the guidance document is all about.

Any questions?

MS. SHEPARD: You're saying that whenever there is an environmental injustice allegation I assume to either one of your regions

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or to a state agency that they should follow this environmental justice plan?

MR. HILL: Yes, a systematic approach to making a determination as to whether or not the allegation has any validity. Yes.

MS. SHEPARD: So does that mean that the community residents who are coming to our public hearings, when they make these allegations, that these will be referred to the regions to develop this kind of plan?

MR. HILL: Well, the community groups don't have to wait to come to a NEJAC meeting in order to make the allegation or to lodge a complaint.

And then it's also not just a question of the agency being reactive, but also being proactive. We encourage the regional offices and headquarters offices to begin to gather this information, this data, in these four areas on all communities so that you have an idea what the lay of the land looks like.

So, no, it's not just a question of being reactive; it's a question also of being proactive on the part of the agency.

But as it relates to issues that may come up during the course of a NEJAC meeting, you have the Environmental Justice Coordinators from the various regional offices here and hopefully at some point they will talk with those particular community groups, or, you know, whatever, in order to try to figure out what the problem is.

So there are various ways of getting the agency to focus its resources, and not only EPA but the other federal agencies, to come to the table.

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MR. LEE: Alberto.

MR. SALDAMANDO: Thank you. One of the things of concern to me is that you've been working on this document all year and I don't recall seeing it.

It seems to me that if you want NEJAC input and you still want to get it in the Federal Register before the end of the year, that means around Christmas time we're going to get a document to which we're supposed to respond, knowing full well that that response will probably not be included.

It seems to me that if this is the Office of Environmental Justice and we're the FACA for environmental justice that we should have been apprised of the document during its production. I mean, it seems to me you guys have been meeting about this all year and you've been working the document. We're going to get it at the last minute; we're not going to be able to respond to it; and then you're going to publish it and somehow indicate that we've had some input. I mean, that's just the first concern.

I'm sorry that --

MR. HILL: No, no, no. Well, let me answer you first before you go on.

MR. SALDAMANDO: All right.

MR. HILL: You will be asked to comment on the document as soon as it's available. We've just finished writing the document, as a practical matter. The agency, we have to be comfortable among ourselves as far as the development of the document is concerned.

And, remember, it's all stakeholders. We've been having

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discussions. We've put the model up -- you know, whether that's before community groups and the industry groups -- over the last couple of months. But, no, no one has seen it, as a practical matter. It has not been released at this particular point.

But the NEJAC as well as the public will get an opportunity to comment on it over the next 90 days.

MR. SALDAMANDO: Well, you know, it just seems to me somewhat of a misuse of resources if we're expected to comment on it along with the general public.

I mean, what's the point of coming to Washington and gathering us as a group and discussing as a group if we individually are going to comment on it anyway? I mean, it just doesn't make sense.

MR. HILL: I appreciate your thoughts and ideas, but that's how we're going to do it.

MR. SALDAMANDO: Well, that's great, but let's be straight as to what kind of input you're going to get.

The other one is with regard to problem-solving as opposed to policy recommendation. It seems to me that there is somewhat of a schizophrenic attitude here that in one sense the Executive Order asks the agencies to examine their policies, we're supposed to respond to those policy initiatives and make recommendations as to policy, but what we in effect end up doing is listening to communities and hooking them up with the appropriate EPA official and hopefully they'll work something out.

I think that there has to be a greater focus on our role with regard to what we're doing here.

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And in that light, I kind of would follow-up on the question that was asked previously. I think that to require proof and some sort of a standard of proof with regard to community complaints -- I mean, there are various standards of proof, do we use probability or do we use reasonable certainty -- I mean, at what level do we consider the comments of the community credible?

Frankly, if a person comes from I don't know where and waits until 9:30 or 10:00 o'clock at night to tell us about their problem, I frankly am going to believe it. And until the agency can disprove what they say, I think I'm going to assume that the community is telling us the truth.

MR. HILL: I appreciate that, and as a lawyer I appreciate it even more because having been a trial lawyer I understand what standards of proof are.

But in this situation that's not applicable at all. There is no reasonable doubt, there is no standard of proof at all.

It's a question of receiving information and trying to respond to it as a practical matter, trying to assess whether or not there is some validity to the allegation. You can't just simply, as a practical matter, just say that everyone is truthful. You've got to look behind what's being said.

And if you're trying to engage other stakeholders, you know, they may be incredibly defensive under those circumstances. You've got to find out what's wrong.

We don't have unlimited resources where you can look at every allegation and examine it, you know, from A to Z. That's not practical.

So what we're going to try to do is to come up with a system to do

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1 a preliminary assessment and then a more in depth assessment of
2 what's happening in the community.

3 Yes, Rosa.

4 MS. RAMOS: Barry, I really appreciate all the effort you have put
5 into developing this document. I know that you have gone through a
6 process of inside analysis, profound analysis.

7 But I think this is more of the same thing the communities have
8 been fighting all over. You know, commenting at the end of a process
9 is not real participation. This has been the biggest issue of
10 communities ever.

11 You know, defining a process, analyzing environmental justice,
12 should not be the work of one person. It should be team work. And we
13 are here to share our time and our minds and our hearts into developing
14 a guidance that will serve for real environmental justice.

15 Also, I think you should allow regional participation and I
16 encourage you to read Region 2 policy on environmental justice that
17 was produced after a process of working with communities. It's not a
18 document produced by the region to be commented to by the
19 community; it was produced as part of a process of developing the
20 document together.

21 This needs to be reviewed in order to serve environmental justice.
22 Thank you.

23 MR. HILL: Thank you, Rosa. I just wanted to read to you just a
24 part of the disclaimer. That's on the first page of this draft document.

25 "This guidance is a living document and may be revised
26 periodically without public notice. EPA welcomes public comments on

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1 this document at any time and will consider those comments in any
2 future revision of this guidance document."

3 The whole idea, Rosa and others, was to come up with something
4 that's basically an effort on the part of EPA at this particular point, and
5 others, to make some sense out of this issue of environmental justice
6 and to seek public comments and to seek the advice of this advisory
7 committee.

8 MS. RAMOS: By commenting at the end of the process is not real
9 community participation.

10 MR. HILL: I appreciate what you're saying.

11 MR. LEE: Luke.

12 MR. COLE: Thank you. I've been doing this for four and a half
13 years now and I take this process seriously where we -- you know, we
14 try to have input on agency decisions that affect environmental justice,
15 and I guess I have to echo what Alberto and Rosa Hilda are saying.

16 Every community that comes before us, one of their central
17 complaints is that, you know, industry and the decisionmakers made
18 this decision behind closed doors, they have this whole process, and
19 then at the very end of the process when they had a product already --
20 you know, while they were making the decisions about what the product
21 would look like, who would define the issue, where the facility would be
22 located -- all these things -- that was behind closed doors. And then,
23 when they had a product for us to react to that was basically a done
24 deal, then they invited us to the table.

25 In the years that I've been on NEJAC one of the things that I think
26 we've been very effective in doing is educating industry and state and

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1 federal decisionmakers that that's not actual public participation. And
2 we actually have model public participation guidelines which call for
3 early, effective participation before decisions are made, before
4 definitions are made, with the stakeholders who will be involved.

5 Frankly, if the members of the National Environmental Justice
6 Advisory Council are not the people that are around the table helping
7 you define what should be in an environmental justice policy document,
8 why are we here?

9 I mean, I agree with the gentleman who came on at the end of the
10 thing last night: we are window dressing. And you must not take us
11 very seriously as a policy body if you're not willing to come to us and
12 say we are thinking about putting this guidance together. What do you
13 think should be in it? What are the issues for you? What are the five
14 goals that you, as a NEJAC member, would have for an EPA policy
15 guidance on this? And how can we most effectively reach those goals?

16 The ultimate document that you come up with may be salutary and
17 some of the siting decisions that are made without community input are
18 probably good decisions. But the taste that's left in the community's
19 mouth, and the taste that's left in my mouth, is bitter, and it only
20 reinforces the idea that the EPA is not responsive on the concept of
21 environmental justice.

22 It is a concrete demonstration that the policy guidance is going to
23 go nowhere, because if you cannot involve the NEJAC in drafting an
24 environmental justice policy guidance, then there is not going to be
25 environmental justice in the agency.

26 MR. HILL: You finished?

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1 MR. COLE: Barry, you do not need to respond.

2 MR. HILL: Luke, Luke --

3 MR. COLE: I do not want to hear your response.

4 MR. HILL: Luke --

5 MR. COLE: You do not need to respond.

6 MR. HILL: Well, I'm going to give you my response.

7 MR. COLE: You do not need to respond.

8 MR. HILL: No, I'm going to give you my response.

9 MR. COLE: I don't want to hear the justification.

10 MR. HILL: Luke, Luke, I'm not going to simply wait for you to make
11 a speech and not respond. Now, I think you know me better than that.

12 First of all, this is not an environmental justice decision. You're
13 talking about a basic principle of the environmental justice movement
14 being involved in the environmental justice decisionmaking process.
15 This is not an environmental decision; this is a draft document, this is
16 a draft guidance document.

17 Now, you may think that it may be appropriate as every paragraph
18 is written that you have an opportunity to comment on it. And I
19 appreciate that approach to drafting. But, Luke, as a practical matter,
20 you're not available and not many people sitting around this table are
21 always available. And so it is the agency determination to come up --
22 and we're capable, I think, Luke -- we're capable of writing a couple of
23 paragraphs for others to look at and to comment on.

24 MR. COLE: I think you're missing --

25 MR. HILL: That's what it's all about.

26 MR. COLE: I think you're missing the point.

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MR. HILL: No, I think --

MR. COLE: You are framing the issue and you are defining the concepts that are going to be involved here. If you bring us to the table first and we have the conceptual discussion -- I don't want to write every paragraph; I'm happy to have somebody write the paragraph.

I do want to be in the room at the table on the front end where we decide what the boundaries are, what the definitions are, because right now you have defined it a certain way and we may look at this document and say, you know, this isn't at all what should go on.

MR. HILL: Well, Luke, that's your prerogative. That's the role of an advisory committee.

MR. COLE: And then to --

MR. COLE: You know, to comment on it.

MR. COLE: And then you've wasted x-number of months doing something that nobody thinks is valuable.

MR. HILL: Well, perhaps, Luke, you may even like it too. You might feel that it reaches your quality, your qualifications, as it relates to being a quality document. Perhaps even you might think that it's good.

Anything else?

MR. YANG: I don't know how to wade into this. I also share on the issues of timing, but I also would point out that, as Barry said, I mean, somebody has to take the lead in drafting some of this. And I think the timing issue is really of particular concern to the Council because of the changing administration and the issues of the holidays.

One thing that I wanted to point out specifically with regard to your

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a sharing with this Council as a Council for commenting so that there is input that has a weight that is different from any of us as individuals in the final consideration.

Thirdly, I would really like to not throw out the baby with the bath water. We have been hamstrung for a very long time because we have tried to define terms in a Title VI mode and towards litigation ends in a world that has not been very favorable to environmental justice. And if this guidance takes us out of that approach -- not to undo or stop the achievements or the movements towards utilizing that approach -- but if it gives us another vehicle for actually resolving situations of environmental justice, then I think we need to at least be grateful that we are moving in a direction towards problem solving.

I'm just hoping that we don't lose the small benefits that we've gained by sitting here as a Council and by having people come forward to this group. And maybe it's not enough, and maybe it's too slow, and maybe it's too small, but if something good is happening for the people in Mossville, even if it's not because the institutions have broken down their barriers but because they've come together on one small issue, then we have made gains and we have had an impact.

Everything is not going to be Mossville. We're not going to resolve all of our situations because they're all different and because we don't have the resources. But we need to have some framework that we can try to apply in many different and disparate situations.

If we get something like that out of this, then it has been a worthy endeavor. You know, as frustrating as the process might be, as less than complete as the results might be, we have in fact moved forward.

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presentation, Barry, is that I think it would be really imperative and it would really be important with regard to two points that you made. What environmental justice is not, that it's not just a community relations program and it's not some sort of set-aside or affirmative action program.

That should really be drummed into the heads of other agencies because we keep hearing when we hear these presentations the efforts that have been made that are essentially not much more than community relations efforts or some sort of conception of environmental justice that -- the Department of Labor person -- the understanding of the idea that environmental justice is actively addressing discriminatory impacts or practices -- that is some form of discrimination itself on the part of the government -- I find it mind-boggling. I would suggest that part be made an especially prominent part of the guidance.

MS. STAHL: A couple of points. Number one, I think that I would at least like to give the Office of Environmental Justice credit for having listened to us both as an advisory council and as individuals for however many years each of us as individuals and as a group have been meeting together and hopefully have taken into consideration the things that they have heard and felt and lived through in putting together this draft.

I'd like to think that we have had input, even if not directly solicited. So I would just like to make that assumption as we go forward.

I think I would also like to think that there's enough flexibility in the drafting and finalization of a federal document so that as we go forward through the Federal Register and comment process that there could be

And I think we need to, again, not throw out the baby with the bath water.

MR. TURRENTINE: Charles, just one point.

I served on the Public Participation Subcommittee for quite some time and I know that Rosa Hilda served in that process. I'm not casting any dispersions on what this final document might become. What I am saying, however, to have participated in a process and to have developed a model plan for public participation and to have further revised that plan to involve the public early, often, and up front in a meaningful way, and to have the NEJAC as the advisory federal committee to EPA -- Barry, I think is what the tenor of the contention is; that it's hard for us to believe and community people to believe that industry and regulators are really listening when we talk about the involvement in the public to try and come up with a more pure process for problem-solving when in this very instance the group that was chartered to provide advice and counsel to EPA to this point has had no involvement in this -- not the production of the document, but the development and the refining of the ideas that go into the makeup of this document.

And I think that's what is disturbing for me. I would just encourage you, Barry, and the Office of Environmental Justice and the EPA as a whole, to really be mindful of the fact that you have a collection of 25 members of an Executive Council and if you put the full NEJAC together, you're probably talking about 75 people who give a considerable amount of time, energy and effort to improving -- or eradicating, if you will -- environmental injustice in communities.

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1 So, we should have been involved in the process, Barry, in terms
2 of developing, as Luke has pointed out, framing the issues, making sure
3 that what we come up with is going to have the greatest chance of
4 providing relief.

5 I think the fact that you've not involved us, if I get the tenor of what
6 some of the respondents have said, is that they feel like you came at us
7 with this thing and you expect us to just sit there and say, okay, well.

8 And I agree, Jane, that there are some good things happening, but
9 if the process isn't pure, if it is not inclusive up front, early and often,
10 then we may as well not talk to industry or anyone else about early and
11 meaningful public participation.

12 MR. HILL: Well, Haywood, again, I heard what you said, but quite
13 frankly, I think that there's a mixing of apples and oranges.

14 We're not talking about the environmental decisionmaking process,
15 where it is incredibly important to be involved early and often in that
16 decisionmaking process. This was an effort at writing a policy
17 document, which the agency does all the time, every day.

18 MR. COLE: So communities shouldn't be involved in policy early
19 and often? That's what you're telling us?

20 MR. HILL: Luke, I'm trying to respond to Haywood. I'll get to you
21 publicly or privately.

22 You know, the process was simply to write the document, which
23 we're still doing right now as we speak. So I heard what you said,
24 appreciated what you said, and, you know, there's a difference of
25 opinion on that. We're just going to make it available as soon as we
26 possibly can. The document is still in the process, again, of being

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1 within the agency infrastructure who deal with environmental justice
2 issues -- have they been a part of this consultation, since clearly we
3 have not been a part of it? But who has been a part of it?

4 MR. HILL: Vernice, at headquarters the EJ coordinators, regional
5 EJ coordinators, the deputy regional administrators, the deputy
6 assistant administrators, the assistant administrators. It's been EPA
7 people from top to bottom that have been involved in commenting and
8 drafting this particular document. Oh, the Office of General Counsel
9 also.

10 It emanated, obviously, from the Office of Environmental Justice.
11 We took the first cut. Somebody had to put pen to paper or fingers to
12 the keyboard. And so that's what has happened and everyone has had
13 an opportunity within the agency to comment, their offices, and
14 whatever, and we've responded as best we possibly could.

15 MS. TRAVIS-MILLER: So everybody has been involved except for
16 the Council.

17 MR. HILL: Everybody within EPA.

18 MS. TRAVIS-MILLER: Well, we're within EPA.

19 MR. HILL: No you're not.

20 MS. TRAVIS-MILLER: Yeah, yeah, yeah.

21 MR. HILL: It's an advisory council.

22 MS. TRAVIS-MILLER: We are not staff, we don't get paid by the
23 United States Government --

24 MR. HILL: Okay.

25 MS. TRAVIS-MILLER: -- but we volunteer hundreds of hours of
26 time to give counsel and advice to -- that's what the charter says -- to

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1 written.

2 What, Luke?

3 MR. COLE: I think that siting decisions are important for
4 communities to be involved in because they have a direct impact on a
5 community. A policy decision is even more important for people to be
6 involved with on the front end because they -- well, a policy is going to
7 cover everything generally from here forward. A siting decision is a
8 localized decision; a policy decisions is setting the course of an agency.
9 If that's not where people should be at the table, I don't know where that
10 should be.

11 MR. HILL: Okay.

12 MR. LEE: I think we need to move on with the agenda.

13 MR. HILL: That's fine with me.

14 MR. LEE: Okay.

15 MS. AUGUSTINE: I just want to state that I represent my
16 community on the NEJAC and when a document comes out from the
17 NEJAC with the NEJAC's name on it, I want to make sure that my name
18 is not on it unless I give my approval for my name to be put on it.
19 Because I don't know what this document is going to be about. If it's
20 going to be working against my community or anybody else's
21 community, I do not want my name on it.

22 MR. LEE: Vernice, are you -- okay.

23 MS. TRAVIS-MILLER: Barry, my question is just: Who has been
24 involved in the drafting of this policy? Have the EJ coordinators been
25 involved? Have the other EPA people who we have given and vested
26 some authority to to sort of move these issues through -- the people

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1 the agency on policy issues related to environmental justice. So, to me
2 this just seems like a profound contradiction.

3 I've been asked by the State of New York to help them do exactly
4 what that. As an environmental justice advocate. They've gone across
5 the state and asked us to do this because they don't think they can do
6 it by themselves.

7 And EPA is paying them, is giving them a grant from Region 2 to
8 help them do that.

9 So how can I say to Governor Pataki of New York state that I can
10 sit here and give you counsel on this process but the Administrator of
11 EPA and the Office of Environmental Justice doesn't think that in my
12 role as a member of the National Environmental Justice Advisory
13 Council that I have counsel to give to them. But I can do it for the State
14 of New York.

15 MR. HILL: Well --

16 MS. TRAVIS-MILLER: And EPA is paying them for me to do it for
17 the State of New York.

18 MR. HILL: The Office of Environmental Justice is paying for that
19 particular grant for the state based upon what the proposal was from the
20 State of New York because of where the State of New York was at that
21 particular point. Because it did not have an environmental justice
22 program, the agency, EPA, and the Office of Environmental Justice felt
23 that it was an appropriate project to fund.

24 MS. TRAVIS-MILLER: And I keep --

25 MR. HILL: And so that's what happened.

26 MS. TRAVIS-MILLER: Yes, and I think you're right. But the pivotal

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point here, Barry, is that in giving them that grant you also said to them and conveyed to them through EPA Region 2 that it is imperative that environmental justice advocates be a part of this process, that those who are expert in the issue outside of government be involved in this process or we will not support that process.

So here we have a profound contradiction between what you say to the country and to the other actors in this party in the country and what we've said here at the headquarters level.

It's just very, very disappointing because I thought we had reached a point in our maturity in this process that you at least trusted our counsel.

MR. HILL: Okay.

MR. LEE: Let me make a suggestion. I think that there are some issues being raised that are large and they are issues that are particular to this particular policy guidance. It would be my suggestion that on Thursday when we go through New Business that a particular and real very defined process be established. Okay?

The larger questions are being raised. I think that that's a longer discussion.

At this point I would like to -- and let me just say, I don't think that I need to underscore the severity in which you, the members of the Council, are voicing the seriousness with which you are voicing your concerns, and that needs to be duly noted for the record.

At this point I would like to move to another update.

MR. GOLDTOOTH: Charles, I have one suggestion.

MR. LEE: Okay.

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MR. GOLDTOOTH: I think in order to move forward I think the office understands, you know, the sentiments of a lot of us here and it does vary on this. But I think it might be good leading up to that last day maybe if we have a meeting on this or something and maybe the chairs of the subcommittees could sit down with Barry and yourself, Charles, on this and talk about this before that last day. Can we do that?

MR. LEE: You're talking about on Wednesday some time? Okay. Well, we'll figure that out.

MR. GOLDTOOTH: Okay.

MR. LEE: We'll figure that out and work that into the next couple of days. If you're ready to have a midnight meeting, I'm ready.

The next update is going to be given by three persons. I think they're all in the room. Jack McGraw who is the Deputy Regional Administrator from EPA's Region 8; Veronica Eady from the State of Massachusetts; and -- is José Bravo here? -- and José Bravo from the Southwest Network on Environmental Economic Justice.

Let me say a few words as background -- if the three of you can come up here -- where are they going to be giving their reports from? At the table? Okay. If you can come to the table.

There has been, as you know -- and I think there's been periodic updates on this -- in terms of the whole area of environmental justice training. And there has been the emergency of what is called an Environmental Justice Training Collaborative.

In my mind what makes this very important is, of course, the fact that training does provide a very important link between our concepts and policies and actual program development and implementation.

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This has been an effort from -- I guess if you think about it, from an EPA standpoint, a real bottoms-up process -- a coming together of all ten EPA regions who recognize the importance of doing environmental justice training, as well as with the Office of Environmental Justice and with other groups such as states and community groups. Therefore, what I wanted to do was to make sure that a report was given to you from all three perspectives.

With that, I want to turn it over and ask Jack to begin.

Let me underscore the significance which we are attaching to this whole effort and the excitement that I feel about the work that's been done and just say that we truly appreciate the many efforts of all the many people that are involved in this. Jack.

ENVIRONMENTAL JUSTICE TRAINING COLLABORATIVE PRESENTATION BY MR. JACK MCGRAW

MR. MCGRAW: Thank you very much. I'd like to thank the Chairman and the rest of the Council for giving us the opportunity to give you a quick update on EPA's EJ training collaborative. I want to give a special thanks to Barry for waking up the group and lobbying up here this morning for a nice lead-in, but I'm hopeful that our presentation will give you an opportunity to show that you do have an opportunity for input at the very developmental stage of the EJ training collaborative.

Back last summer the Environmental Justice Training Collaborative group asked the Regional Administrators of EPA to weigh in and get briefed on their particular activity and asked us to support both in training and in making our staffs available, as well as providing travel for our staffs to attend some of the activities related to this effort. And we

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have supported, the deputies have supported the EPA training collaborative.

One of the approaches that the group wants to do is to approach it on an agency wide basis to start off with. I think it was mentioned in a panel yesterday afternoon that there real success in environmental justice is that don't have environmental justice offices per se set off to the side, that it becomes a way of doing business, it becomes a way we think, the way we do our day to day activities.

And our training effort, at least internally within the agency, is to make it agency wide, to get it outside of that office, to get it into the program offices, to get it across the board where everybody begins to fully understand and appreciate the challenges of environmental justice.

We also think that the challenge that we have would give us a way to enrich the dialogue that goes on around EJ issues by making our program directors aware of the Executive Order to make them aware of community concerns, to make them aware that every time that they make a program day to day operational decision that they are considering the community and considering the need for valid input into those situations.

The collaborative effort had a workshop in October in Boston. We're proud to say that there were about 45 people that showed up to that, a large number of EPA people, but there were people also from other federal agencies, states, the communities and academia that were a part of that beginning to formulate the agency's collaborative training effort.

The workshops will continue. We hope to begin in March and will

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continue through May. And before the beginning of the pilot phase the collaborative would like to seek input from other key groups. We want stakeholders. We would like especially to have additional input from the tribal governments, the tribal community groups and from industry.

The training collaborative, when they briefed the deputy regional administrators back in August, basically gave us a commitment that it was their goal to be able to provide a fundamental course on environmental justice which would be piloted with a wide range of stakeholders, that they would develop a national training team with a goal of 30 trainers, from which at least four of which would be from outside the agency, and that we would set up a train the trainer concept within EPA to get more and more people available to go out and provide the training.

And the last I would like to highlight is that in the original survey that was done there was a key statement that EPA cannot do it alone. That was the message that was made loud and clear.

On that principle and in that context, the task force is asking for your input, asking for your support as they develop this collaborative curriculum, that you would be a part of that curriculum, that you would be able to review -- we would make available to you the drafts of the curricula so that you could make input into that.

And by all means, we welcome each and every one of you to our upcoming pilots that will be held, again, in March through May, that we would get your assistance in our development of additional modules which right now is in planning: EJ and public participation, EJ and natural resources and the NEPA, EJ and cultural resources, and EJ and

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it was very, very important to have those people there and have those decisions that were made there.

There are still some things that we have to get to in regard to this training. The history piece in regard to the environmental justice history is not there, not completely there, and still needs some work. And there's other little pieces that can come around, but all in all I think it was a great start and it was a great effort by the Environmental Protection Agency to launch this and I think we should support it from the grassroots community level.

PRESENTATION BY MS. VERONICA EADY

MS. EADY: Good morning. I want to say briefly that I reacted viscerally to this training and my visceral reaction was wholeheartedly positive.

I want to acknowledge and congratulate Region 8 and Deldi Reyes of Region 9, and Running-Grass and Nicholas Targ from OEJ who really I sense is the driving force behind this training.

One of the things I loved about it is that, you know, through conversations I found out how it was developed, and it was really to the extent that something in the federal agency can develop grassroots -- I'm stealing Deldi's words from this morning but I've heard her say it before - this training really did sort of develop from EPA's grassroots in the regions with the staff who recognized that there was a need for this kind of training. Maybe that's what has made it so good and really kind of magical.

I went into the training -- you know, I consider myself somebody who knows quite a bit about environmental justice. The training that we

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Indian Country.

Thank you very much. I'll turn to my other colleagues for the rest of the report and be willing to answer any questions at that time.

////

PRESENTATION BY MR. JOSÉ BRAVO

MR. BRAVO: Good morning. Sorry if I stumble a little bit. I was on a plane until about 4:00 this morning trying to get into National.

I think that the training that I observed in regard to the training of trainers, and the meeting that I went to in Boston I think was very good. I think it was a great start and it alleviates one of my worries that I've had for a long time. That is, from the community perspective when are we going to stop teaching and when are people going to know the subject?

I think it's been a long time since we've been instructing the Federal Government on environmental justice and actually this training mechanism actually has many important parts that we believe not only the EPA should know -- and if we believe the EPA is a little behind on environmental justice than what it is, you can imagine what the Department of Energy, the Department of Defense and other departments are like. So I think it was a very important meeting.

Another thing that was very heartening to me was that there were some questions that came up in the actual training that as community people we would kind of look at as questionable, and what was heartening to me was that there were actually people from the Federal Government and state governments and others that actually said, well, that's wrong and that would be probably insulting to people. So I think

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did in Boston was populated with people who knew a lot about environmental justice, people who knew nothing about environmental justice -- just the whole range. It was really amazing because not only did I learn something from the training, but I learned something from people who knew relatively little about environmental justice.

The training is a training that really doesn't place any blame on regulators for, you know, siting facilities and permitting facilities. It doesn't, you know, make anyone defensive at all; it's come as you are. It was really amazing. Learning how somebody reacts to, you know, a history on environmental justice or a provocative statement and how somebody responds to it.

Regardless of what they take away from that training, one of the provocative statements was environmental justice is an unfunded mandate. True, false, or -- you know, in the middle? Fuzzy. Fuzzy.

We all got up and put stickers. There were a number -- there were like 12 or 15 of these provocative statements. Then we had a discussion about them.

You know, coming from an environmental justice perspective, you learn about how people who think that environmental justice is an unfunded mandate, how they arrived at that conclusion, their thought process. I just found it really helpful to me.

After a half-day of training I went back to my office to check my messages and I sat down with my boss and I said, "This training is a amazing; we need to get involved; we need to send all of our people to it."

I'm happy to say that EPA invited the State of Massachusetts,

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1 along with a couple of other states, to join the collaborative, and we're
2 joining. What that means for my office is that more people in my office
3 are going to be able to go to this great training. And what it means for
4 the collaborative is, you know, as José pointed out, that the training
5 needs work and it's sort of a living sort of training -- one of the things
6 that we're going to be working on is how environmental justice applies
7 to the states, that Title VI means to the states.

8 Now, you know, part of the training does talk about Title VI. Talks
9 about the Executive Order. But some of the holes were, well how does
10 the Executive Order apply to states, if at all? And what about states that
11 have delegated programs or primacy? And why doesn't it apply?

12 These are all questions that I don't think that state employees
13 really know, they just assume that it doesn't apply. This really gives us
14 an opportunity to think more about it, to voluntarily agree to undertake
15 the Executive Order. I just see a lot of potential in it and I'm really
16 excited about it.

17 Thank you.

18 MR. GOLDTOOTH: I fully support this initiative. I was one of the
19 individuals that was in dialogue of being one of the trainers.
20 Unfortunately my schedule didn't allow me to be there. I know with our
21 staff person from our organization that was scheduled to go, I think
22 there was a breakdown in communications. So I just wanted to
23 apologize that our staff person wasn't able to attend.

24 So, you know, I think that this project is commendable. It needs
25 to be supported. I really enjoyed the comments by José because he
26 sometimes is our eyes and ears at some of these meetings and he's

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1 very cautious on process to make sure that our communities are
2 respected.

3 The principles of environmental justice is something that is very
4 serious. With our environmental justice networks that the communities
5 we work with tears and sweat and joy and celebration went with the
6 development of 17 principles that were developed in '91 at the People
7 of Color Environmental Justice Leadership Summit in D.C. here.

8 I feel that those principles have been followed by all of our
9 environmental justice networks and it's something that comes from the
10 grassroots. I'm sure that José conveyed that to the trainers.

11 There are certain principles that come from our communities that
12 define what environmental justice is and how we work together and the
13 challenges as we try to address the issues within the federal system.

14 One thing that I wanted to comment on on the tribal piece is that
15 -- and my discussion is that the training is definitely really needed to
16 educate federal agency staffers on what is environmental justice in
17 Indian Country, and whoever does the training, if it's one or two people
18 from our Native community, need to really reflect on environmental
19 justice needs as far as from the tribal government, the tribal
20 environmental infrastructures that are still in transition, are still
21 stabilizing, still developing. There is tremendous need in that area.

22 And then there's environmental justice from the perspective of
23 tribal community members, or the grassroots, and their concerns.
24 Sometimes it's a very complicated issue. The agency has a
25 government-to-government relationship. It's something that we all
26 embrace within our diversity as American Indian and Alaska Natives.

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1 We support government-to-government.

2 But, also, we know that some of our Native grassroots have
3 environmental concerns and issues where they've exhausted every
4 remedy at the community level. For example, Squaw Valley, Utah,
5 where the Tribal Council is in partnership with the nuclear waste
6 industry to use their lands as a nuclear waste dump. And there's tribal
7 community members, grassroots, who are opposed to that. It's an EJ
8 issue.

9 Those kinds of issues are challenging with agency staff, as well as
10 our tribal leadership. So I think those are things that need to be
11 conveyed as trainers by Native people educated on these issues to talk
12 about the diversity of our issues in Indian Country.

13 I just wanted to put that in there.

14 MS. STAHL: Good morning and thank you for telling us more
15 about the effort.

16 I, too, would just like to on the one hand comment that if we are
17 ever to get beyond speaking to and among ourselves, we need to get
18 more people familiar with the concepts, with the vocabulary, with the
19 purposes and the goals of environmental justice because we do tend to
20 talk to and among ourselves. We need to broaden our reach a bit, and
21 I see this as a major way of doing that.

22 When I sit on this Council, I, as a representative of state
23 government, often feel like a minority, so let me provide for you a kind
24 of little bit of sensitivity training, if you will, in that regard.

25 The states are not the enemies here. Talking to people about
26 unfunded mandates or why they believe things are unfunded mandates,

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1 can often come to pass just because of a simple prepositional phrase:
2 How does environmental justice apply to the states? How does Title VI
3 apply to the states? -- could easily be transformed into: How does
4 environmental justice apply through the states? How can Title VI be
5 implemented through the states?

6 The simple change that changes the reception or can change the
7 reception -- we all know that it depends on if your receptors are out
8 there and sensitive, they'll pick things up in different ways.

9 I would just urge you to remember that not all states are the enemy
10 and that there are in fact many people who are looking for the
11 opportunity to partner in these endeavors, and to be sensitive to those
12 little language things that can in fact make a big difference.

13 But the bottom line is, good work.

14 Thank you.

15 MR. SALDAMANDO: I always take the opportunity to raise difficult
16 issues and on this one I really would like to take the opportunity to thank
17 the panelists in the effort that's being made. I congratulate you on your
18 endeavors and I appreciate the input of the community people that were
19 on it who understand environmental justice, and apparently there was
20 receptivity to that input and real implementation. I greatly appreciate it
21 personally and I think the Council as a whole does as well.

22 Thank you.

23 MS. WOOD: Good morning and thank you for your presentation.
24 I happen to be, I think, the real minority here since I'm the industry
25 representative at the moment.

26 My company went through some of what you went through in trying

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to put together the program. It took me several years to get my company to understand why I thought we ought to add a very modest environmental justice element to our training program that we have for all of our environmental managers.

We did that, but it was an interesting learning process. And you mentioned that you felt you needed more participation from some outside groups, from industry; I'd be more than happy to volunteer either myself or some of our trainers within GP that went through this learning curve in terms of trying to understand what different things mean to different people.

I know our objective right now is to try to help people just within Georgia Pacific have a better understanding of what environmental justice is all about. But Jane's point about sometimes a matter of just rephrasing some things opens up a lot more receptivity from the audience you're trying to reach.

Nonetheless, it sounds like you guys have made a great start in helping spread the word beyond the usual group of us that gets together at some of these meetings. Thanks.

MR. EADY: I just wanted to comment briefly. The provocative statement about the unfunded mandate, just to clarify, there were a number of provocative statements and they were meant to be phrased that way so that we could discuss it and see how each other felt about it and learn about thought processes, which is one of the great things about it.

You know, if you think environmental justice is an unfunded mandate, that's fine, you're entitled to your opinion, and, you know, let's

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partnerships being that this started from, you know, a need that was evidenced and perceived by EPA regions.

This whole process does have a feel that's very much centered around EPA so it's somewhat EPA-centric, if you will. So it doesn't have the kind of nuances of language that Jane kind of raised and other types of sensitivities.

It does not have a good understanding of the history of as it perceived environmental justice prior to it coming to EPA and the Federal Government. It does not have a lot of that. But I think there is openness to really try to deal with that. So, this is an evolving process.

One thing that you should note that's very important about this is that it does have the support not only of the Office of Environmental Justice but of such people as Jack McGraw and other regional and deputy regional administrators across all ten regions. So this is building on that model in a very significant way. It has a long way to go.

There are a lot of people that were mentioned that were part of this process. There are a lot more, too many to mention. But I would ask that they all stand up so that you can recognize them as you give this panel a round of applause. So, all of you who are a part of the Environmental Justice Training Collaborative please stand up, all of you who are part of the federal agencies.

(Applause.)

MR. MCGRAW: Charles, let me add that I really appreciate the Council's support and receptivity to the efforts that we're doing here. We are at the ground level and we really are at an opportunity for your input. And for anyone that needs it, there's a fact sheet at the back

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discuss it.

But I did want to point out -- or just to respond a little bit to what Tom Goldtooth said because José and I were here nodding at each other -- it did come up during the training in Boston that an important piece that wasn't really covered was environmental justice in Indian Country. And, you know, does Title VI apply in Indian Country, and questions like that.

One of the things that I would like to see, in addition to those pieces of the puzzle, is how does environmental justice apply between states and Indian tribes because I think that many states, if not most states, don't really know what -- I mean, you hear all this discussion about federal trust responsibilities and nobody is talking about states. And so that's something that I hope could be added and just sort of clarify.

MR. LEE: The view here is that this will develop over time into many different modules looking at specific applications of either environmental statutes such as the Clean Air Act, RCRA, the Clean Water Act. It will look at specific questions such as the one Tom raised.

And that it does now include other federal agencies. You should know that other federal agencies are independently developing training. For example, the Department of Transportation has a very major training development initiative.

And when the group feels it is appropriate, it will also include business and industry.

This is a developing process, and part of the real difficulty here is to develop partnerships. It's a very delicate process of developing

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table there that has the names, and not only that, but the telephone numbers of some of these people that are standing up in case you need more assistance or for your input.

Thank you very much.

MR. LEE: Thank you, Jack. And thank you, José and Veronica.

The next item -- and I did misspeak a little bit -- Tony Guadagno from the Office of General Counsel is going to present on the Office of General Counsel's legal memorandum on environmental justice. This is what you've been long awaiting. It's signed. He has come with it signed, sealed and delivered.

OFFICE OF GENERAL COUNSEL LEGAL MEMORANDUM PRESENTATION BY MR. TONY GUADAGNO

MR. GUADAGNO: Good morning. I'm supposed to talk a little bit about the memo that the General Counsel recently issued.

I'm pleased to announce that on Friday, December 1st, Gary Guzy, the General Counsel, issued a memorandum that identifies opportunities to promote environmental justice under EPA permitting programs. Specifically the memorandum addresses permitting programs under the Clean Water Act, RCRA, the Safe Drinking Water Act, the Ocean Dumping Act, and the Clean Air Act.

I believe that it's been made available. Is that right, Charles, Barry? Yes.

I hope that you'll find it to be self-explanatory and easy to understand. It includes a brief description of each of the various permitting program as well as the legal opportunities under them. OGC looks forward to working with the media program offices to further

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1 explore the legal dimensions of taking advantage of some of these
2 opportunities.

3 I don't know if any of you have had a chance to digest the memo,
4 but if you have any questions, I'd be happy to try to answer them.

5 MS. STAHL: Can I make a recommendation that you just walk
6 through briefly not only for those of us who might have left our copies
7 aside, but for the people in the audience who might not have had a --
8 they were here yesterday.

9 But, regardless, if you could walk through, both for our sake and
10 for the sake of the audience, some of the key points or
11 recommendations arising out of the work, I think it would be useful to
12 everyone.

13 MR. GUADAGNO: Well, I would actually prefer to keep it general
14 since I don't profess to be an expert in the various EPA permitting
15 programs under the various EPA statutes. But as I indicated, it does
16 cover in particular permitting programs under RCRA, the Clean Air Act,
17 the Ocean Dumping Act, the Safe Drinking Water Act, and the Clean Air
18 Act.

19 I really do believe that you'll find it to be self-explanatory and that
20 hopefully all the key points will jump out at you.

21 I will be around the next couple of days, so if you have some
22 questions that you'd like to ask me, don't hesitate to call on me.

23 MR. TURRENTINE: Luke.

24 MR. COLE: I'm very excited that in the waning hours of the Clinton
25 Administration this document has finally seen the light. So I want to
26 compliment you; you've done a good job getting it out the door.

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1 MR. LEE: Vernice and then Alberto.

2 MS. TRAVIS-MILLER: I, too, want to say, at long last. Actually,
3 the history on it, Luke, is six years. Six years in discussion, six years in
4 development. And as often happens in our conversations, the NEJAC
5 does not take credit for the work that it has done, so today I want to give
6 you some framework and hopefully you can go back and share with the
7 Office of General Counsel, and the Office of General Counsel then
8 needs to send a letter of thanks to the NEJAC and to the Enforcement
9 Subcommittee for the six years' worth of work that they did to get you
10 all to the point that you are now.

11 I'm a little dismayed, though, I have to say, that a conversation that
12 took place -- and unlike many of the NEJAC conversations that we have
13 that sometimes are very ethereal and it takes them a long time to get
14 very specific, we started this conversation with you, as Luke said, with
15 a 54-page document. A 54-page document that was drafted by Deoohn
16 Ferris and Professor Richard Lazarus now of Georgetown Law School
17 to really go through all of the opportunity areas that the agency had to
18 address these issues.

19 Even though you say that there's a lot in here, there's a lot that's
20 not in here, and I remember it because I really went through this
21 document. I went through it back then, I've gone through it over the
22 years with you all, and I think that there's a lot that's not in here.

23 But I want to say this: Even though there's things that are not
24 addressed, this is a historic moment for the agency.

25 Now, having said that, I'm really perturbed by the paragraph on the
26 front page that says that while we have identified a number of areas

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1 The draft or internal version of this began -- I don't remember
2 exactly -- but five or six years ago it was, I think, 54 pages, and in its
3 final version it's gotten down to 14 pages. I know some of that is just
4 going to be the economy of the wording that you're using, but what it
5 also says to me is that a significant amount of what was on the table in
6 the original draft has somehow been lost along the way. Maybe you can
7 comment on that.

8 MR. GUADAGNO: I don't believe that's the case. I think that's
9 there's a lot more here than meets the eye. It is concise, but I think it's
10 fairly comprehensive and once you've had a chance to read through it
11 closely, I think you'll find that it addresses a significant number of
12 opportunities under the various statutory and regulatory authorities that
13 we have.

14 MR. LEE: Vernice -- oh, I'm sorry, can we go to Jana.

15 MS. WALKER: I haven't had a chance to look at it that thoroughly,
16 although I have flipped through it. I did notice that it doesn't appear that
17 there's any mention of Indian Tribes and tribal governments and their
18 authority. It just refers to the Federal Government and states. I kind of
19 see this as an omission.

20 MR. GUADAGNO: The main focus of this is EPA actions with
21 respect to permitting, and that certainly would cover the entire country,
22 including Indian Country areas.

23 MS. WALKER: I guess my point is that there are references to
24 states and -- authorized states -- and there are authorized tribal
25 governments now too.

26 MR. GUADAGNO: Yes.

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1 where there could be action by the agency, we are by no means saying
2 that there will be action by the agency, and that where there is required
3 new interpretations of the law we're not saying that we're going to give
4 those new interpretations of the law, we're just saying that these are
5 some creative ways to look at the law.

6 So I just need some counsel from you. What's the purpose of the
7 paragraph on the front to then take us into a conversation about the
8 areas where EPA does have statutory and legal authority to address
9 environmental justice in substantive ways under their statutory
10 mandated authority but to do a disclaimer on the front that says, well,
11 yeah, we've identified these ways, but we may in fact not do it?

12 So, what do you have?

13 MR. GUADAGNO: Well, I think the short answer is that it's
14 designed mainly to keep in context that this is a legal memo that's being
15 issued by the General Counsel to the program clients and it will be
16 largely up to them to identify which of these authorities they want to
17 pursue and the General Counsel would be happy to work with them to
18 go that way.

19 MS. TRAVIS-MILLER: I just want to say that I think that that's an
20 approach that sort of sets us back because, as I said, this is a historic
21 step forward for the agency. But all we asked you to do, and all you did
22 do, is identify where the agency has mandated statutory legal authority
23 to act under the law as it is currently written -- not as it could be revised,
24 not as the legislature may think to reinterpret it at a future time -- as the
25 law is currently written. This is your statutory mandate to act.

26 So, if you have the legal authority to act, then why would you

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1 negotiate whether or not you have the legal authority to act?

2 MR. GUADAGNO: I would just add that -- or, emphasize, rather
3 -- that these are just opportunities. I think part of the disclaimer, the
4 main purpose of it, is to note that this is not a definitive legal risk
5 analysis. So further refinement of the legal thinking would need to be
6 done in terms of the legal risks that implementing some of these
7 approaches might have.

8 So in that sense it's not intended to be definitive. It's not a
9 statement that, you know, these are authorities that were mandated to
10 carry out in a particular way.

11 MR. LEE: Tseming.

12 MR. YANG: I have one question with regard to how this legal
13 authorities memo relates to the Executive Order.

14 Under the Executive Order agencies, including EPA, are required
15 -- and I guess this gets back to Vernice's question -- to implement the
16 order to the extent permitted and shall implement the order consistent
17 and to the extent permitted by existing law.

18 I wonder whether you have already looked into the extent that
19 these authorities permit EPA to take certain actions, how EPA will be
20 required to take those actions under those statutory authorities.

21 MR. GUADAGNO: I think the focus of the memo is the amount of
22 discretionary authority that EPA may have to take some actions to
23 promote environmental justice. Does that get at your question?

24 MR. YANG: Yes, but -- I apologize, I wasn't aware that the memo
25 actually wasn't in our packet from yesterday; otherwise I would have
26 taken a look at it yesterday night. But obviously I haven't.

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1 But to the extent -- I guess my question is really, you know, it
2 seems to me that under the Executive Order you are required to utilize
3 that discretionary authority. This is just sort of a quick question -- I
4 wanted to ask you to address that.

5 MR. GUADAGNO: I'm sure that those would be questions that the
6 media program managers will be looking into as they review the memo
7 and decide on, you know, which areas they would like to focus on to
8 take advantage of some of these opportunities.

9 MR. LEE: Well, thank you, Tony.

10 Can I ask -- I'm sure that once the NEJAC members and others
11 perhaps have read this, they will probably have a lot more questions --
12 would you be available or make yourself available for further
13 conversation with the members of the NEJAC?

14 MR. GUADAGNO: I'll try to do that. I plan on being here
15 tomorrow.

16 MR. LEE: I don't mean during the next few days, but sometime in
17 the future.

18 MR. GUADAGNO: Oh, sure. Absolutely.

19 MR. LEE: Either a conference call or something like that.

20 MR. GUADAGNO: Yes. Sure.

21 MR. LEE: Okay, great.

22 Make it real short. I mean, we are really over time and we've got
23 another report.

24 MS. RAMOS: Okay. I just wanted to ask you if you can add
25 something explaining how these laws unique features relate to Puerto
26 Rico and Tribal Nations.

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1 MR. GUADAGNO: Well, again, I think that each of the statutes are
2 national in coverage and they were intended to address all areas within
3 which EPA has permitting programs.

4 MS. RAMOS: But may you should add, you know, a statement
5 saying just that.

6 MR. GUADAGNO: Sure.

7 MS. RAMOS: How it relates to Puerto Rico and --

8 MR. GUADAGNO: Uh-huh. This is just a start. I'm sure that there
9 will be a lot more hopefully --

10 MS. RAMOS: This is very important for us.

11 MR. GUADAGNO: Yes.

12 MS. RAMOS: Thank you.

13 MR. GUADAGNO: Thank you.

14 MR. LEE: Okay. We are running way behind time. We have one
15 more report. We need to move on, we are an hour behind on this
16 agenda and there are people who are time-locked in terms of making
17 presentations. We can come back to this. I don't know if Tony is going
18 to be around on Thursday, but -- make your comment.

19 MR. YANG: Tony, I'm sorry, this is just a quick question. I notice
20 from the memo scope that FIFRA authorities are not included in the
21 memo's discussion. Is that just -- any response to that? Why FIFRA
22 wasn't included? FIFRA is about the pesticide permitting.

23 MR. GUADAGNO: I think all the statutes were looked at and these
24 were the main ones that we wanted to address initially.

25 MR. YANG: This is just an oversight or --

26 MR. GUADAGNO: Again, it's not intended to be a definitive

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1 statement on every conceivable opportunity, but we wanted to make
2 sure that we got something out that addressed all the significant areas.

3 MR. YANG: This is my last comment. The only reason why I raise
4 it is in part because the International Subcommittee at the last Atlanta
5 meeting spent an entire morning session talking about health impacts
6 on farmworkers and the effects of pesticides and so it is a significant
7 concern of one subcommittee of the NEJAC. Thanks.

8 MR. GUADAGNO: I think this is something we can take up in the
9 follow-up discussion that Charles alluded to.

10 MR. YANG: Okay.

11 MR. LEE: All right.

12 MR. GUADAGNO: Thank you.

13 MR. LEE: Okay. We're going to hear from Rose Augustine who
14 is the chair of the Federal Facilities Working Group that was
15 established. She's going to be helped in her presentation by Kent
16 Benjamin and Brandon Carter from EPA.

17 Rose, do you want to do it from here?

18 MS. AUGUSTINE: Yes, because that table blocks my view from
19 the rest of the Council.

20 MR. LEE: She's going to do it from the front.

21 MS. AUGUSTINE: Because I have laryngitis Brandon is going to
22 do a lot of the talking and then I'll -- we're going to both do it together.

23 UPDATE ON FEDERAL FACILITIES WORKING GROUP
24 PRESENTATION BY MR. BRANDON CARTER

25 MR. CARTER: Hi, I'm Brandon Carter and I work for the Office of
26 Solid Waste and Emergency Response. This is Rose Augustine. She

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1 is from Tucson, Arizona and she is in the -- you're the head of the
2 Tucsonans for a Clean --

3 MS. AUGUSTINE: I'll just introduce myself. I'm Rose Augustine
4 and I'm president of Tucsonans for a Clean Environment. I come from
5 Tucson, Arizona. I'm also on the NEJAC Executive Council and I'm
6 also on the Health and Research Subcommittee. I asked if I could chair
7 the Federal Facilities Working Group. I'll turn it over to Brandon.

8 MR. CARTER: Thank you, Rose.

9 We are here to present the update on the Federal Facilities
10 Working Group that was requested by the NEJAC Executive Committee
11 at the last NEJAC meeting in May of 2000.

12 Before I begin, I'd like to just provide a quick definition of what
13 federal facilities really are. We've had working groups at NEJAC before.
14 The last working group was Waste Transfer Station Working Group.
15 This working group, federal facilities, is a bit more nebulous than just a
16 specific issue such as waste transfer stations.

17 Federal facilities include lands and property that are owned,
18 formerly owned, managed or operated by the Federal Government,
19 including military bases, research lands, bombing ranges, et cetera.
20 There's a more exhaustive list and there's a lot of different issues that
21 are involved. I don't really want to get into them right now, but I would
22 gladly discuss those with people afterwards.

23 To begin with, the working group was chartered by the Executive
24 Committee in May of 2000. The working group was tasked to identify
25 and evaluate key issues of concern to environmental justice
26 communities regarding activities and operations at and around federal

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1 facilities to formulate a set of national policy recommendations to
2 address these concerns, to provide a forum for dialogue with
3 communities, to compile a list of available resources to communities
4 and stakeholders, to increase public participation, and to produce a
5 report to be presented to the NEJAC Executive Committee at the
6 conclusion of these activities.

7 From the beginning the working group has thus far identified the
8 membership, obtained participation from partner federal agencies and
9 yesterday we had a signing ceremony for an MOU that commemorated
10 the federal partnership for the working group. And the working group
11 has agreed on a process and methodology that we are going to embark
12 upon.

13 The working group itself is a diverse body of ten members
14 representing respective stakeholder constituencies, including tribal,
15 state, local government, community groups, and non-governmental
16 organizations in business.

17 The working group itself was chartered in response to public
18 comment and feedback.

19 The working group is structured to include substantial
20 representation of federal agencies, including the Department of
21 Defense, Department of Energy, and Department of Interior.

22 The working group will operate over a period of 18 months to begin
23 January 1, 2001 and conclude July 1, 2002. This period is going to be
24 subdivided into three six-month periods where we'll conclude activities
25 and report back to the NEJAC at each six-month interval at the biannual
26 meetings.

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1 The activities that have been performed include compiling public
2 comments on federal facilities from previous NEJAC meetings,
3 developing a statement, and we have convened two meetings thus far.

4 There will be significant opportunity for communities and the public
5 to participate in the working group activities. Proposals for potential
6 case studies for the working group review are invited from all and we
7 are going to be reviewing those from the working group body beginning
8 January 17th. So anyone is welcome to submit a proposal for a case
9 study for us to review.

10 Additionally, we will have opportunities to host open meetings
11 where the public will be invited to attend and present testimony and
12 provide input in regard to environmental justice and federal facilities.
13 The date and time of these meetings will be announced when they are
14 available.

15 I actually have a couple of additional comments. We had some
16 public comments last night about the Federal Facilities Working Group
17 and I think that -- I didn't include some of this information in my
18 presentation because I didn't know I'd be very popular today. There's
19 a few other issues that are important to address.

20 First is the issue of EPA and federal facilities in general. The
21 reason why we have done a lot of work to embrace our federal partners
22 in this process is because there is another Executive Order that's called
23 Executive Order 12580 that controls the clean-up of federal facilities.
24 That Executive Order 12898 states that each federal agency is the lead
25 agency in the clean-up of their own respective facilities.

26 Being that EPA does not have the same authorities that they do at

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1 Superfund sites to enforce clean-ups, therefore, we have to work
2 cooperatively with our federal partners to ensure safe, sound, clean,
3 efficient and timely clean-ups.

4 Secondly, is the scope of the federal facilities issue. As I
5 mentioned before, there are a lot of federal agencies and a lot of federal
6 agencies own property, and a lot of federal agencies own property that
7 are subject to CERCLA, RCRA and a number of other environmental
8 laws. That means that it's a very enormous issue and it's not similar to
9 -- it's broader than just the issue of a waste transfer station siting.

10 Additionally, there have been a number of FACAs that have been
11 convened in the past about federal facilities issues and stakeholder
12 involvement. It is the intention of this working group not to duplicate the
13 effort of those prior efforts.

14 My office, the Office of Solid Waste and Emergency Response,
15 from the period of 1993 to 1996 convened a FACA called the Federal
16 Facilities Environmental Restoration Dialogue Committee. That FACA
17 developed 17 consensus recommendations and principles that each
18 federal agency was going to abide by. And a part of that FACA actually
19 developed the system of restoration advisory boards that we now have
20 at military institutions and site specific advisory boards at the
21 Department of Energy facilities.

22 Lastly, there's some issues regarding the working group size and
23 representation. I'm not going to go into specific details about specific
24 cases of how we came to the working group process, but I will say that
25 the working group went through the same selection process that we go
26 through to establish any subcommittee and the Executive Committee

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1 that's sitting right here. We take nominations from EPA staff and those
2 nominations were reviewed to include a number of different criteria,
3 including representation from NEJAC. They also include geographic
4 distribution and relevancy to different federal agencies.

5 We have three community representatives, two NGO
6 representatives, two tribal government representatives, one state
7 representative, one local representative and one business
8 representative.

9 That's the conclusion of my presentation.

10 PARTICIPANT: Could you repeat the representation.

11 MR. CARTER: There are three community representatives, there
12 are two tribal government representatives, there are two NGO
13 representatives, there is one state government representative, one local
14 government representative and one business representative.

15 MR. LEE: Tom.

16 MR. GOLDTOOTH: Are you going to present a written report? I
17 don't have anything here to look at.

18 MR. CARTER: Yes. The working group was tasked to provide a
19 written report to the NEJAC body at the conclusion of our activities.

20 MR. GOLDTOOTH: And?

21 MR. CARTER: A status report? Is that what you're asking about?

22 MR. GOLDTOOTH: Yes.

23 MR. CARTER: A current status report right now? Well, I had a
24 fact sheet that I had written up and I put on the back table. I've noticed,
25 actually, before I stepped up here that they're all gone, so I will have to
26 reprint more of those and make those available this afternoon to

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1 everyone that's here.

2 MR. GOLDTOOTH: On your two tribal government, are those
3 tribal governmental representatives representing federally recognized
4 tribes?

5 MR. CARTER: Yes, they are.

6 MR. GOLDTOOTH: And who are those?

7 MR. CARTER: I don't think -- I'll distribute a list of the
8 representatives to all the people, but I'm not going to go through and
9 talk about specific people without them being here. I think that's kind of
10 inappropriate.

11 MR. GOLDTOOTH: Okay. I have a number of questions, but I'm
12 going to give it back to the committee.

13 MR. LEE: Okay. So at this point you're going to provide -- there
14 is a status report that's going to be shared with the members of the
15 NEJAC. And just to make sure that we understand, the next set of
16 activities -- there is going to be a face to face meeting by the end of
17 January. Is that right?

18 MR. CARTER: Yes, that's correct. We are going to -- basically
19 we've been operating on conference calls for our last two meetings and
20 we are going to convene a face to face meeting probably the last week
21 of January, the first week of February, that timeframe.

22 MR. LEE: Luke. No, Kent, go ahead.

23 PRESENTATION BY MR. KENT BENJAMIN

24 MR. BENJAMIN: My name is Kent Benjamin. I'm with the Office
25 of Solid Waste and Emergency Response also and I'm the Designated
26 Federal Official to the Waste and Facilities Siting Subcommittee.

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1 The model that was followed for developing the working group for
2 the federal facilities is a model that was developed in the Waste and
3 Facilities Siting Subcommittee for the waste transfer stations.

4 I listened to the comments last night and I want to make some brief
5 statements to sort of make people feel a little more comfortable with the
6 process.

7 We all have to recognize, and I know it's not what everybody wants
8 to hear, that we have resource constraints, but we do. Even if we didn't
9 have a dollar restraint, you all know how difficult it is to -- because last
10 night, Luke, I think you made a comment about having like 20
11 community people on the working group -- and you all know how difficult
12 it is to get the 25 of you here on a regular basis or even all of you on a
13 conference call and all of you to sort of give comment and have time
14 because I recognize we're not paying you. You know, most of you,
15 especially community-based folks, have other jobs that they're being
16 paid to do.

17 Now, some folks I have the opportunity -- their actual job allows
18 them to be paid for their involvement with the NEJAC.

19 And so in recognition of that -- we don't try to have, you know, a
20 working group with 100 people. So we try to have the ten and a cross-
21 section of various stakeholders, as Brandon just mentioned. But like
22 the waste transfer station model, it's not going to end with those ten
23 people.

24 In the waste transfer station model we met in two places where we
25 knew there was a proclivity of waste transfer station issues, New York
26 and D.C. Those sites where that kind of event would happen on the

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1 federal facilities have not been identified yet. That will evolve as the
2 working group gets together.

3 But there will be locations where the working group members will
4 go to a place and sit down with the various stakeholders who are
5 familiar with those issues and hear from them. As they develop their
6 recommendations in the three- and six-month cycles that Brandon
7 talked about -- you know, you make your plan, you go out and you
8 gather data, and then you develop your recommendations, and then that
9 comes back -- and as it is a working group of the full Council, the full
10 Council will sit with that working group ultimately and give feedback
11 before that recommendation is finalized and that report from them is
12 finalized.

13 As it develops, I'm sure that there will be ample opportunity for the
14 Council to participate in that development -- not just to comment, but to
15 participate in that development.

16 That was the model we followed in the Waste and Facilities Siting
17 Subcommittee and I think that's pretty much the intention of this working
18 group.

19 I don't want people to have the impression that anybody is trying
20 to be shut out, but realistically, logistics are something you have to
21 recognize. But want to have an open door for people to bring
22 information.

23 The other thing I'd like to add, though, is that perhaps we probably
24 could have done a better job of communicating over the last five months
25 with the NEJAC as things were evolving but things were working on a
26 very fast track because we really wanted to come here at the next

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meeting and have something to show for that five months of time intervening the two meetings because we knew that the level of sensitivity and the level of concern that generated in May, we did not want to squander that energy and that interest again because, as people raised in May, the federal facilities issues had come up a number of times and had not materialized into something meaningful.

So I think we didn't want to waste that and we wanted to make something meaningful, but I don't want anybody here to think that it's all said and done.

The other side is that in that Waste Transfer Station Working Group, in this body, we constantly anticipate that we will go out to our federal partners, as we have already done -- that's the source of the MOU -- we're going to go to their pocketbooks, but we also need the folks on the NEJAC and the folks listening in this room, and the folks who will read the minutes and notes from this meeting to bring people to the working group, to make them aware of information, to provide them with phone calls, provide them with presentations when they go about.

So I just want to emphasize that this process is not done, it's open, and that we're looking for folks to feed into it over the course of the 18 months of its effort.

MR. LEE: I think -- why don't we go with Marinelle, Don and Luke.

MS. PAYTON: Mine is a brief question to the gentleman who gave the report. You mentioned something about case studies, that one could submit them -- did you say January?

MR. CARTER: January 16th, yes.

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MS. PAYTON: Could you just briefly elaborate on the case studies.

MR. CARTER: Okay. As was suggested by members of our working group and as we have concurred that the approach we're going to take is a case study approach, we're going to evaluate a number of specific cases which could include either specific facilities or national policy issues.

If anybody has a facility that they would like specifically evaluated, or a national policy issue, we would be more than willing to accept proposals to review those.

What we intend to do with those case studies is to look for factors of success that we can interpret -- and also factors of failure from those specific clean-up instances or national policies -- and then try to provide recommendations that are very helpful to the clean-up process.

MS. AUGUSTINE: I'd like to say that one of those case studies could be the facility in Fort Ord that the lady -- it could be one of them, or -- you know, there was someone here from Kelly Air Force Base -- it could be one of them.

I don't think there's a formal process to submit a site. Am I right? If you'll just write a letter, you know. Brandon, could you tell them what's needed in the letter.

MR. CARTER: Actually, essentially all I would need is just an e-mail from you with the description of what you think the issue is. A description of either the policy, the site, and what you think the EJ concern with that specific site is. And maybe any appropriate background information that you think is relevant that I can forward to

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the rest of the working group. And contact information for yourself.

At our face to face meeting the working group is going to review all of these proposals, including proposals they themselves will be submitting, and we'll be deciding upon how many we will do and what our work load will be and what specific ones we are going to cover.

MR. LEE: I think it's Don, Luke and Peggy. And we're going to cut it off after that.

MR. ARAGON: Thank you, Mr. Chairman.

Have you been in touch with the task force group that is -- I believe it's the Tribal Solid Waste that has an office here in Washington, D.C.?

MR. CARTER: Yes. My office actually has given a grant to TSW over the last couple of years and we have worked with them -- not specifically on this environmental justice issue, but we have been collaborating with them in the past.

MR. ARAGON: Okay, thank you.

MR. COLE: I have a question first and then a comment.

My question is, you have the ten members of the working group, then you mentioned that there were also members from DOD, DOE, and DOI? How does that work?

MR. BENJAMIN: No. I'm going to get a little FACA technical for a second.

MR. COLE: Okay.

MR. BENJAMIN: We don't want to go to jail, so we try to live up to the Federal Advisory Committee Act. One of the things we want to do is make sure we use the same kind of criteria and approach for -- there's sort of three layers of involvement with the NEJAC.

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You have the full Council, as you know, and then you're in subcommittees. Then you're in subcommittees where people, some are on the full Council and some are only on the subcommittees.

Then the next level below that is the working group where you have at least an Executive Council member, perhaps some subcommittee personnel, and then some additional non-NEJAC folks that are now they're part of a NEJAC working group.

So we follow the same kind of criteria for selecting folks. But to be a FACA member you are not a federal employee. So there are no federal people on the FACA group, but there are people in the different agencies who have been designated to work with the working group to provide information, to provide resources, to basically be of staff support so that it's not just the working group sitting in isolation without access to information -- like if they wanted to look at Fort Ord, you know, the Department of Defense folks would be able to assist them in getting information, getting in touch with different people, maybe having a meeting at Fort Ord. So that's the kind of commitment.

That was part of the point of the memorandum of understanding yesterday, is to sort of codify that kind of relationship, that they have committed staff and time and resources to this effort.

MR. CARTER: Also I just wanted to add to that, which is -- I forgot what I was going to say -- that because of what we mentioned before -- actually, at the beginning of our session this morning it was said that the NEJAC's purpose is to provide policy recommendations to the EPA -- because of what I've mentioned, that federal agencies are the lead agencies for the clean-up of their own facilities, providing

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recommendations to the EPA might not be the most effective agency to provide recommendations to. Therefore, we need to have these federal agencies participating all along the way so that these recommendations don't go to the wrong place.

MR. BENJAMIN: Since you've got me at the front of the room, I'll take advantage of that. I also want to state that, as Tim Fields mentioned yesterday, meeting with the different federal agencies about the Interagency Working Group, he's also met with them -- I mean, about the Federal Facilities Working Group -- and that commitment is not -- you know, sometimes we get staff who come to the meetings -- that commitment is, like I said, at the top of the food chain.

So this is a genuine commitment of staff, resources and involvement over the long haul. So it's not just you all saying to us, as Brandon said, you know, can you go and ask them -- they're going to be in the room, they're going to be there as it develops, they're going to know as things evolve.

The example of the waste transfer station working group, again I like to cite, because as that was evolving, the Office of Solid Waste and Emergency Response was working on a parallel track and coming up with a citizen's guide and working on a best practices manual.

So we hope that will be the same type of outcome, that they won't wait until the end, they will learn as the process goes along, because they've made this commitment.

MR. COLE: I appreciate that, Ken, and I have enormous respect for your chair, Rose Augustine, and I have enormous respect for your work, and the fact that both of you are involved in this makes me feel

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much more comfortable about it than I did last night.

I have three points and a proposal. The first point is that I can only speak for myself, but if I remember correctly, I think I helped even draft this resolution that got this thing going. My intent was to have a vehicle or a forum for communities living near federal facilities to have an impact on what we were doing, to give them a group to percolate ideas that would then come up to us and we could advise the EPA.

That intent I think you see in the various charges to the committee, to find out the key issues of concern to environmental justice communities -- not to industry, not to state and local governments, not to NGOs, not to all these other stakeholders, but to environmental justice communities -- and how to address those things.

So I'm a little concerned when it comes back that you've divided the pie up and those communities are only three members of the ten-member committee when there are community residents from these communities who have attended many more NEJAC meetings than members of the NEJAC and obviously have a deep abiding interest in this that is going to transcend that of the state rep, the tribal rep, the NGO rep, and they should be at the table.

That's why I, at least, helped put this forward, and that's why I voted for it.

So, in terms of the intent of the NEJAC, I think you've gone a little bit astray. You mentioned that logistically it's difficult to have a lot of people, the kind of thing, you know how hard it is to get those community folks to take part in these things.

Well, I have two responses. One is I don't think you're going to

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have that same problem here because you have highly motivated, very sophisticated activists who are wanting to come to the table and are coming to the table at every NEJAC meeting.

Two is, because it is so hard sometimes to get volunteers involved in all of these processes -- whereas the tribal person is paid to be there, the state person is paid to be there, the local government person is paid to be there, the industry people are paid to be there, the NGO people are paid to be there, I'm getting my salary here today -- because the community people are volunteer and they may not be able to participate all the time, it is even more important that you have a disproportionate number of them on the committee because let's say they only show up a third of the time because of other commitments, because they have a job, whatever, then you only have one representative.

So, if you start out with three and you get one-third participation, because of the structural inequality which you've identified, you have even less, you have even more of a dilution.

So while you're arguing logistics for excluding people, I would say logistics is the reason to include more people.

Finally, you're talking about resources. I would submit to you that the resources to include three or four or five more people on a conference call really are not going to tax your budget. I know you're going to have two or three face to face meetings over the next two years and I submit the resources to add three or four people for those face to face meetings is not going to tax your budget either particularly for a conference call. So, the resource argument doesn't fly either.

So basically the intent of the NEJAC is kind of getting spewed.

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Logistically we need more community people. Resources-wise that's not an issue. So my proposal would be that you add at least three or four more community people to really have this working group start now at its beginning, at its infancy, to effectuate our intent as the minority.

MR. LEE: Hey, Luke, can you --

(Applause.)

MR. LEE: Can you send myself and Brandon an e-mail with those particular reasons and that proposal. What we'll do is to go through those point by point and address them. I think that that's --

MR. COLE: Charles, I said this earlier. I don't want a response.

MR. LEE: No, hold it --

MR. COLE: I, Luke Cole, don't need you to tell me whether this is a good idea or not.

MR. LEE: No, hold it a second.

MR. COLE: I want you to do something with it out there.

(Applause.)

MR. COLE: I don't want you to --

MR. LEE: Can I finish?

MR. COLE: -- to justify why you're not doing it.

MR. LEE: Can I finish?

MR. COLE: Yes.

MR. LEE: When I said address them, I mean we're going to take them and think it through and figure out whether or not we can make it happen. Okay? So when I say "address" I don't mean that we're going to take them and give you the reasons why it's not going to happen. Okay? Otherwise I wouldn't have said anything right now.

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1 With that -- Rose, did you want to finish?

2 MS. AUGUSTINE: Yes, I want to say something. There was a
3 concern about how the chair was picked out. When I took -- I
4 volunteered to be chair -- I told Charles, I'll be chair until you can find
5 someone that will take the place. I'm opening the spot for community.

6 There were four other people from the Health and Research
7 Subcommittee when we came out with the proposal for the Federal
8 Facilities Working Group, which was Dr. Payton, Lawrence Dark, Jane
9 Stahl and myself.

10 My experience has been with the Department of Defense. Our
11 group started in 1982 because of the problems that we were having with
12 a Superfund site in Tucson over the Department of Defense.

13 I would like to also see on this committee the Department of
14 Justice because the Department of Justice is one of the problems that
15 we've had in Tucson, and that's with the consent decree. And when you
16 have the ongoing clean-up and a consent decree has been violated,
17 certainly the Justice Department should be at the table listening to the
18 community.

19 But I'm hoping that the work plan -- like we've said, the work plan
20 is not etched in stone -- the community that is going to be working on
21 the working group is the one that's going to be directing how this plan
22 is going to be operating, how it's going to be working.

23 Also, I don't know if anybody realizes the enormous task that this
24 group is going to be tackling. We're talking about Department of
25 Defense areas, we're talking about Department of Energy, Department
26 of Interior and HUD -- in 18 months we're supposed to come up with

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1 something.

2 It's going to be quite a challenge but I think that we can do it.

3 MR. LEE: Peggy wanted to just make a point.

4 MS. SHEPARD: Rose, I just wanted to strongly recommend that
5 since people have been lobbying us for two years around this
6 committee, that we try to get those names and reach out to them and
7 let them know that they can submit a case study, a proposal. I think
8 that would be very important.

9 MS. AUGUSTINE: Right.

10 MS. SHEPARD: Certainly January 17th is coming up pretty
11 quickly.

12 MS. AUGUSTINE: Right. And if anybody needs help in writing a
13 letter, give us a call, or give Brandon a call. He'll help you. It's not an
14 application or anything like that, just a letter. And if you have problems,
15 give Brandon a call and he'll help you put it through.

16 MR. LEE: Let me just finish by saying that I want to thank Rose for
17 stepping forward to serve as the chair. You know, we had to really --
18 she did not really want to do it, but recognizing the enormous
19 significance of the issues, she agreed, and we are very, very thankful
20 for that.

21 I think that it is important that the working group develop a
22 communication strategy. Part of what's happening here is that this is an
23 enormously sensitive issue and not everything is in place. One of those
24 things that's not in place as well as it could be at this point is that
25 communication strategy.

26 There are certain people that are going to watch and really want to

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1 know the developments of this working group almost on a
2 weekly/biweekly basis. So I think that we just need to make sure things
3 like that are in order.

4 Lastly, I just want to say that you have to appreciate, like Rose
5 said, the enormous complexity of this. You know, this is working
6 through the NEJAC and the federal facilities communities, the other
7 stakeholders involved, but also all these other federal agencies. Not
8 only that, but also the offices within those agencies, including in EPA,
9 to kind of get all this geared up.

10 I want to really want to recognize the work that's been done by
11 Brandon Carter, for one. You know, he's really committed himself to
12 this task. I think that he deserves your recognition, and more
13 importantly, your support. And Rose and everybody else who's helping
14 with this.

15 So, with that, I want to conclude this with a round of applause.
16 (Applause.)

17 MR. LEE: Thank you. Okay, now that we got through all these
18 updates -- they were meant to be ten minutes a piece, actually -- our
19 planing wasn't the greatest here. However, I think we can make up
20 some time.

21 What we're going to move to -- if you look in your agenda for
22 Tuesday, December 12th, there's going to be a presentation from
23 Barbara Arnwine who is sitting to Haywood's right. She is the Executive
24 Director of the Lawyer's Committee for Civil Rights Under Law.

25 As you know, we met the examination of environmental progress
26 as far as integration of environmental justice in federal agencies to be

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1 prospective, and a lot of that has to do with identifying opportunities in
2 the existing statutes, including environmental statutes. We wanted to
3 have this presentation to kind of give a forward-thinking view looking
4 retrospectively at what could in fact -- what some would consider
5 missed opportunities.

6 With that, I want to present Barbara Arnwine. She's going to talk
7 for about 15 minutes or so and then open it up for discussion.

8 MS. TRAVIS-MILLER: Charles, could I just ask a quick question?
9 Is there a reason why Barbara is sitting over here and not over there,
10 because we can't see her and we can't have eye contact with her.

11 MR. LEE: Okay. Well, why don't you move then. I mean, one of
12 the reasons was because there are some people that are saying that
13 the audience cannot see, and being that it's only one person -- so, if you
14 so want to, this is fine.

15 MS. TRAVIS-MILLER: Well, it's Barbara's choice.

16 MS. ARNWINE: It's your choice really. I'll do whatever you want
17 me to do it.

18 MR. LEE: It is your choice. You raised the issue. What do you
19 want to do?

20 MS. TRAVIS-MILLER: Do you mind sitting over there? Thank you
21 very much.

22 MR. LEE: Actually, before you start, Barbara, it would be really
23 helpful to -- and I asked Gerald yesterday -- you know that Gerald
24 Torres was going to present some historical perspective on Executive
25 Order 12898. Gerald was counsel to the Attorney General at the time
26 that the Executive Order on Environmental Justice was signed and he

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was very instrumental in its development.

I asked Gerald if he could say a few words, maybe five minutes or so, in terms of setting some backdrop to this, and then follow that up with your presentation, Barbara.

The reason we're doing this is because of a lot of miscues in the scheduling and I thought this would be important.

HISTORICAL PERSPECTIVE ON EXECUTIVE ORDER 12898

PRESENTATION BY MR. GERALD TORRES

MR. TORRES: Charles asked me to talk a little bit about the Executive Order. One of the reasons I want to discuss some of the background to it is that we've moved by fits and starts over the last few years in developing the federal response to the issues that are raised by the environmental justice movement. But saying that we've moved by fits and starts is not to say we haven't moved at all.

Damu's presentation yesterday indicated that movement is possible, but it's possible primarily if something more fundamental than addressing a specific problem occurs. That fundamental thing is if there is a change in the institutional culture within the agencies that respond to the issues that are raised by the environmental justice movement.

When we were putting together the Executive Order -- one of the difficulties, of course, of an Executive Order is that it does not by itself create enforceable rights for the people to whom it is addressed. On the other hand, the principal audience in many ways are the federal agencies that are directed to change the calculus of decisionmaking. The hard thing for agencies to do is to incorporate into their basic decisional DNA issues that were outside of their mandate.

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One of the models for the Executive Order was NEPA, the National Environmental Policy Act. The National Environmental Policy Act when it was passed was generally received by environmentalists as a sop to the environmental movement, something with no teeth, no law to apply in essence.

One of the goals of NEPA, though, was to, as just discussed, to change the kinds of factors and the various weights that had to be given to environmental issues. My review of the literature on NEPA during the process that the Executive Order was being drafted suggested that in fact federal agencies had begun to change their decisionmaking structure so that environmental issues were taken into account in the process, which is not to say that environmental issues always prevailed over the dominant mandate of a particular agency but that the change in the factors that were considered did lead to better decisionmaking.

So one of the things we were hoping was that with the Executive Order not only would we begin to incorporate some of the issues that had been raised and generated by the environmental movement over the years in which it was active outside the government, but to put some of those concerns into the decisionmaking structure that agencies would have to take into account as they moved forward.

I think we're seeing some of that in some agencies more than others. But what would be useful, and it would be a through-going analysis of the extent to which these issues really have percolated down into the decisionmaking structure, and the extent to which interagency coordination drives that process where you have two driving agencies -- basically EPA and DOJ -- and whether or not DOJ and EPA have

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taken the leadership role that they need to take in pushing that decision structure down through the other agencies.

MR. LEE: Thank you, Gerald.

Barbara.

MISSED OPPORTUNITIES IN ENVIRONMENTAL LAWS

PRESENTATION BY MS. BARBARA ARNWINE

MS. ARNWINE: Thank you. To Mr. Barry Hill, to Charles Lee, to Mr. Haywood Turrentine, to all the members of NEJAC and to the audience, good morning. I want to thank you for inviting me here today to speak on the important topic of environmental justice litigation and the missed opportunities that we have had to advance the interests of environmental justice through our nation's laws.

As you have heard, I have 15 minutes. That cuts my speech my more than half. So it may appear disjointed but I will try to summarize, as any lawyer knows how to do when you have a judge looking at you with that green light and knowing that the red light is coming.

NEJAC -- I want to just take a moment to really commend the work of the NEJAC. You've been so instrumental to this movement through our advice, through your recommendations and through your reports. You have addressed very critical issues of the U.S./Mexico border, Superfund relocations, tribal environmental programs, brownfields, waste transfer stations, and the cumulative impacts of permitting and siting decisions.

I also want to thank the EPA Office of Environmental Justice for your commitment to bringing the perspective of a litigating organization, such as the Lawyers Committee for Civil Rights Under Law, to this

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meeting. It is an honor to be here.

We all are here because of our profound commitment to equal justice for our clients and the communities that they represent. Nevertheless, environmental justice law is still an evolving law even after more than a decade and a half of advocacy. It's still at the litigation stage, requires novel concepts and forward thinking as such as it uses principles of civil rights, combined with environmental laws to promote equal environmental protection for all communities throughout our nation.

Working with many of you, the Lawyers Committee began its environmental justice project nearly a decade ago. Our approach to this issue has been unique as we litigate and advocate using our tools, federal civil rights laws and the U.S. Constitution.

Through the Lawyers Committee Environmental Justice Project we used the rule of law to challenge environmentally discriminatory behaviors and decisions. Ultimately we seek justice for people of color who are fighting to clean up contamination on the land where they live or who are trying to stop environmentally harmful activities from occurring in their neighborhoods.

We are all here to reflect on the state of environmental justice today. I want to talk about the challenges we have faced through litigation and the successes and failures we have all experienced trying to advance this issue.

As an initial matter, I want to take a minute to acknowledge the accomplishments of NEJAC and the environmental justice communities in formulating what have become very helpful legal principles.

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Communities have taken a leadership role in securing this progress, as demonstrated by their persistence and conviction which has led to important although we would say not as many victories as we would like to have.

Such is the struggle of the families in Pensacola. Many of you know about the Pensacola situation because you had hearings on it and you in fact conducted investigations and other things that were helpful -- although the Lawyers Committee was honored to represent Marjorie Williams and those 350 families in pressing EPA to respond to avoid litigation, raising the communities potential legal claims and then listing the advocacy of legislature as the members of the administration, our role was a very small piece of the massive sustained and ultimately successful efforts of the local and national environmental justice community in bringing about the relocation of those families.

It must be noted that NEJAC played a vital role in calling attention to the plight of that community, calling for a national pilot on relocation, and urging the development of an equitable and sound national policy on relocation, a process that is still underway.

Other successes include urging EPA to include contaminated sites on the list of Superfund sites and providing strong community participation in the environmental permitting process which has led to stricter conditions being placed on the operation of those facilities.

It is the partnership of lawyers working with communities that has helped to secure change.

Continuing our struggles for environmental justice communities the time has come to seek assistance from environmental justice lawyers.

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Now, the concept of environmental justice lawyers, I should tell you, is a broad one. The sad thing is that there are so few people who really are environmental justice lawyers, and I will talk more about the impact of having such a constricted bar and the ability to really develop and pursue environmental justice litigation.

When called upon, these lawyers have worked closely in partnership with communities in order to formulate the most effective strategies possible. Often this requires extremely innovative lawyering using the most creative and sound legal theories to best advocate on behalf of these communities.

For example, the most successful cases in environmental justice have used historic segregation patterns to argue that certain decisions which exasperate environmental inequities serve to perpetuate these preexisting segregations in violation of the Equal Protection clause of the U.S. Constitution, Title VI and the Fair Housing Act.

We have also used environmental laws and the Executive Order on Environmental Justice to argue that environmental justice concerns must be addressed both in the permitting process and in the selection of sites for hazardous facilities.

There are many things that governmental agencies have done well that we could talk about, nevertheless there remains a tremendous delta between what agencies could do and what has been done. I constantly talk to lawyers who priorly (sic) worked with many of the agencies and they talk ad nauseam, instance after instance, incident after incident where they know they could have used the law more aggressively but were told not to. And it becomes a real question about what's going on

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with the governmental bar.

I also want to recognize very quickly that efforts have also been extended to advocate for environmental justice in the international community. As NEJAC has recognized in its recommendations regarding environmental justice on the U.S.-Mexico border, environmental inequities cross borders and involve international issues. Whether it is the export of domestic waste to the poorest communities abroad or extreme contamination caused by the activities of multinational corporations operating in the countries of black and brown people around the world, environmental inequities are certainly not unique to the U.S.

Indeed, I just returned -- you can probably tell my voice is strained -- I just returned on Sunday from Santiago, Chile where there was a preparatory meeting, the Regional Meeting of the Americas, to talk about the prepared documents and other information for the upcoming U.S. World Conference against Racism that will be held August the 31st and September 7th, 2001 in Durban, South Africa.

At that meeting we took a very strong position that environmental justice had to be included in any document that was developed by the Americas. I will tell you, the document that the member states, that is, the governments developed, had not one word about environmental justice, not one word about environmental protections, not one word about the impacts of environmental operations upon indigenous peoples or Afro-descendants.

As a result of that, a small working group of us convened. That working group included people who you know. Nancy Abuda and Leslie

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Fields from the Interim National Black Environmental and Economic Justice Coordination Committee; Dr. Debra Robinson from International Possibilities Unlimited; Juan Figueroa from PearlDef (phonetic); Teresa Leal from Southwest Network for Environmental and Economic Justice; Robert Robby Rodriguez from the Southwest Organizing Project; Cecil Corbin-Mark from the West Harlem Environmental Action; and Reverend Adora Iris Lee from the United Church of Christ; and the Lawyers Committee, the representatives, myself, Tom Henderson and our board chair.

We worked to come up with a set of recommendations that I understand were in fact incorporated into the final document. So the work of environmental justice advocates is not just work domestically, it is work that has profound impact internationally and we all know that it's very important that international standards and international courts, such as the plan of action that will come out of the U.N. Conference, should be applied and adopted and utilized in the United States.

We know that the courts have not been very receptive to environmental justice cases. While our communities can all agree that environmental and civil rights laws have been innovatively used to address environmental justice concerns, in some instances environmental justice agency decisionmaking at the federal level illustrates -- and it's a euphemism to say a reluctance -- reluctance to use enforcement and civil rights laws as effectively as possible.

Recently federal agencies have been more willing to recognize environmental justice concerns but have not generally been able to use them as a basis to alter the course of decisionmaking. It is because of

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1 this hesitancy that the environmental justice community has had to lead
2 the way, seizing opportunities to use existing laws to advocate for
3 developing this area of environmental law, which is still very embryonic.

4 Unfortunately, in reviewing the case law it is very clear that we
5 have met with limited success in the federal courts which are often
6 unreceptive to the newly-stated legal theories even though they are
7 based on existing federal laws. For civil rights advocates, you know, we
8 understand the long-term fight for justice -- I mean, absolutely, as we all
9 know, the battle that culminated in Brown versus Board was more than
10 a century old battle. We don't want to wait a century for environmental
11 justice laws to be effective.

12 Yet, it is very clear that without a change of strategy within our
13 community that we will have a long ways to go to being where we need
14 to be.

15 We need to think together about the ways that we could be more
16 strategic in fashioning legal theories that will use existing environmental
17 civil rights and constitutional law and in choosing the cases in which we
18 bring them.

19 In preparing for this speech we reviewed 14 cases recently decided
20 by the federal courts -- now, when I say recently decided, I mean in the
21 last two years. In that case list -- I'm just going to read you the titles
22 real quick; I can't go into them.

23 I will tell you that we looked at, first of all, attempts to use the
24 Executive Order to enforce rights by communities. There were three of
25 those cases, all which were unsuccessful: Acorn versus U.S. Army
26 Corps of Engineers; Morongo Band of Mission Indians versus FAA;

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1 Citizens Concerned Against Jet Noise versus Dalton.

2 We also looked at cases that involved NEPA and the Executive
3 Order which were also -- once again, there are three cases -- I'm sorry,
4 there are six cases, and all were unsuccessful: Atlantic States Legal
5 Foundation versus Browner; Young versus General Services
6 Administration; Acorn versus U.S. Army Corps of Engineers; Goshen
7 Road Environmental Action Team versus USDA; New York City
8 Environmental Justice Alliance versus Giuliani; South Bronx Coalition
9 for Clean Air versus Conroy.

10 We looked at Clean Air Act and Executive Order cases, of which
11 there is one: Sur Contra versus Contaminacion versus EPA.

12 And we also looked at successful cases, of course. Most of those
13 cases, again, are those that have used housing law. And some of those
14 cases have also been unsuccessful. Jersey Heights Neighborhood
15 Association versus Glendening; Elliott versus Chicago Housing
16 Authority, which is one of the real victories to be celebrated by our
17 community.

18 Then we looked at unsuccessful and other constitutional
19 challenges and CERCLA cases: Washington Park Lead Community,
20 et al. versus EPA; West Dallas Coalition for Environmental Justice
21 versus EPA.

22 What is striking about all of these cases is that when you look at
23 the cases, who are the plaintiffs and who are the defendants. In every
24 instance you heard a communities organization as a plaintiff and a
25 federal agency or a state agency as a defendant.

26 What is remarkable about that is that contrary to every other area

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1 of the law that I know of in practicing civil rights law, as I have been, for
2 27 years -- what is remarkable is that you do not see any affirmative
3 advocacy by federal agencies on behalf of communities. Not one of
4 those cases was EPA versus, Department of Interior versus. All of
5 those cases are some communities group having to find private counsel
6 to sue the government.

7 The government has an affirmative duty to sue entities and to
8 litigation where there's ongoing environmentally hazardous activities to
9 permit and to work to prevent those kinds of activities. But we see none
10 of that.

11 I think that is a huge question for every federal agency here. What
12 is going on?

13 The role of the Department of Justice, the role of every agency's
14 attorneys, this vast array of legal resources, has traditionally had a
15 double sword, one as a defendant, but very strongly as an advocate and
16 as a plaintiff. The lack of plaintiff ability here is striking.

17 I think it's also very interesting when you look at these cases to
18 note how limited the resources are that are available to the litigation
19 groups working on environmental justice matters. Indeed, what strikes
20 me in really looking hard at this is how constricted the area of practice
21 has become, how few groups are doing this work versus eight years
22 ago. There's been a retreat even within environmental organizations
23 and within civil rights organizations in working on these matters.

24 It requires us to think very strategically about what's our future and
25 how we use these courts and how we move forward.

26 I'm going to, for the sake of time, dispense with talking in depth

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1 about all the cases. I would note that, such as in re AES Puerto Rico
2 an administrative decision by the Environmental Appeals Board, by the
3 EAB, which was affirmed by the First Circuit Court of Appeals -- in that
4 unsuccessful case, one, it was good that the EPA acknowledged that
5 environmental justice policy and analysis should have been applied, but,
6 once again, their standard was so low that they found no impact -- even
7 though they found a disparate impact on the low income community,
8 they still issued the permit simply because they found the impact was
9 not adverse since it complied with existing air quality standards.

10 What are environmental justice standards if they do not have the
11 ability to be effectively integrated with existing standards?

12 I have to wrap up.

13 A couple of things real quickly. In order to be effective it's very
14 clear that we need to have very specific legal legislation that addresses
15 environmental justice issues at both the federal and state level. It is the
16 lack of this legal framework that leaves so many of our communities at
17 risk.

18 In addition, there is a need for a stronger Executive Order, and the
19 Executive Order should explicitly apply and be enforceable by
20 community group.

21 We are very proud of the victory in Portsmouth and the work that
22 was done by Helen Parsons. We're very proud of the work that was
23 done in the West Dallas case. Even though it was a partial victory, the
24 court there also acknowledged the circular bar did not apply, but it did
25 not ultimately result in the communities.

26 We believe that the Elliott versus Chicago Housing Authority case

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is very important because it found the private right of action under the Lead Based Paint Poisoning Prevention Act for communities.

We all know that the Alexander versus Sandoval Supreme Court decision which will be delivered this coming year will have a major impact on Title VI, the broad reach and scope of Title VI, because that case, as you know, is a case that involves trying to prohibit the application of Title VI by private parties.

Lastly, I just want to end by saying that as we sit here the question of what administration will preside beginning in January is about to be decided. With a new administration ahead of us, we must reflect upon our current position and scrutinize our future strategy. Under the Clinton Administration progress has been made, we have the Executive Order, NEJAC and other leadership. However, under a new administration a platform from which to continue pursuing our common objective may no longer be provided in the federal context.

We know, and some of you have seen some of these talking heads who have been asked about what would happen under certain administrations with the Executive Order and you have heard some of them do their thumbs down saying "that order is gone." We know that in Congress with a 50/50 split in the Senate and close House, it will be very difficult to pass any kind of legislation. That's probably favorable given some of the views of the past Congress on Title VI, but it's a very difficult position for going forward and getting the kind of legislation that we need.

So what needs to happen, in my opinion, is that there has to be a greater reconnection, reconvening and restrategizing by litigation and

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environmental justice community advocates. Civil rights organizations must reprioritize environmental justice. We must -- in fact, we are recommending to the Leadership Conference on Civil Rights that it immediately reactivate the EJ Task Force.

There also needs to be a greater meeting and coming together of our groups consistently because we must persuade EPA and other federal agencies, as well as members of Congress, the administration and state and local officials to advance and include a commitment to environmental justice in their policies, programs and decisionmaking. This must be across the board.

In closing, I want to thank you so much for this opportunity to just do a quick overview of what's going on with the law. I want to thank Janette Wipper and Tom Henderson of my staff for their work on this. At the Lawyers Committee we are making a deeper commitment to environmental justice by elevating our subproject on environmental justice to full project direct status and we are hiring a project director to head up that work.

I hope in the next several months that we will work very hard on these issues, both domestically and internationally and that we all will recognize and will be able to get the Federal Government to accept that environmental justice must be an essential component of our environmental and anti-discrimination laws and of national environmental and civil rights policy. Nothing less is acceptable.

Thank you so much.

(Applause.)

MR. LEE: Thank you, Barbara. Let me just say that both Gerald

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Torres and -- if you would, Barbara -- submit your comments in writing. I know that you have a full text and Gerald has agreed to provide us a set of written comments.

I just want to say that just because Vernice and Alberto put their cards up first it doesn't mean that they're going to be recognized immediately. I think we shall ask Marinelle Payton if you have a comment.

MS. PAYTON: Thank you very much. My question is basically in two parts. I'm curious as to approximately how many environmental justice cases we've seen over the history of such cases, and particularly those in reference to health concerns. For example, like you were referring to the lead case.

Part 2 of my question concerns with how many of those cases, or if any, have actually used health as a criterion for considering environmental justice issues in decisionmaking.

MS. ARNWINE: Thank you. I think it's very fair to say that in the majority of the cases that we have seen -- and I'm hesitant to give a count, but I would say that it is about -- there's more than 70-something cases over the last decade that have been decided or settled privately or brought administratively.

What is striking is that in most of the cases they do involve some threat to health. In fact, those allegations are very prominent in the pleadings. They either are ongoing conditions where people, as in Pensacola and Washington Park in West Dallas, are living in contaminated areas and their health is being impacted and they're having fights with federal agencies as to whether or not the level of

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exposure and the level of injury is significant enough to require relocation of those communities, or they are communities that are trying to prevent what are hazardous activities -- admittedly hazardous activities -- from being conducted under their noses even though people are alleging that they will not have adverse health impacts.

Health is a huge issue in a lot of the cases, but I will say that there is a kind of callousness that I see in the courts on the ability to really recognize and to judge what are fundamentally dangerous health problems and what they think are permissible risks that communities should take.

MR. LEE: Thank you. Next we'll go to Peggy Shepard.

MS. SHEPARD: I wanted to know what the components of the cases that were successful, what stood out.

MS. ARNWINE: I think what those cases all have -- what they have in common is that they were -- first of all, I think some of the things they have in common is that they used fair housing law, which is very established law, in a creative way.

A lot of the cases that I gave to you, the EJ Executive Order cases, for example, were trying to make an Act apply in two private parties that was not written in a manner that could be easily interpreted that way.

Other cases have involved, you know, applications of the 14th amendment and other Constitutional challenges. It seems that the courts listen harder when there is a Constitutional challenge. It seems that they are more willing to give an analysis of equal protection in the laws than they are when they're applying NEPA, other environmental laws, and when they're applying what they consider stretches such as

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the application of the Executive Order.

So I would say very strongly that it's the housing cases, the cases that use fair housing laws, and it's the cases that use the Constitutional challenges that seem to be the most successful, although I did mention the Elliott case which is the Housing Authority case in Chicago where there was success using the lead prevention act.

MR. LEE: Thank you. Next, Alberto.

MR. SALDAMANDO: Thank you very much. I agree that -- as a matter of fact, internationally I think is an opportunity that we have not exercised at all. It does provide an additional forum, not necessarily a very effective forum, but an additional forum, to raise many of these issues. I think Tom's report about the POPs convention was very welcome -- the participation of people, it's more broad-based.

I don't know if this is an appropriate time to mention it, but we have been working through the International Subcommittee trying to get accreditation as a national institution. Unfortunately through e-mail I've been informed that legally EPA does not believe that we have the mandate; that our only mandate is to advise the administrator, and that is it.

I'm not sure how much of an issue the committee is going to want to make of it. I hope that it would be put on our agenda soon because I do think that NEJAC -- as the participants from North America and Santiago demonstrated, I think that we have a lot to offer with regard to an international definition of environmental justice because if you think it's bad here, it's equally bad and sometimes I think because of the extreme poverty found only on Indian reservations in the United States

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-- because of the extreme poverty in the Third World, in the developing world, it is exacerbated to the nth degree.

I think we also have a responsibility, at least on the International Subcommittee, to address issues of environmental justice, not only how foreign policy affects America or U.S. communities with regard to environmental justice, but I think there is at least a moral obligation to try and examine those policies with regard to people of color and poverty communities overseas.

So I honestly very much appreciate your comments and that insight. Thank you.

MS. ARNWINE: And I want to tell you, everyone in this room would have been extremely proud to have been in Santiago because in addition to the work that was done with the U.S. delegation which then took our recommendations to the international forum to be adopted into the plan of action, there was a wonderful speech given on behalf of all the environmental justice and civil rights organizations that were there in Santiago by Leslie Fields that have been developed by a coalition of people, a very excellent statement, that she read on the floor for three minutes.

It was so well received that the governments in summing up their day's activities talked extensively about her speech, by name, making reference to the ideas that were in the speech about environmental justice, environmental racism, impacts on poor communities, and very much they talked about the whole issue of economic blackmail which was apparently an idea that many governments had not wrestled with before, and the idea of access to information.

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So there were a lot of new ideas that they were clearly acknowledging and saying, wow, we need to think about this more and this is really exciting, what we've heard today. So it shows the importance of the international work.

MR. LEE: Luke.

MR. COLE: Thanks, Charles. Thank you, Barbara. It's nice to see you again.

MS. ARNWINE: It's great to see you, Luke.

MR. COLE: I thought it was a very key insight that these cases were not federal agency versus defendant, but were all plaintiffs versus federal agencies.

MS. ARNWINE: Yes.

MR. COLE: And that's an important insight. One of the things that I was curious about was the apparent omission of what I consider to be the most successful legal strategy used by environmental justice plaintiffs which is the use of straight-up enforcement law. That's a strategy that we've used very effectively for more than a decade and which communities groups have used around the country to win hundreds, if not thousands, of cases at this point.

So I was curious as to why you weren't highlighting that as the central successful strategy that the movement has used to achieve environmental justice on the local level, which is use of state environmental law and federal environmental law to attack the environmental justice problem.

MS. ARNWINE: Yes. I'm sorry. Unfortunately my speech was in fact truncated. I did skip a whole section talking about the successful

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use of not only state environmental laws, but also a section that talked about some of the other kinds of advocacy successes that community organizations have used that have gone into everything from public policy making at city council and state levels and the kind of media work that groups that have done that have been successful and embarrassing groups to withdraw proposed sites, siting activities.

There is a lot that goes into this. I am struck, however, that with NEPA in particular that it is very interesting how many losses there have been in the federal courts. At the same time, as I acknowledged, there's been no -- for this speech we only looked at the -- we majority (sic) looked at the federal courts.

But I agree with you that there's been a lot of unreported and other important victories that communities have done. No doubt about it. I mean, it's been the success of this movement.

MR. LEE: Great. Vernice.

MS. TRAVIS-MILLER: Hi, Barbara.

MS. ARNWINE: Hi, Vernice.

MS. TRAVIS-MILLER: I want to thank you for a really rich presentation. It was really -- I think it gave us some good historical perspective.

I would add, as Luke added cases, I would add Bus Rides Union versus the City of Los Angeles and the City of Los Angeles Department of Transportation brought by your sister organization, the NAACP Legal Defense --

MS. ARNWINE: Yes.

MS. TRAVIS-MILLER: I think to date that has been perhaps one

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of our most successful Title VI challenges brought, even though the case was settled.

In the course of this meeting we've been sort of summing up where the agencies and the Federal Government have come to in the course of the Clinton/Gore Administration, or the two Clinton/Gore Administrations, around this issue, and we've been giving out a lot of kudos, so I want to give a kudo to the Lawyers Committee for Civil Rights Under Law for the leadership role that you have played in sort of conceptualizing environmental justice in a civil rights framework.

In that vein I want to thank you particularly for bringing a particular person to the table, Ms. Deechohn Ferris who was the first --

MS. ARNWINE: Absolutely.

MS. TRAVIS-MILLER: -- of the environmental justice project of the Lawyers Committee who took us into a whole new realm of really thinking and conceptualizing these issues. In fact, you were sitting in the room when the Office of General Counsel presented that memo that Deechohn first worked on when she was the Chair of the Enforcement Subcommittee and a staff member of the Lawyers Committee.

Also, thank you for the contributions of Selena Mendy and Damon Whitehead who are also attorneys in the environmental justice project of the Lawyers Committee who make significant contributions.

My question to you, Barbara, is that I want to know sort of what was your thinking about why you thought a major civil rights organization with the history that the Lawyers Committee had should take on the issue of environmental justice because it's my perception that with some rare exceptions the civil rights bar has not been as

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aggressive in this area as they should be and that all too many times we've gone begging to the civil rights bar to join us in this struggle and we have been left hanging.

With the exception of the Lawyers Committee, with the exception of the NAACP Legal Defense and Education Fund, we have not had a response. In fact, the EJ community is still waiting for a response to a letter that we sent to Kweisi Mfume when he first became the Executive Director and CEO of the NAACP about addressing these issues. We are still waiting for a response to that letter.

So we have some real issues here, and I want to know, what was your framework and what was your thinking and why did you think this was an important area of the law to pursue programmatically for the Lawyers Committee.

MS. ARNWINE: I think that when we decided to get involved in environmental justice what motivated the Lawyers Committee was that we kept seeing these issues coming up in other litigation. We would settle -- for example, we settled a case involving unequal educational facilities between Black and White communities and there was a proposal to build a new integrated high school. The site that was picked was a landfill, had been an ex-landfill.

We had a case that was being pursued by our compatriots in Boston where lead contamination in the school's water supply was a major issue.

Everywhere we looked, these environmental concerns were popping up in our cases. And I still think it's significant that even in the cases that we mentioned, such as Pensacola and Portsmouth, that we

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are one of the few national civil rights organizations that do public housing litigation. It strikes me terribly that in each of these cases proposals were made to relocate communities -- and in fact, in Portsmouth a relocation was undertaken -- but the public housing tenants, who were Black, were each time proposed to be left on the table and not to be moved.

So issues of race and environmental protection and civil rights came to us very quickly in looking at the litigation that we were undertaking. I came to the Lawyers Committee in '89 and by 1990 it was clear that we needed some focus on environmental laws.

It was at that time that fortunately we became aware of the Environmental Justice Summit, the historic summit, and we became aware of the term environmental racism, and I had worked on some other cases when I was in school involving environmental racism. I believe in North Carolina with the Warren County fight. You know, I marched and did other things when I was a law student, and learned a lot there.

But basically we realized that there was a need to address these issues. We've made, as you know, as an organization, a tremendous commitment. We support most of this work out of our general funds that we raise from, you know, people that we appeal to to give to the work of the Lawyers Committee. As all of us know, there's very little infrastructural grant-making in this area.

I think that's one reason why you don't see a lot of civil rights organizations doing this work.

I think another problem is that there is this reluctance, as I ran into

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with my own board initially, of saying, well, why don't the environmental groups do this work? It's hard to explain that groups that can have such a huge public interest could be so devoid of consciousness and will when it comes to representing communities of color and protecting them.

I think that those are some of the reasons. But what I think has been very important is that regardless of whatever losses I talked about today, there have been tremendous victories. The law is malleable. It can be bent to serve the wills of communities, and it could be.

The MTA case which I did not mention, which could have been included, is an important case. In fact, those kinds of cases I see rise up. Indeed, I think that one of the biggest civil rights issues before federal agencies, especially before the Department of Transportation, is their policy on encouraging suburban -- you know, their focus on suburban service to the detriment of inner city neighborhoods and to the detriment of even minority suburban neighborhoods.

I think that there are some serious issues. I spoke to the DOT at the regional meeting in Chicago a couple of months ago. I think that there are serious issues that need to be looked at that you should question them about their national policy which is absolutely wrong. So there's a lot of issues.

I do appreciate your kind comments. We're proud of the work that Deechohn has done and continues to do for this community. We're proud of the work that Selena has done, that Damon did and continues to do, that Annette does, that Tom does, that all of us do. But we have to get more players into this field and we have to work more closely together

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as civil rights and environmental justice advocates. It's critical.

MR. LEE: Great. Thanks. One last question from Rosa Hilda and then we're going to complete this panel.

MS. RAMOS: I really want to commend you and the careful analysis you have completed regarding the struggles in the court arena and the strong knowledge you have regarding this type of agonizing process for communities.

We are one of the communities you just mentioned, you know, Communities United Against Pollution in Puerto Rico, one of the unsuccessful stories because of Region 2 EPA double standards regarding environmental justice.

I'm very happy to see that you have come to the same conclusion that for a community to struggle in court using the environmental justice argument is, you know, doomed to failure. We think the most promising arena is to address the unequal protection of law. We are about to file a lawsuit using that argument, so I'm very happy to see that you have come to the same conclusion, and I would love to talk to you afterwards. Thank you.

MS. ARNWINE: I want to say that we believe very strongly that part of the problem is in fact that the laws need to be strengthened and that we have to build the right -- you know, there's the wrong infrastructure in many cases for pursuing the cases most effectively.

We also believe very strongly that the lack of government lawyers using, as they did when we developed civil rights law -- I mean, Title VII did not just evolve into the incredible effective tool it is today by itself. It was governmental federal lawyers that did a lot of the strategizing and

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theorizing on how you make those laws the most effective, how to use the Civil Rights Act of 1964, how to use the Voting Rights Act, how to use the Fair Housing Act, how to use all of these panoply, a myriad of civil rights structures and Acts to be the most effective.

What is missing is that there is nothing like that going on in the federal agencies around environmental justice. That is what's wrong. All they're thinking about is defense, how to weaken it, how to weaken the theory, how to make it inapplicable to the agencies. And in doing so, they make it inapplicable period.

So it is this imbalance of conceptualization and assistance and theorizing that I think is the biggest problem. And the lawyers who are within these agencies who want to do that are discouraged and therefore become frustrated and they either leave or they turn their attention to other things because they see no way to do it effectively.

So I think that's part of the problem. But at the same time, if we could do a more effective merger of civil rights organizations and our community groups, I think we also could up with better strategies too. And I agree with you that there's a lot to talk about.

MR. LEE: Thank you, Barbara. Before we conclude this, I think it should be noted that one of the -- the importance of Barbara's presentation is, I think, obvious. But I think that it should be noted that -- you know, part of Barry's contributions -- Barry Hill's contributions -- as the Director of the Office of Environmental Justice is really to try to encourage and support the exploration of the use of the law.

I think that part of the background to Barbara's presentation and a lot of what has happened in the last two years has been, you know, from

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that effort on Barry's part. It is something that needs to be continued.

I would like everyone on the Council and others to recognize that Barbara's presentation did not happen within a vacuum, but within a thoughtful framework that Barry's been trying to put in place.

MS. ARNWINE: That's right.

MR. LEE: So, with that I guess we should move on. Barbara, I'm sure the Council would love to continue this conversation with you and they would hope that you would be willing.

MS. ARNWINE: Absolutely. And I really appreciate it. Once again, thank you very much for calling me and saying come and do this. I said, Oh, Barry, because I have so many other things. But I really do appreciate your continuing to conceptualize and use the brilliance. And I commend this whole NEJAC for the work you've done, for your tenacity, for your vigilance, and for the leadership and the innovations that you continue to bring to this movement.

Thank you so much.

(Applause.)

MR. LEE: We're going to have at this point -- I know that you are probably all anxiously awaiting a break, but I don't think that's going to happen. I mean, we're already behind time. Part of that is to try to accommodate your desire to have real interchange and dialogue with the various presenters, and I think that's been very good. But time is something that honors nothing else.

(Discussion off the record.)

MR. LEE: Let me explain what's going to happen. It is now approximately 11:30. We're going to have two panels from the various

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demonstration projects, the Interagency Environmental Justice Demonstration Projects that were alluded to yesterday. We broke them up into two panels -- if we're able to go through in the next hour or hour and a half two presentations, because, remember, one of them you heard from yesterday in terms of Admiral Weaver.

I'm going to ask that Mary Nelson who is the Executive Director of Bethel New Life in West Garfield Chicago and Mayor James Talley -- or, the Honorable Mayor Talley -- mayor of Spartanburg, South Carolina, take your seats at the panel.

I think that what I would like to do is go from now until 1:00, have an hour break for lunch and we'll be at that point almost back on schedule.

(Pause.)

MR. LEE: Okay, are we ready? Council members, can I ask you to take your seats? You know, we were supposed to get a chime or something, right? It's not very loud. Do we have a gong or something?

(Pause.)

MR. LEE: I know there's a lot of stimulation that just took place and you're very excited, but we need to move on. Can the Council members please take your seats.

Okay, do we have a quorum? Can we ask that you locate the rest of the Council members.

I think the presentations are going to speak for themselves. I just want to say how pleased I am to be able to introduce Mary Nelson and Mayor Talley to make their presentations.

I think Connie Tucker mentioned yesterday in her public comment

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about how, you know, one of the real jewels of the efforts of environmental justice in the EPA was the effort in Spartanburg. I think the same could be said about what you're going to hear from Mary Nelson in terms of the West Garfield section of Chicago.

They will speak for themselves, so with further ado, I would just turn it over to Mary Nelson.

PANEL 4A

INTEGRATED INTERAGENCY DEMONSTRATION PROJECTS PRESENTATION BY MS. MARY NELSON

MS. NELSON: Thank you. It is a real pleasure to be here and to share this pilot example of an interagency cooperation on the local level that makes it work. And special thanks to Charles Lee and his leadership in this kind of effort.

Bethel New Life is a faith-based communities development -- a 20-year-old communities development corporation, and our goal is leading a healthy sustainable community. We're in an empowerment zone area of the west side of Chicago where at the time of the empowerment zone statistics about 27 percent were unemployed in our neighborhood. We hope it is a lot better when the year 2000 census comes out.

Our definition of sustainable community development has four components to it: economic security, and that's jobs, jobs, jobs; environmental integrity and environmental quality so that the air we breathe, the water we drink, all of the other things, the lead pipes in our buildings, all of those things, are high quality of life for all, that schools and opportunities and jobs and so forth; and then public participation in decisionmaking.

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technological transfers that make this work, and it has helped us to attract the kind of intergovernmental cooperation that's so important in doing these projects.

So you can see here that it's HHS and EPA and EDA and foundations and Argonne and city colleges and HUD, and the empowerment zone and our city department of health. It's all of these things working together.

But you need some glue. So when we go down to meet with city officials and so forth, having Argonne at our side is a help in getting their attention and making that happen.

The third basic premise for doing community interagency projects is an asset-based approach. If we as a neighborhood simply think of ourselves as deficit people, as a neighborhood that's a deficit. And you know, in development they talk about location, location, location, and so nobody would choose this location. But unless we can think of our neighborhood as having assets, our people as having assets and capacities and opportunities, we would then look at our neighborhood as it is now as a dump, as a lot of brownfield sites, as bad schools, as people who are on welfare, and negative images.

But when you look at an asset-based capacity, we say, oh, we've got a major transit stop here, and oh, we have a park right over here, and oh, we have this company over here, and oh, we have this vacant land on which we can develop.

So, thinking about ourselves and our neighborhood as assets, as having gifts and opportunities, is an important way of looking at things.

And so one of the first things that happens when you begin to look

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And so two of the four components are directly related to the work of environmental justice. Public participation, that we need to have an input on what's going on in our neighborhood.

I say there's three things that make it work in a neighborhood in doing these interagency things. The first one is vision. We use this process of visioning our community as it is today with all the brownfield sites, with all the vacant abandoned industrial areas, with the -- and some green spaces, but it's sort of overcome by parking possibilities, and vacant land and gray areas, but with a great view to downtown Chicago and a railroad track, the Lake-Pulaski green line, running through there. That's our present day look at our neighborhood.

Then we look at what it would look like if we don't do anything in the next 20 years, by 2020. It will be even grayer, with maybe some industrial development, but houses and people having been moved out of the area, and abandonment and demolition all over the place.

This look at how our community might be if we don't do something helped to energize people to say, well, what do we want to see in 20 years? And so here is the vision of transit-oriented development, of industrial development on the brownfield sites, of new housing in location to the transit stop, of schools and greens and pedestrian-friendly kind of a community.

So, the vision of the possibilities that it doesn't have to be that way is very important.

Number two that's very important is having partners. Bethel is very fortunate to have a partnership with the U.S. Department of Energy's Argonne National Laboratory. This partnership has helped us see the

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at assets is that you think of brownfields not as a liability but as an asset, as an opportunity to do some development. So we did industrial triage on the 30 brownfield sites within a mile of our offices and began to look at what are the development opportunities for that.

The difficulty in getting title to properties, the difficult of getting access to properties is always there and time delays and the potential of environmental litigation on it is a difficulty, but there are opportunities.

We looked at the marketable sites, which ones are the highest and easiest to develop, and then had some criteria of our own, the number of jobs that we could bring in, how environmentally friendly and how much it would take to redo that site and whether or not any company that came in was willing to have those jobs serve the community and not just themselves, and whether they were willing to be a good neighbor.

So we developed a whole development process on these brownfield sites partnering and then finally identifying and promoting the area and promoting and promoting and customizing whatever tools there were. So we developed that process.

A part of making a community sustainable is affordable housing. And so we've made our housing not only affordable, but energy efficient, as you can see. We guarantee that the heating bills on these homes, these brand new homes, will not exceed in Chicago, where I just came from a blizzard, \$200 a year. And these are what those homes look like in actuality. Two hundred dollar a year heating bills.

These homes are also location-efficient. They're in walking distance of a major transit stop.

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I think one of the tools that we need to use when we're doing community-based work is that we've got to ride whatever train is moving into the station. And Smart Growth is a train -- Livable Community Smart Growth -- is a train that's running in the station.

So we reconfigured everything we were already doing under the title of Smart Growth in an urban community context. That means participatory planning, transit-oriented housing and commercial development, focused area development, greening, energy efficiency, traffic calming and brownfield redevelopment.

We were already doing those things, we just packaged it under that thing.

Also, for a viable community we need to create jobs and so we've developed a whole environmental careers track partnering with everything from our park district -- we're going to use their greenhouse for the training for the fight over remediation on the brownfield sites, and the city is going to give us access to that, deconstruction so that buildings that are being torn down is a training for reuse of those materials by doing it that way, and the city has this Green-corps program which is landscaping and greenery, and so forth. So, again, hooking up with a whole variety of kinds of things.

Finally, in the project area that I showed you earlier some things have begun to happen. This is the transit stop right here (indicating). Around that then we've been able -- we've done our housing here at Parkside and at Keystone, so it's location-efficient, it's energy-efficient housing. We've partnered with the local church here. Having this development has helped to bring in a Jewel Grocery Store. It's still

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coordinate and try to work through all these other agencies. Whether it's an IPO, whether it's on loan to the community group that's doing this, or whether it's just internally designated, there needs to be somebody who's going to keep pushing this along that we can keep going to.

Secondly, there needs to be some funding available. And we've pooled all these things together without help from anybody except doing a lot of schmooching and lot of promoting and a lot of marketing of these things. But there needs to be some funding available to help make it move a little faster. We could have done this a lot sooner had we had some funding.

Then, thirdly, we've had wonderful cooperation from people in Washington who are in the interagency contacts, but that needs to filter on down to our regional and local offices so those people have a clue of what's going on and how this is going to happen so that they can be a seamless partnership in making this happen between the various federal agencies.

Thank you very much.

(Applause.)

MR. LEE: Thank you, Mary. Mary, is it possible for someone to make copies of those transparencies? Great.

Next if Mayor James Talley.

PRESENTATION BY MAYOR JAMES TALLEY

MAYOR TALLEY: Good afternoon. I think it's just about that. Pardon me for standing and taking the time to turn, because I'm a former school teacher and I can't stand to talk with my back to

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vacant land there now, but they are coming in, and the city is putting up big money for it.

We've been able to draw in through the Community Reinvestment Act a local bank that's going to do a branch there, and we've helped them with the siting of it.

We have our employment services and we own the land in here (indicating) for the commercial development.

So we've been able to focus in a very visible area -- you can't see much there now -- these kinds of things.

The most startling and wonderful project that is written up in the interagency pilot model demonstration is this plan for a commercial building at a transit stop. You see that bridge there, it will connect directly to the transit platform. There's going to be daycare in here. We've got the daycare center. We should be starting construction on this in April of 2001. It will have daycare and a health clinic. We've brought a local hospital in and a pharmacy.

It's going to be a smart green building so it will have a living roof on top. The energy will be done from the sun and it will be made out of as much recycled materials as we can humanly make it. The whole design is for it to be a smart building, an example of an inner city smart kind of building.

It takes a lot of partners. It takes working together. And I have three recommendations on how to do these interagency partnerships. Let me just say them quickly.

Number one, I think it's really important that the lead federal agency designate a person to be the point person to really help

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everybody, so you'll pardon me if I just walk around a little bit because it makes me a little more comfortable.

First of all, I want to say thank you for this opportunity to come and share our success story -- I call it a success story -- in Spartanburg, simply because this is a community initiative -- it's called the Arkwright Redevelopment Initiative -- and it's a community-driven project.

We owe a great deal of thanks to a young man that had the opportunity to teach and coach a long, long time ago, and that's Harold Mitchell. Harold is very tenacious about this community and very tenacious about what happens there.

The redevelopment that's taken place is something that came about because of the success that we had in the textile industry so long ago. We were the textile center of the south and around the textile centers you know that there's some pollution going on, but people didn't mind it too much simply because there were jobs, there were homes, there was a community, and there were people working.

It took us these many years to find out that there was really a great problem. When the problem was brought to us, they brought it to the city council, they brought it to the state, and they brought it to the Federal Government, and they said to us, this is a problem that we have and we need your help.

And if you're wondering why I'm here today, the reason I'm here today is because the citizens drove this project, the people that elected us to protect their interests said to us, you need to come and protect our interests and start doing something about it.

Well, we got help from EPA, we got help from NEJAC, we got help

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from Cynthia -- where is she? She's somewhere in the audience. I just want to name a few people. Grover Hankins is somewhere in the audience also.

These people came to Spartanburg and we partnered with the Fletcher Construction Company in Spartanburg to take a look at this area, this Arkwright area.

Arkwright is the name of the community that took on the name of the plant that was there, it was the Arkwright Mills. It was a mill community. So, in this mill community there were a number of things happening and there were a number of things that were going on that nobody said anything about.

So once we started to take a look, it became almost like a light came on to say to us this is not the problem of just the people that live there; it's the problem of the people that caused it.

So we've gone out to look for those people to make sure that they are responsible, to make sure that they take care of that responsibility to come back to the community and try to deliver this community again back livable like it once was. To make it a livable community is one thing that we strive for, and this is one thing that we are working for.

Again, I can't say enough about the people that are involved, and that's what makes it so important and makes it such a wonderful project, because it's people-driven. I've heard so many people speak today about whether or not you're getting enough people involved, and whether or not you're getting enough government involved -- you elected us as elected officials and it's our responsibility to adhere to your wishes. When we came to you and asked for your vote, you voted for

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correct them there, so they decided in order to go further, to continue to go further, let's take this plant down, let's see if we can return this land to a useful site.

That's what it looked like before with the plant falling apart. This is what it looks like today. We've taken the plant down, we've closed the city dump. All of those things have taken place and we're working now to redevelop this particular area.

We had meetings, and this was a church. If you'll notice the number of people that are there. Most of those people are from that community. What's important is that the community became so involved with this project that they decided that we need to see other people here, we need to see some people come in here from Washington, we need to see them come in here from Atlanta, all the people in that District 4 area, people that are responsible that can help us to make this project work and make it happen and return this community because some believed that it was a health hazard. And frankly so, there were some things that were in there that we found that were health hazards.

So we continued to work with the community and we are working with them today.

We've had an opportunity, and we have a couple of people here today, one from Senator Hollings' office and we have one from Congressman Demitt's office who called earlier and said the Congressman couldn't be here because he had to go back down to South Carolina. But we have involved all of these people, as many people as we possibly can, to get them here.

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us. So it's up to you to go back to those elected officials and get them behind projects such as the one in Arkwright and say to us, let's see what we can get done there. And that's exactly what we've done.

Well, let's see here, and then it started. Here's the background, it's Arkwright and Forest Park communities. These were the livable communities, and this is what happened in the community. When they started to run off certain contaminants and it ran down through creeks -- not dug for that contamination to run off or not put aside for it -- it just ran off.

And these plants, the IMC and other facilities there, these plants just ran it off in the community. Why? Because they could. And no one complained about it because it would mean their job.

So they come to the city council and say we want the city to do something about it. That was the first statement. And when you get people -- that many people -- and you'll notice there, the city council chambers are full and the people are there to say we want you to do something about it, we want to find out who is responsible and how can we get something done.

So the community organized to say to us, come take a look. And we went out and took trips out, sent people out in buses to look. We had people from other communities to come. EPA came. NEJAC came. And they said to us, there is definitely a problem so let's see how we can work together to get it solved.

The IMC plant that was one of the major contaminators started its deconstruction, they started to take the plant away, simply because they could not stop the things that they had already done, they could not

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If you'll notice there, it says, "One man pursuing his vision." Again, that was Harold Mitchell. He was the one that brought it to us.

Some folks say, well, you know, the city is not going to do anything, the county is not going to do anything, you're beating your head against the wall. But he did not let that stop him. He continued to work to make sure that we got the attention that we needed to finally correct this problem.

You notice we started partnerships. In those partnerships they have developed a number of committees and we have about 65 people on those committees that are working around the clock identifying certain areas of expertise where they can continue to work.

Here are some of the partners. These are the people that we are trying to identify, trying to bring them to the table to say to them let's join, let's work together. We've talked to them and through the efforts of NEJAC we've talked to a number of these people to say this is what's happening, this is what needs to be done, this is how you can participate. And we have them on board to participate.

In participating it's not just talking about -- and I heard someone say earlier, just talking about it is not enough. Some say, well, you've gotten to this point, isn't that great, isn't that good enough? No, it's not enough. It's like the little kid that's in the back of the station wagon when you're going on vacation, you say, well, we're going to Disneyland. And once you pull out of that driveway, what's the first thing he says? "Are we there yet?" Well, by no means are we there yet.

All the programs that you hear and all the projects that you hear talked about we're not there yet. We have an opportunity to let -- you

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1 know, what it takes to get there. And it's not going to be easy. It's
2 going to be difficult times and there's going to be some times that you're
3 going to find that you're going to get frustrated and tired of working with
4 some of the agencies that you have to work with. But it's going to be
5 important that we stay into it for the long haul.

6 As Mary said earlier, it's not a quick fix; it's going to take the long
7 haul, you're going to have to put the effort there. You're going to have
8 to support the people that support you and the people that will step out
9 front and say to you, yes, we're going to be with you one hundred
10 percent. Those are the types of things that we're looking forward to
11 doing.

12 These are some of our partners. I won't insult your intelligence by
13 reading them all to you, but I must mention for the elected official people
14 -- I've got to mention Senator Hollings, Congressman Demitt,
15 Congressman Clyburn, Governor Hodges of the State of South
16 Carolina, Representative from House District 31, that's the district that
17 this Arkwright initiative is taking place, and the state Senator Glenn
18 Reese who is also over that particular area.

19 The City of Spartanburg and the County of Spartanburg have been
20 on board because they can identify the number of people or the persons
21 that are responsibility for having these types of contaminants in that
22 Arkwright area.

23 What they've done, they have compiled a list -- and since it's
24 almost that season, compiled a list and checking it twice -- to make sure
25 that we get everybody that remotely had something to do with it,
26 remotely had a part in contaminating to do this.

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1 Just the other day I took Harold when he was home -- we talked
2 about the number of businesses that were located in that area. Within
3 a mile radius, within a five-block area, we could count 40 businesses,
4 40 neighborhood businesses. Grocery stores, even shoe shops and
5 little cafes and little hot dog stands. All of those things are gone and the
6 community is left to fold.

7 But now there are people that are still there and they would like to
8 bring that community back into fruition to have it to look like their home,
9 something that they are proud of.

10 It's incumbent upon us to make sure that we give them that
11 opportunity, and by the efforts that's been put forward not by just a few
12 people.

13 The reason I'm here today -- and I say, it's not so much that I've
14 had so much to do with it, it's that I grew up in that neighborhood, just
15 a little distance from it. Played ball in the field that was called Arkwright
16 Ball Park. And all of those people, most of those people there, I knew,
17 we attended school together.

18 It's a great deal of pride for me to see that we have a young man
19 who came back to Spartanburg to say that something needs to be done
20 here. We saw it, we said it, but we were told we didn't have the money
21 to do it, we don't have the funds to do it, and we believed that.

22 I think that when we start to pool our efforts and we start putting
23 more and more of our resources towards the things that matter -- and
24 this is something that matters -- I think we'll start seeing more and more
25 successes and more success stories like you're heard here.

26 I applaud all of the presenters and I applaud Mary for the initiative

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1 Now, this is a bold venture by the city. And you say, well, it's going
2 to cost a lot of money. Well, yes, it is. And we made a lot of money.
3 The textile industry made a lot of money off of doing just what they're
4 doing now. So it's going to cost a lot of money; we're going to ask for
5 a lot of help; we're going to look for as many people as we possibly can.

6 What has happened now is NEJAC and EPA have come to the
7 table to say that we are going to join with you to make sure that we find
8 a way to get this to happen. We're not going to do it for you, but we're
9 going to help you find a way to get it to happen.

10 What can happen at this level and at other levels, levels higher
11 than this, is that we have the opportunity to present these cases, that
12 we have the opportunity to say to the people that hold the purse strings
13 that we don't want you to just us a few thousand dollars for planning, we
14 want to find a way to give some money for implementing.

15 That's what the key to it is. We can plan forever and a day and not
16 get anything done. But the implementation of those plans is what's
17 going to make a difference in this community and in other communities.

18 Again, these are some of the success stories here. We say
19 opportunities for success. These are some of the items that we've
20 thought about, we've gotten the Congressmen and the Senator to
21 almost include -- we're working on getting included as a link item in the
22 budget. We're working on Ford Foundation. We're working on
23 foundations that are there in the City of Spartanburg and in the County
24 of Spartanburg. We're working on funds from the state.

25 But it won't be over yet. And it's not going to be over until we can
26 return this community to where it once was.

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1 that she has. I've only met her once and talked to her on the phone
2 once, but the initiative there and the people there to get them involved
3 to start working, I think that's important, and I think it's extremely
4 important, number one, that it's citizen-driven.

5 Please understand that: citizen-driven. You almost take
6 government out of it and say, government, you get on board. If it's
7 government-driven, we'll find a way to mess it up. I mean, that's just
8 being honest with you. But if it's citizen-driven, then the focus stays
9 there and the opportunities start to manifest themselves and you start
10 to see ways where you can be extremely successful.

11 I just want to say that this is some of the -- when you look at what
12 are the barriers to success, this are the barriers. Number one is cost.
13 When we talk about cost and getting all parties that are clearly
14 committed to the effort, and you must have clearly defined roles and
15 responsibilities -- these things are essential to success.

16 In all the things that you see here and all the things that we talk
17 about, I don't think there would be that much difference between any
18 project that you'll see while you're here -- that much difference in the
19 implementation and how to make it successful. But how to make it
20 successful is we must maintain the focus on what the problem is, and
21 instead of finding more levels of government to pass it through, we've
22 got to find someplace where to stop and start to identify and work for it
23 as it is.

24 These are ways the Federal Government can help. We put these
25 in here just for your attention, so that you can see. I could tell you about
26 it. I could write about it. But I have a printout here, if anybody would

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like it, with all of those on it. We'll just give it to you, if you'd like to take it. We only have one, by the way, but we can copy it and give you another one if you'd like.

Here -- I think Harold just put that one in there because he likes me and I like him, so we put that one in -- we want to say, thanks to you, the South African Delegation visited Spartanburg because this is something that they are faced with in their country and they wanted to come and see how we were handling it.

I think we are held up to the nation as being a pilot project, just as the five of us that are here to present. We're held up to the nation and not only here but throughout the world. They are trying to identify ways to get projects done, and the way is to identify and get some resources and some help there.

I think the way that we get it done is through a collaborative effort, through efforts that look for success rather than failure, that identify people that are willing to help and willing to come to the table to make sure that these things happen. I think that's the one thing that we've identified here in the Arkwright project.

I want to say again thank you to Charles. He came to Spartanburg also to take a look at that project, as well as a number of people. But I want to say a special thank you to the young people. There was a time when I used to always say, you know, "the old folks said." My brother told me I had to stop saying that because I was getting close to being one.

(Laughter.)

MAYOR TALLEY: But I want to say a special thank you to all of

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Santana, who is a pediatrician in Puerto Rico who has been leading a asthma effort, has to leave in a little while. So we are going to put him on this panel and they're setting up his computer equipment. So, until he's ready I'm just going to ask you, Harold, just to add a few words to Mayor Talley's wonderful presentation.

PRESENTATION BY MR. HAROLD MITCHELL

MR. MITCHELL: I'd just like to note too as far as on the -- for the support of being able to build a collaboration of success was, first of all, getting the community involved in the community organizing. That started basically with people like Connie Tucker with the Southern Organizing Committee to network with the other environmental justice groups.

We basically had to identify documents, research a lot of what was denied over the years before Mayor Talley was in office, and being able to look at other groups like Dr. McClain's and Charlotte Keys and having Professor Hankins to come in and help us from a technical side. I think that really empowered the community to move forward and to also, as the mayor stated, hold the elected officials accountable.

What we did basically was, with the organization itself, we felt that we needed to have people that represented us in those positions and we elected our vice chair to city council as well as our state representative, Brenda Lee, who was able to -- once the vehicle was created, at that point, to go after and identify.

Some of the things the mayor stated regarding our vision, the community's vision was basically to redevelop those five abandoned hazardous waste sites. And what has gone now from the two sites of

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the young people that are here. And I say young people -- I won't identify where that age starts. But those of you that have come together to work with those of us who are not quite as young as we used to be, or as young as we think we are -- I want to say thank you for spending your time and your energies to identify well-defined projects that's are communities throughout this nation that need to be addressed.

And I want to say thank you to Ms. Harris, who is here also, from District 4. I saw Mr. Holtzclaw here also just a minute ago. I've got to name these names because I've got to go back home.

(Laughter.)

MAYOR TALLEY: But I want to thank you to all of them, to say that we do appreciate the efforts that you've put forward, not only in Spartanburg and not only in Chicago, but throughout the country to try to bring a positive into the problems that we face in this nation.

Again, thank you for inviting us, and I appreciate being here.

(Applause.)

MR. LEE: Thank you, Mayor Talley. Two other persons I know in that project are Rosalind Brown and Jewel Harper who is leaving the room right now. The third one -- I just said that two other persons I know in that project that weren't mentioned yet were you, Jewel Harper and Rosalind Brown.

Another one is Harold Mitchell who is a member of the Council. Harold is actually the untiring force in this whole effort. He's the one that really built all these partnerships. I'm going to ask Harold to say a few words.

Let me explain what's happening right now. Dr. José Rodríguez-

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600 to now almost the entire south side of Spartanburg. It's really so complex that he couldn't put everything on the overheads.

We have partnerships from the various banks. Steven Davis who is a running back with the Redskins here was going to come this morning but I think after that shellacking on Sunday -- he's going to come in later this afternoon.

We have a lot of support from various players that are from the area there in Spartanburg to where we're not totally depending on the grants. Because we have a lot of the resources right there in the community.

Hopefully within the next year some of the private technical consultants that we've hired and went out to bring into the community so that we can stay in control as a primary stakeholder, we found someone through Grover's group who did one of the first brownfield projects in Boston, Massachusetts as an urban planner to help us come up with a concept with the focus groups because there's so much that's involved we don't want to just go and say, well, we want a sports entertainment complex or a commercial development.

We wanted to make sure that everything fit the needs of the community and there's so much that's there on the table regarding, as the mayor stated, five or six restaurants that were once there in the community -- at this time presently you have to drive seven miles in either direction for groceries, pharmacy, any type of needs. There's nothing basically in that area.

And, yes, we do have the exact same problems that's noted here from the community people that are here in the audience that I wanted

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to address last night, because in this meeting we organized 1,400 or 1,500 people at first around the problems of health and the sites because just this year alone in the radius of the sites we've had 44 people just this year alone to have died from the same types of cancer and respiratory diseases.

My father, my sister and presently even myself, I haven't been diagnosed, but with the problems that I've been having from the kidneys and doing all the different tests -- it's a very serious problem of those facilities. And we're basically getting that addressed. And from that point, now that we have the attention, we wanted to move from the clean-up and remediation to taking that next step, and that's the redevelopment, now that we've got the ball rolling.

MR. LEE: Thank you. I understand that the representatives from Senator Hollings' office and Representative Demitt's office are here. If you could identify yourself, we want to acknowledge you.

(Participant from the audience inaudible.)

(Applause.)

MR. LEE: Great. Now we're going to get a presentation from Dr. José Rodríguez-Santana who is a pediatrician addressing issues of asthma with a project called the Asthma Coalition of Puerto Rico.

ASTHMA COALITION OF PUERTO RICO

PRESENTATION BY DR. JOSÉ R. RODRIGUEZ-SANTANA

DR. RODRIGUEZ-SANTANA: Good afternoon. It's really my pleasure to be here and I would like to thank the organizing committee for inviting us to present and share our ideas of our asthma project in Puerto Rico.

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We compared our asthma prevalence with other communities in the States and in other countries, and Puerto Rico is one of the highest asthma prevalence, has one of the highest asthma prevalence. It's about 44 percent of the population in their lives has asthma, sometime in their lives has asthma.

So we have a very high prevalence. Recent studies showed the same.

And asthma is not only an environmental disease, but it is a genetic disease. Probably why Puerto Ricans have this burden of asthma. Maybe it's the interaction of those two factors. Genetic is one of them, but environmental is the other one.

Now we are doing studies on genetic analysis on Latino -- and Puerto Rico is one of those sites. For the first time we are now having some of the projects done in Puerto Rico.

Also it's a disease that is related to the infections, the viral infections. How those children interact with other children and with the environment -- so it is a very important issue that has to be addressed in Puerto Rico.

And as those initiatives, we developed the Asthma Center in Puerto Rico. This is an asthma center in the San Juan area that is dedicated to education, treatment, research on asthma issues in Puerto Rico. We developed high technology to intervene with those children and it is mainly related to children with low economic status.

Puerto Rico is now -- I think that it's the only part of the United States where there is health care reform and everybody, most of the population, has some kind of insurance, health insurance. Only four

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This is an interagency project that we began to work in about two years from today. What I'm going to do is try to be as brief as I can.

Asthma is really a disease of many faces. In a disease of many faces one of the faces is the environmental risk factor. Most of the children that have asthma have an environmental risk factor that triggers their asthma attack. That's why we are very interested in getting the information of what are those environmental risk factors in trying to decrease the burden of asthma in Puerto Rico.

In Puerto Rico we have a high mortality of asthma. This is the highest among Hispanic in the nation, and we are U.S. citizens. One of the problems that we have been having with asthma in the past is that many of the projects that have been done for asthma have not been done in Puerto Rico. So we have been under-represented in the asthma project in Puerto Rico.

This is the first asthma project that has been funded by several interagency, federal agencies, trying to decrease the asthma burden in native Puerto Ricans. And we have data on asthma mortality. We have three times the asthma mortality among Puerto Ricans living in the island -- three times higher than Whites in the States and even higher than the African-Americans in the States.

Also, we have an extremely high prevalence compared to other ethnic groups. So we have high mortality and high prevalence of a condition that is strongly related to environmental factors.

We have done several projects. One of those projects was sponsored by the EPA. This was the most important project because it used a standardized questionnaire called the Isaac Questionnaire.

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percent of the people do not have health insurance. So most of the population has some kind of access to health care. But we are as a project trying to address the issue that everybody needs access to adequate care, not to health care.

This is part of the things that we are doing. We are intervening very early during infancy in those children. We have one of the few labs in the world that we developed with the University of Indiana to identify early stages of asthma in children. This was developed in collaboration with other institutions in the United States.

This is just to bring to you what we have -- when we have a child with asthma. This is a child that is eight months, and this child has nine admissions to the hospital. So this is a very sick child that went into the program when we identified this child in a consult. (Audio.) That kind of noise is the one that parents are scared about it and they look for help.

One of the problems in Puerto Rico is that families don't look for help at the place that they have to look for it. They don't know what to do. They have a low social and economic status, many of them have low intellect, especially when dealing with disease like this one. So one of the major aspects of the project is to educate the families and the children with asthma. So a major part of the project is to educate the families, and not only be involved with the children with asthma, be involved with the social aspect, and also the quality of life.

We follow the guidelines of the American Academy of Allergies and Immunology that were published last year.

One of the interesting things that's happening in Puerto Rico is

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that, as we can see on the left, most of the medication has been changed -- used for asthma hasn't been changed during the past years. In the '70s we used a type of medication; now in the '90s and in 2000, we use another kind of therapy. I'm going to show that in the States about 50 percent of the pediatricians and asthma specialists utilize some kind of anti-inflammatory drugs.

What's happening in Puerto Rico is that we did a study in a small population, about 4,000 asthmatics, where we found that only 2.6 percent were using the adequate medication for asthma. So most of the people that are of low socioeconomic status are using medications that were used in the '70s and in the '80s.

So what's going on? We need this community, we need this institution that can look at what's going on with that and can make things change.

In one of the projects that I'm going to show later that we call the Olympic asthma, it was project developed to exercise in children since many of the children that have asthma -- many physicians and at school, you know, at the community, they thought that those children cannot do exercise and we believe that exercise is very important to the improvement of asthma. Now it is related with diesel emissions and with the other environmental triggering factors, as a factor that has increased the asthma prevalence. So we believe that exercise is an important thing.

We did a questionnaire and we found that many of those children were not using the adequate drugs for asthma. And asthma is a disease that is underestimated. Usually the patient doesn't receive the

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adequate treatment, and that's one of the things that we are facing right now.

What happens with asthma? We have done a lot of effort, the federal agencies have done a lot of efforts, as well as the patients and physicians, but we are willing to accept inadequate treatment -- we believe that, well, I'm okay right now, I don't need medication. That's a common behavior.

What's happening is that when things fail, we start writing guidelines. What happens with the guidelines? There have been five guidelines in the last ten years. What do many physicians do with the guidelines? They store those guidelines.

So we have a lot of pressure trying to treat those patients, trying to make society aware of what has to be done. As part of that, what's happening with us? We start doing things wrong. You know, many physicians start looking for avenues that are not adequate. And what happens with the system? Strange things happen. We have a lot of work to do, a lot of pressure. We have pressure from guidelines, federal agencies that we have to write things, that we have to do a lot of things.

But we have to think about it a little bit and see how we are going to address this issue. This issue is a very important issue because we are far away from a cure for the disease. We are just at the beginning. We are excellent in the symptom relief, we know that the patient has symptoms of asthma, we know how to treat that patient. But how to control the condition, this is very difficult to do.

So we are just making things more simple. More simple to

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patients, to physicians. And that's one of the major tasks of the project in Puerto Rico -- what is most useful to patients.

So the problems: increased prevalence, increased mortality. We have patients that are insured. What we need to do to deal with that problem? We form a team. We developed a team that is called the Coalition of Asthma In Puerto Rico where we have private and public sector, government sector, some of the federal agencies, HRSA, HHS and EPA has been a very important federal agency in that project. And we have one year's experience with the coalition.

We have a lot of things to do. We have areas for improvement. We have dilemmas that we have to address.

As a summary, we have this project, this education project, that is called "Los Colores del Asma," the color of asthma. That project addresses the issue of education in families and in children. So we enforce them to do the self-management of asthma. And to make sure that people get adequate care, we have a system that is linked with the health insurance that are giving that health care reform insurance to patients with low socioeconomic status. With that system, we identify those patients that need that adequate treatment, that needs additional evaluation, and that child is directed to the program.

We have data on how we decrease the hospitalization rate, how we decrease the emergency room visits, how we decrease the use of inadequate medications on those children.

This is part of the project that we did in trying to stimulate exercise in those children, and this is part of the project that we are trying to do with those children.

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Also, we have a master plan that we will try to follow. This is a plan that will go and intervene in the different areas of asthma. Not only prevention, but also into the community-based services.

So right now what we are doing is we are developing the legal entity of the Coalition of Asthma that will give the empowerment into the community -- not to government agencies, into the community -- to develop strategic initiatives to deal with the problems of asthma.

Thank you very much.

MR. LEE: Thank you.

(Applause.)

MR. LEE: I think in terms of the last presentation, first of all, is it possible for us to get a copy of that presentation for the record?

DR. RODRIGUEZ-SANTANA: Yes.

MR. LEE: There are many things in there that it would be really important to put into the meeting's report.

Secondly, I'm not sure if she was mentioned, but someone that should be really recognized for her incredible work in this project is Maureen O'Neil of EPA's Region 2.

Maureen, are you here?

(Applause.)

MR. LEE: One of the things that you should know is that Dr. Claude Fox who is the director of the Health Resources Services Administration who you heard from yesterday -- meaning, HRSA -- has been really excited about this project. In fact, this is probably one of the ways that we will be able to really get HRSA to understand the larger issues of environmental justice.

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1 So, you know, building off of work like this is really important, and
2 we all know the importance of that.

3 If I could just ask all the members of the panel just to take a few
4 questions. I know that --

5 MS. RAMOS: Charles.

6 MR. LEE: If you could all come forward and we could answer
7 some questions and have some dialogue.

8 Rosa Hilda.

9 MS. RAMOS: Dr. Santana, I want to express our gratefulness, our
10 appreciation for all the efforts that you have invested in making all the
11 people aware of the terrible problems that Puerto Ricans have in
12 relation to asthma. I've been watching you and it's really commendable
13 your tenacity.

14 I do have some comments and recommendations for you. I've
15 seen that you and your group center all the efforts to fight this terrible
16 disease into the treatment strategies, but there's not enough efforts
17 related to prevention.

18 In Puerto Rico I have seen that -- different from what is happening
19 in the United States -- the doctors are never involved in the process of
20 the permitting of new sources of air pollution, they have not filed any
21 complaints regarding abuses of communities because of the conditions
22 of having too many asthmatics in the community.

23 So I think it's about time for you to think carefully about these
24 issues because the community really needs people like you to be on
25 their side when asking the government not to increase pollution in their
26 communities. That's very, very important.

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1 Also, I would encourage you to invite people from the most
2 affected communities to be part of your working group. This is not
3 happening and I think that having them in your working group will enrich
4 your efforts, will obtain more support from the community and will
5 obtain, you know, further successes in your efforts.

6 I would like to ask you if you have information regarding the fact
7 that the Orango study continued after the first report and they found that
8 the Guaynabo north area and Cataño has even more asthma than what
9 you reported from the original report. Are you aware of that?

10 DR. RODRIGUEZ-SANTANA: I'm not aware of that information.

11 MS. RAMOS: That's what I suspected because the Health
12 Department has not published the results.

13 DR. RODRIGUEZ-SANTANA: Yes, it's not been published.

14 MS. RAMOS: And I will be more than happy to share those
15 numbers and reports with you. Okay?

16 But once more, thank you very much and keep on fighting. Thank
17 you.

18 DR. RODRIGUEZ-SANTANA: I would like to thank you for your
19 comment which is very important. As part of the initiative that we are
20 taking, I mean, that was one of the recommendations of the EPA
21 summit in Puerto Rico in 1996, is to try to get additional funding through
22 the SEP, the Supplemental Environmental Projects. Just two months
23 ago we got our first Supplemental Environmental Project that will deal
24 with some of the issues of asthma.

25 So I think that pursuing the environmental hazard is going to be a
26 very important avenue to deal with the asthma problem in Puerto Rico.

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1 We have a lot of schools and children at schools that have a lot of
2 asthma attacks due to emissions that nobody knows how they are
3 developed. And I think that this involvement of the Coalition having the
4 Department of Health and the Department of Education sitting at the
5 table and talking to them about those problems are so important.

6 MS. RAMOS: Right now there is an emergency situation in the
7 Guaynabo area because of an industry -- a mill, PanAmerican Grains,
8 which is committing what I consider crimes against the community and
9 there's no doctors on the side of the community. So there's a lot of
10 opportunities for you to work with communities and really, really obtain
11 results regarding prevention of asthma attacks. Thank you.

12 DR. RODRIGUEZ-SANTANA: And I think that the second point is
13 that this is an excellent opportunity to join the group and be part of that
14 group. We are just only a baby -- this is only a year and a half year old
15 project and we just had our first asthma summit two months ago. We
16 expect about 250 participants and we have over 700 participants at that
17 meeting.

18 So I think that getting the communities involved with this kind of
19 project is extremely important to make people aware of the asthma
20 burden in Puerto Rico.

21 MS. RAMOS: But it's not just the community, it's the affected
22 community.

23 DR. RODRIGUEZ-SANTANA: Oh, yes. Thank you.

24 MR. LEE: Any more questions or comments? I know probably
25 everyone is dying to go to lunch, right? Yes. Well, I think the
26 presenters do deserve a round of applause. I want to thank them.

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1 (Applause.)

2 MR. LEE: I want to thank them for being here and for the
3 tremendous work you're doing.

4 With that, I think that we're going to break until -- was it 1:30?
5 We're going to have an hour for lunch, right? Great. We'll be back at
6 1:30.

7 (Whereupon, the meeting in the above-entitled matter was
8 recessed, to reconvene at 1:30 p.m., this same date.)

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AFTERNOON SESSION

MR. LEE: Well, good afternoon. I guess we're going to continue in the agenda. We heard this morning from three of the interagency environmental justice demonstration projects. I think you would agree that they're really outstanding, and we're going to continue with the panel which includes two other demonstration projects. One is a center around three rural townships in New Madrid County, Missouri, set around children's health. The other is a lead project in East St. Louis.

We're going to hear from Dr. Emil Jason to talk about New Madrid County, and Richard Mark from St. Mary's Hospital in East St. Louis, Illinois.

So, Dr. Jason.

PRESENTATION BY DR. EMIL JASON

DR. JASON: Good afternoon, everybody. I appreciate the opportunity to make a few remarks regarding the New Madrid County, Missouri initiative involving EPA and its partners.

As you can see, we have four projects listed, but I'm going to concentrate only on the first project. I deemed it appropriate to mention other projects in order to give one a more comprehensive view of what EPA is doing in that area.

We have the New Madrid County Tri-Community Child Health Champion project that I will be talking about mainly, but I thought I needed to let you know about the Environmental Justice Pollution Prevention Project, EJP2, and the recycling project.

There are some similarities between all of these projects. The first

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project is a health related project and project two also has health components as well as community development components. The recycling project also has elements of health as well as community development, and the Bootheel, Missouri/Southern Illinois Small Farmers Cooperative is a community development project only.

I just received word today that we've been -- this Bootheel, Missouri/Southern Illinois Small Farmers Cooperative is kind of a sneaker and we would like to do with what we have just found out about that project, we would like to do the same thing with the recycling project.

We started out a couple of years ago in that project with zero dollars and we just received word today that we will probably get \$1.5 million for the Bootheel, Missouri/Southern Illinois Small Farmers in order to supply fresh produce to stores in St. Louis. So, you see, you get your information in all kinds of ways.

We have some material on the back display. This is a little booklet that shows the kickoff in January 1999 of the New Madrid County Tri-Community Child Health Program, and if you want to help yourself, there's a cap back there for you. It will probably fit you. This is used in an advertisement for the Tri-Community Child Health Program.

And we also have a bumper sticker which advertises the recycling program in North Lilbourn. If you look back there carefully, you will find a red and yellow paper which gives you a brief on what the EJP2 project is doing as well as the recycling project.

Now let me confine myself largely to the Child Health Champion Project.

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We want to first indicate some of our major partners. The Great Rivers Alliance of Natural Resource Districts, known as GRAND; the United States Department of Agriculture, NRCS. I'm a volunteer and work for USDA and also do work for GRAND. EPA Region 7 provided the funds. Bootheel Lead Nurses. Delta Area Economic Development Corporation. Head Start. Lincoln University Cooperative Extension. We have the Missouri Department of Conservation. Missouri Department of Natural Resources. Missouri Department of Public Health. New Madrid County Health Department.

Also, the New Madrid County Tri-Community Team. This is a team of people of about 20 and they've been meeting since 1998. And to show the dedication of that group of people, we didn't get funded until January 2000. They've been working at this for more than two years, and so you know they were very glad to finally get their project off the ground.

Now, for the most part, these partners provided us with technical services, also health testing and referral services. Also they provided workshops and one agency cleaned out all the ditches for North Lilbourn, and another, the Missouri Department of Natural Resources, provided us with trees. They had a variety of tasks that they performed to assist this particular project.

Now, most of you probably don't know where New Madrid County is, so this will give me a chance to tell you where it is. We can take a look at some geographical and socioeconomic background information.

These three communities are located in the Bootheel of Missouri. They're about 175 miles south of St. Louis, 110 miles north of Memphis.

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They are rural communities, as Charles pointed out. Very small communities. The population of Howardville is 690; Lilbourn 1,845; North Lilbourn, 276. So, combined we're talking about approximately 2,800 people.

But look at the poverty level: 57.6 percent for Howardville; 27 percent for Lilbourn; 72 percent for North Lilbourn. And so you see, it is three communities that definitely need help. So we're very glad to be there to provide some assistance.

Let's look a little deeper into the nature of these communities and we'll see that Howardville on the left top, per capita income just \$4,616; Lilbourn \$7,893; North Lilbourn, \$4,222, compared to the state average of \$21,853. So you see we're talking about distressed areas.

New Madrid County, in which all three are located, has an average per capita income of \$14,431.

And I think all of us recognize the great connection between education and income. Look at the high school diplomas, only 24 percent in Howardville have high school diplomas; 34.8 for Lilbourn; and 31.2 for North Lilbourn. College degrees, very few: 4 percent, 5 percent, and 0 percent for North Lilbourn. So we're in the right place if you really want to do some good.

What is the purpose of our project? The purpose of the project is to acquaint the affected communities -- and we're talking about Howardville, Lilbourn and North Lilbourn -- we want to provide them with information on the environmental health hazards to children resulting from exposure to lead; asthma; allergy triggers; and poor water quality, while seeking ways to reduce these risks.

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1 The question is, how do we achieve that purpose and what are the
2 benefits to the community once we achieve the purpose? So first I
3 need to tell you about how we did it, then I'll give you some benefits to
4 the community after having done it.

5 What we did first was we gathered 12 community facilitators, four
6 from each community. We obtained a trainer and trained the facilitators
7 so that they would be able to impart the information that we provided.

8 The facilitators were given a pre-test and a post-test to make
9 certain that they had mastered the material. They were then given
10 educational materials and were sent out in order to impart that
11 information to the three communities.

12 That's how we did it

13 What are the benefits to the communities? In the area of lead, we
14 found that 40 percent of all the households in those three communities,
15 they were given information relative to the threat to their children's
16 health that would come from lead poisoning. All of the communities
17 have access for testing facilities for lead, and once we find a high level
18 of lead, they are referred to the appropriate place.

19 Through community capacity building we assured the communities
20 through this process that they had better information relative to the ill
21 effects of being exposed to lead and, as a result, it is my thinking that
22 the quality of life should be somewhat enhanced.

23 In the area of asthma and allergies, again employing educational
24 materials and training workshops, we informed the three communities
25 of some of the triggers of asthma and allergies. Among these were
26 certain chemicals found in the home, tobacco smoke and other kinds of

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1 smoke, allergens from rodents and insects, dust and a particular
2 agricultural dust. These were some of the triggers -- molds, this kind of
3 thing, things that we can find around the house.

4 In informing the public about some of these triggers to asthma and
5 allergies, we therefore improved their indoor quality and our thinking is
6 that that should reduce the number of asthma attacks.

7 In addition, because of our interest in trying to reduce dust
8 contaminants, we planted trees in places where children play, especially
9 around schools and parks, and in doing so we also created a windbreak.
10 A windbreak not only improves energy efficiency but at the same time
11 reduces dust contaminants, especially agricultural dust that comes from
12 the destabilization of the land in an agricultural area, and in doing so we
13 hope that this should reduce severe attacks of asthma.

14 Again, through careful talking with the community and telling them
15 about the dangers of asthma, we were able to better inform them
16 regarding the surrounding environments, and we believe, once again,
17 that their quality of life should be improved as a result of having that
18 information and using it wisely.

19 In the area of water, we considered and made aware to these three
20 communities the contaminants that we would find in drinking water, and
21 also made them aware of EPA standards and safe drinking water. We
22 also informed them about the dangers involved in stagnant water -- they
23 had a lot of stagnant water around -- and the disease factors associated
24 with stagnant water, such as rats, roaches, mosquitoes and flies, and
25 some of the diseases that these vectors would carry. We informed
26 them of that.

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1 In addition, we pointed out to them the need for sampling or testing
2 their water on a regular basis because we looked at the water facility
3 and it looks like it was probably built way back in the '20s.

4 So we are looking at safe drinking water, expose them to the
5 contaminants that we would find in drinking water, and also we pointed
6 out the dangers of stagnant water as well as storm water drainage in
7 which they have a problem. Sometimes in heavy rains storm water
8 would back up and cause problems of flooding in the homes.

9 As a result of this program, all of the communities have had their
10 ditches drained -- see, they have open ditches where the water comes
11 and it's supposed to run someplace else away from the house. So
12 these ditches now have all been cleaned out and they have appropriate
13 elevation so that they will drain away from the homes.

14 So those are some of the benefits that all these communities have
15 received and we believe, by paying attention to what we have informed
16 them of relative to lead, asthma and allergy triggers, and poor water
17 quality, there's no doubt if they would follow our suggestions, that their
18 quality of life will improve.

19 Now, based upon everything that we can see, the project has been
20 very successful and we have not only -- not only can we measure the
21 results by finding out what we've done for the communities, we have
22 other ways for measuring project success.

23 The extent to which the goals and objectives have been met is
24 another process for measuring project success. In all cases we met
25 and/or exceeded our goals. So from that standpoint it was a successful
26 project.

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1 We also recognize that when leadership and participation come
2 from the community, that this too gives us some measure of project
3 success. There's no doubt about it that the community team is in very
4 much control of this project and I more or less just keep them going.
5 They more or less tell me what to do and I do it to the extent that I can.
6 Usually it works out pretty good.

7 The third item here is concerned with the degree of project
8 sustainability following the loss of project funds. I think every project
9 that one has, and I've had many over a period of years, most of them
10 run out very soon. As one gentleman said this morning, it's always a
11 good idea to move from federal funds to the private sector as quickly as
12 one can.

13 We are trying to move the recycling program so that the person
14 who is running the recycling program will eventually become more
15 independent. It's hard to do but that's what we all ought to be working
16 toward.

17 We have some other elements of project sustainability. What
18 we're talking about here is what elements can you point to that would
19 suggest that what you have done in your project will be continued after
20 you are gone.

21 One thing the community team has done is that they have brought
22 in a stream team. They now have a number, number 1617. The
23 community team did this on their own because of their interest in health
24 and trying to clean up the environment.

25 We have also recognized an increased use of peak flow meters
26 that has led to a serious -- led to a decrease in serious asthma attacks.

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We are now partnering with the Bootheel Healthy Start, and that's enabled the program to expand to five counties.

Remember, we're working in only one county. One of our community facilitators has joined -- is working for Bootheel Healthy Start, so now she goes around to five counties. They've stolen the virtues of this program, which will be continued for another five or ten years, I'm sure.

We have also established many information stands in all three communities that provide information about lead, asthma, allergies and water quality.

Now, we're not talking about monthly "morality." That should be "mortality." I know it's rough.

Some of the community facilitators are engaged in infant mortality reduction workshops. These are provided in churches, and they stress awareness of health risks associated with lead, asthma, allergies and poor water quality.

So, you see, this thing goes on and on because the community facilitators are very much involved in the community.

We have also noted increased interest in health issues. And so I'm fully convinced that the little seed that we have planted will probably continue to grow and do well.

That concludes my remarks relative to the Children's Health Project in New Madrid, Missouri. If you have any questions, I'll be glad to answer them. Help yourself to the things on the back table.

(Applause.)

MR. LEE: Thank you, Dr. Jason. We're going to have both

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children's health and reducing lead exposure through collaborative partnerships. As you can see, East St. Louis, Illinois is located right on the border of Illinois and Missouri across from the St. Louis arch.

What I'd like to do in my presentation today is go through our environmental justice agenda goals, give you an overview of our demonstration pilot, talk about our partners' participation, EPA's involvement, and then spend some time talking about what St. Mary's Hospital is doing in the community as far as testing children for lead.

We started with trying to develop a collaborative partnership with this collaborative partnership model and started with a bottom-up approach of trying to engage the community, identify the problems, and then ultimately develop more of a livable community.

One of the problems that was identified is lead poisoning in children in the East Louis area. At the time when we started this project in late 1998 not much was being done to address that issue.

To give you an idea of the demographics of East St. Louis, it's a low income community, 65 percent; it's 98.6 percent African-American; very high poverty rate, very high unemployment, and a number of abandoned properties in the city. The city is about 14 square miles, where about four square miles of that are abandoned properties.

In the second phase of this program we'll have blood lead screening for over 3,000 children. Our goal is to do a thousand each in the next three years. Lead based paint assessments, housing rehab, landscaping and weatherization of 75 homes. We're going to be doing more soil testing, site assessments of abandoned lots. Many of these abandoned lots -- and you'll see some pictures later in the presentation

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presentations and then, you know, have questions and discussion with both of the presenters.

I just want to point out -- first of all, Dr. Jason, is it possible for us to get a copy of the overheads --

DR. JASON: Yes, sir.

MR. LEE: -- for the record?

DR. JASON: Yes, sir.

MR. LEE: Great. Secondly is that I think it should be noted that a person who has been real instrumental to this project's success is Althea Moses who is the EJ Coordinator for EPA's Region 7. So, Althea, I guess you could have yourself acknowledged.

Thirdly, there were a number of points on which Dr. Jason talked about measures of success. I want to point out that in your information there's a piece that looks at how to evaluate these projects and the principles by which that would be done. That's being prepared under the guidance of Katherine Dawes from EPA's Office of Policy.

I would like at some point to really engage the Council on some discussion about that. That is very much in the process of development and I think this is a very important aspect of the future success of these efforts.

So, with that, I want to turn it over to Richard Mark who is the Chief Executive Officer of St. Mary's Hospital in East St. Louis, Illinois. Richard.

PRESENTATION BY RICHARD MARK

MR. MARK: Thank you. I thank the Committee for giving me the opportunity to present our project here today. Our project is protecting

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-- but these abandoned industrial sites, they were just walked away from the late 50's and '60s and are now overgrown but children play in these areas. Then our pilot remediation program.

This is very important: our community outreach and education, to make people more aware of the dangers of lead poisoning.

This gives you an idea of some of our partners. We have state, federal and local partners that are participating in this pilot. I think it's very important to notice the Neighbors United for Progress and Neighborhood Technical Assistance Center are both community-based organizations made up of community residents working to try to work on environmental issues and other economic development issues in the City of East St. Louis, as well as St. Mary's Hospital. I will note that St. Mary's is the only hospital that is located in the city.

This gives you an idea of the participation to date of some of those partners and what their participation has been.

One of the things that's really helped this project is the \$2.8 million lead grant from HUD. The Sinclair County government was the awardee, and that has allowed us to go forward with doing some of the home repair grants, some of the assessment, and the abatement activities that are going on in the homes themselves.

The federal funds -- this program has received about \$1.8 million from EPA and HUD the \$2.8 million, and then USDA about \$50,000. Total partnership funds to date is about \$4.9 million.

EPA's involvement with lead soil investigation and analysis. It started with a \$75,000 grant to the Illinois Department of Public Health to assess lead releases to surface soils. We knew that the children in

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the area were -- many of the children had high levels of lead. We're trying to identify where the lead poisoning was coming from, so this \$75,000 grant helped do some soilsamples. Then also the Army Corps of Engineers expanded that study, and then the \$75,000 grant was made to assess some of the abandoned buildings. And then \$500,000 for three brownfield grants and assessment and job training.

We received a \$15,000 grant for outreach. What we did with this was that we developed a videotape and one of the local TV stations actually aired a 30 minute documentary on the effects of lead poisoning in children, and it was focused on the East St. Louis community. And then copies of that videotape were made and distributed throughout the community to all the schools, churches and community groups. Also, it's played regularly on our local cable access TV to help inform the public more of the problems and the importance of lead poisoning.

We received a \$335,000 EMPACT grant to assess and landscape 30 yards and \$20,000 for development and distribution of a quarterly newsletter to facilitate the partnership meetings.

The partners you saw earlier, each of those partners, we meet about once every four to six weeks, and the participation so far has been very good.

In the lead soil sampling results -- in phase one we collected 200 samples, and the contamination range in those 200 samples is 10,000 to 15,000 parts per million. You can see this abandoned property, it's an old gas station that was just abandoned and left as is.

Phase two, 350 samples, and the contamination range there was from 10,000 to 35,000 parts per million.

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Our initiative started off in 1999 and our goal was to screen a thousand children from one Zip Code. What we wanted to do was zero in on just one part of the community to see and to try to verify just to what extent the lead poisoning was in the children there.

We targeted the one Zip Code because it had six elementary schools in that area. We actually go to the elementary schools. We get permission slips signed from the parents and we go to the schools and do a lot of the testing at the schools.

In 1999 we tested 1,001 children. We found that about 21 percent of them tested with high levels of lead. The average level was about 15 micrograms there.

For 2000 we've decided to go and test another thousand children. But this time we went back to schools that were located near the old industrial sites that we found had high levels that were done in the soil samples.

MR. COLE: Can I just ask a clarification question?

MR. MARK: Yes.

MR. COLE: When you're saying "high levels" is that above ten milligrams per deciliter?

MR. MARK: Right. Anything above ten we categorized as high.

MR. COLE: Because if the median is 13, how can you only have 21 percent who are high?

MR. MARK: Excuse me? If the median is -- well, the median of 13 is of those who have tested above the ten. Okay? So what we did is we took all of those that tested above ten and then -- when I show you another slide here, what we've found -- well, let me go on here.

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We found in phase two that the lead blood screening -- what we did was we targeted it around four newschools and school district. That was a picture of the mobile office that we use to go out and do testing on site.

To date -- well, through October -- we've tested 809 children. Eighty tested high, which is about a 9.9 percent average -- 9.9 percent. The average in the State of Illinois right now is at 6.

What we found in that test -- what we wanted to do was to go back to the sites that were identified as having high levels in the soil. This yellow area here is one of the elementary schools. That school has 347 children who go to school there. Of those 347 we were able to test 274 of them. We found that 22 of them had high levels, which that percentage is a little less than 10 percent, about 9 percent. That's high considering a blood level of 10 microdeciliters.

What we found, though, was that 51 percent of the children we tested, or 139 of them, had levels between 1 and 9. Over half of the children there had some levels of lead in their blood.

We were sharing this information at a hospital medical staff committee meeting and one of the physicians, one of the pediatricians, at that meeting had just attended a conference at the American Academy of Pediatrics and brought back some information from a study that was presented there last spring that indicated that children with levels of lead of 5 or above could have learning disabilities as a result of this level.

So what we did was we went back and talked to the principals at that school and did some further study. An interesting thing that came

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out of that was they supplied us with the test scores of the children attending this elementary school. In the third grade test score we found that 59 percent of the third graders at this particular school did not meet the state standards in reading, and that 51 percent of the children did not meet state standards in math.

When we looked at the fifth graders, which is a little bit older, that number in reading increased to 81 percent in reading and about 50 percent in math.

So right now what we're trying to do is work closer with the school system to identify the schools that are located in these areas near some of these abandoned sites.

As you can see, this area here was Site 154, and in that area the lead levels were between 324 parts per million to 929 parts per million. There's another site just to the west of this school here that had lead levels of 403 to 1,724 parts per million.

This is site 154. If you're on the playground of this school and look directly to the back or off to the side, this is what you see there. And this is overgrown. If you wouldn't know it was there, you probably wouldn't even -- you wouldn't pay any attention because it's overgrown with weeds. But yet, the former parking lot of this site is now the playground for that school that we pointed out earlier.

So one of our biggest challenges is to continue and find case management funding to work with the parents and families of these children. Many times, once the parents are notified that the child has tested high, to make sure that the parent gets the follow-up with the physician, and then to look at remediation of lead in these contaminated

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1 sites, and particularly in these sites that are so close to the
2 neighborhood schools.

3 The school district is undertaking a new building project right now
4 and we're talking to the school board about if they are replaing some
5 of these older schools, to look at safer areas to replace them if this
6 remediation cannot happen.

7 Our successes. We've tested about 1,800 children so far. In the
8 next two years we'll test a little bit over 2,000 more.

9 The collaborative partnerships and participation.

10 And I think our biggest success has been the education and
11 prevention campaign. The education campaign -- when we first started
12 this project in 1998 it was very difficult to get the parents and
13 participation from the school officials to get the parents to sign the
14 permission slips which would allow us to test those children. After we
15 embarked on this education project, and thanks to the help of EPA for
16 helping us get that grant, and did the video, the participation by the
17 principals in these elementary schools has just been tremendous. They
18 are actually working with the parents, trying to get the parents in.

19 In fact, at the school I talked about in Site 154, five teachers
20 volunteered to have blood testing done, and of those five teachers, two
21 of them tested with a level higher than 17.

22 Our next steps in the first part of 2001 is to expand the testing to
23 the neighborhood residents near the six industrial locations with the
24 highest lead soil levels. In March and April of 2001 we plan to
25 implement an education on prevention programs in the pre-kindergarten
26 through fifth grade students of the second phase schools. And then in

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1 May and June we'll start our testing on the next 1,000 children, and
2 those will be in the four new schools that will be identified.

3 Our next steps is to select the six industrial locations and expand
4 the soil sampling and site investigations, continue our blood lead
5 screening and lead based paint assessments, and perform potential
6 removal actions and also to the two final remediation projects will
7 hopefully get underway in early spring of 2001, continue our outreach
8 and try to diversify our partnerships because hopefully what our goal is,
9 as some of these sites get cleaned up, to put them back into some
10 productive use into the community.

11 I'd just like to thank Naomi Emeric who is from the Region 5 EPA
12 for -- she really spearheaded the work of getting the community groups
13 together and bringing them together for the monthly meetings and
14 organizing our collaborative partnerships.

15 Thank you. I'd be glad to take any questions.

16 (Applause.)

17 MR. LEE: Thank you. Naomi is sitting right back there. Can you
18 raise your hand? I think, for those of you who don't know, she's been
19 a real linchpin to the success of this project. I think, as we find out,
20 there are people like her and Althea and others who really play a very
21 big role in the success of these. And that's part of the evaluation that
22 one needs to do.

23 Why don't we open it up for questions or comments from the
24 Council. I don't know of anybody -- Vernice.

25 MS. TRAVIS-MILLER: The final remediation and site assessment,
26 who does that for you because you all are a medical and public health

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1 facility. Do you have people on staff? Have you subcontracted it out?
2 How do they work with you on that part of the process?

3 MR. MARK: No, that's not a project that we're doing. It's one of
4 the partners that are in the pilot that is actually going to do those
5 projects.

6 MS. TRAVIS-MILLER: And what's your involvement in the sort of
7 the site assessment and then the remediation options that they then
8 choose for the clean-up?

9 MR. MARK: Well, our part -- we initially started, like I said, in late
10 1998 and 1999 with just doing the testing of children. But what we've
11 found is that we're finding groups of children, or clusters of children, with
12 high levels all living in certain neighborhoods. And so, based on that
13 information is when we went to the EPA and said can we get some
14 further testing in these areas? And so that kind of really spearheaded
15 bringing in all the partners that are in this.

16 We realize that as a hospital there's certain things that we do and
17 there's certain things that we really don't want to be involved in, and so
18 that's why it's so important to bring all those partners together in this
19 participation. The Corps of Engineers are there, they're doing some
20 work. We have the local community development agency. As I said,
21 several neighborhood groups and other organizations that are all doing
22 a part of this.

23 So what we've tried to do is bring those necessary agencies in that
24 have the experience and the ability to do those particular types of
25 activities.

26 MR. LEE: Great. Next is Don Aragon.

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1 MR. ARAGON: Thank you. I enjoyed your presentation. We in
2 the subcommittee on health took a look at lead paint problems in
3 Boston about two or three years ago, and EPA had funded that. There
4 were some serious concerns about the handling of that research
5 project.

6 What I'd like to know is what kind of follow-up do you have on
7 these children and how long do you follow them.

8 MR. MARK: Well, right now the follow-up is, once the tests come
9 back -- and we go out and we do a second test to verify it -- and the
10 follow-up is being done by nurses at the hospital. We do not have
11 separate funding for that project and so right now we have a team.

12 At the hospital the way this started is that all of our managers are
13 required to participate in a community health initiative as part of their
14 yearly evaluation, and the lead initiative was one of those projects that
15 they could volunteer for. So as part of their employment, as part of their
16 jobs, they have to volunteer to participate. And so the nurses that are
17 in that program actually act as case managers on a voluntary basis to
18 follow-up. All of the data is kept in a computer system and then they
19 follow-up on the children to make sure that -- or, we try to make sure
20 that their parents get them to a doctor, that they make their doctor's
21 appointment. And then there's continued follow-up.

22 We try to follow-up with them at least until the doctor feels that they
23 can be released, that the levels are down to safe -- it's down to a safe
24 level.

25 Our goal is to try to secure funding so that we can do more
26 extensive follow-up. Our families move around a lot and it's very difficult

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to follow them. So what we wanted to do was actually try to put together a program to develop a group that is focused on doing nothing but following up with these children to make sure they get the necessary remediation that they need.

MR. ARAGON: Another question is, do you actually go into these children's homes and do some kind of an assessment to see if there is lead paint like in window sills and so forth?

MR. MARK: Again, yes. The hospital doesn't, but the partnership does. Once we identify the child, we work with the community group, Neighbors United for Progress. They actually then go into the home and they do testing in the home. That is funded by a grant that they received through the HUD grant that went to St. Clair County.

MR. ARAGON: Okay, thank you. I have one more comment.

The Indian Health Service has been doing some type of lead paint identification for high lead blood levels in Indian children. I know for a fact that the Bureau of Indian Affairs and even HUD have not been really overactive on Indian reservations in trying to solve this. I think studies such as yours are excellent and I appreciate it. Thank you.

MR. MARK: Thank you. One thing I would like to point out is that most of the children -- almost all of these children that we tested are between the ages of 6 and 12. You know, traditionally a lot of the testing was focused at zero to 6, but we felt that we were finding so many older children with high levels that we felt we needed to really focus on the school age children. And so all the children in our study are between the ages of 6 years old and 12 years old.

MR. LEE: We're going to ask Peggy and then Rosa Hilda.

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Jason is, how do you evaluate the success of this public education campaign? The Children's Health Champion campaign. And then I have a question for Mr. Mark.

DR. JASON: The way we are evaluating it, especially when it comes to school absences, we found out that the greatest cause of school absences in that area are due to asthma. So what we have done for the last two years is we've collected baseline data to determine how many absences we had from school. And since our project started in January 2000, we will be studying how many kids are absent from school due to asthma for the next school year, 2000/2001.

We also have recognized ER visits. We have baseline data on ER visits as well as hospitalization visits due to asthma. We're tracking those for a period of two years and during the third year we'll be able to see to what extent we've made a difference in terms of asthma.

That's how we are evaluating that component of the project.

MS. SHEPARD: Thank you.

Mr. Mark, I have a couple of questions. One is, you talked about an education prevention campaign. What does prevention mean for the children in the schools near the brownfield sites where you've found very elevated levels? Wouldn't one measure of prevention be to remove them from the school and find a different location immediately? That is one question.

Then another would be, in tracking the students with the high levels -- and you mentioned a percentage of students with reading and math deficits -- are you also looking at behavioral concerns and how might you track those students with those behavioral concerns since

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Now, let me tell you something. Just to show you that I am actually sensitive to everyone's needs, you should know that the hotel is putting out cookies. They're only going to keep them out until 3 o'clock. Okay? So, if you want, we can break for 15 minutes and come back. It's up to you now.

(Simultaneous discussion.)

MR. LEE: That's right. You should know this is a watershed moment here. See, when I chaired these committees nobody got any breaks at all.

So, if you want -- I mean, how do you want to do this? Finish this first? Okay.

MS. WOOD: Can I ask a question?

MR. LEE: Sure.

MS. WOOD: Charles, I appreciate your sensitivity in paying attention to our needs.

Now, the other question. Do you have somebody with a television on somewhere to watch to see if the Supreme Court does anything this afternoon? This is a very serious question. I think it's more important than the cookies. Supposedly around 2:00 today they were likely to be doing something. I would suggest that somebody be sent to their room, please, to monitor it for us.

MR. LEE: I was just told that -- actually, I was just told that there are no cookies.

(Laughter.)

MR. LEE: In any event, sorry for this. Peggy, you're on.

MS. SHEPARD: I have several questions. My question to Mr.

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some people say that a number of these children end up in the criminal justice system.

MR. MARK: Right. Right. In fact, the study that I referred to where they talked about the lead levels -- the standard should be lowered to 5. It indicated that there is some correlation between lead levels in children and those who enter the juvenile justice system.

That has not been something that we've studied so far. Right now the data that I showed on the case study is relatively new. That was just put together within the last month. So right now we're still working with the school district officials trying to determine what's the best way to handle this without creating a panic.

The school system is pretty crowded as it is, so to move 347 children to another elementary school immediately, there would not be a place to put them. There is the potential of a new school that will be built next year.

One of the things that is being considered is that they would change the focus and instead of replacing one of the other schools, replace this school first.

In the meantime, the school is looking at what they can do about keeping the children out of that area that's adjoining their property. Putting up a chain link fence is a possibility to try to keep the children more contained on the school district property itself, and then also trying to promote more -- if the children are outside playing, you know, washing of hands, washing of the equipment better before it comes in. That type of thing.

Those are some of the preliminary steps that are being taken. But

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right now that study -- the results of the children at that particular school, we have just found that information out within the last month.

MS. SHEPARD: Do you know who the responsible parties are on the brownfield sites? Is the city making any attempt to go after them to clean up the sites?

MR. MARK: The city really hasn't focused on this issue yet. Fortunately, with the help of the federal EPA and the Illinois Department of Public Health, they are making some inroads to identifying these sites, the owners of the properties, and hopefully we'll be able to go after them.

But one of the things about this project that, you know, kind of concerned the hospital as a health care provider was that until 1999 when we released the results of that study, not much at all was being done on the abandoned sites or on the lead poisoning in children. Since the statistics started to come out and the levels started to come out, now we're starting to get more cooperation and people are starting to take a closer look.

Again, I have to give a lot of credit to Chicago Region 5 EPA because they were the ones that really spearheaded this. When we called our local public health department and said we think we have a problem, it was ignored. And until we got ahold of Region 5 and said, we think this is a serious problem for children in East St. Louis and for the community as a whole -- not many people started paying attention, so once they brought the partnership people together, we started talking with others, including the Department of Justice, we really weren't getting much attention to these abandoned properties -- but now they

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are starting to identify them. We have a list of the sites. They're all identified. We're doing the work as far as identifying the owners and what legal ramifications there may be.

The one problem is that several of these sites, like the one by the school, from the best we can guess was abandoned in 1955. The owners, you know, have turned over several times, the property has been sold or, you know, left to the country as trustee for failure to pay -- and it's just overgrown. So trying to identify who the real owner is, is difficult in some cases. But we are getting some cooperation now.

MR. LEE: Pat, did you have a question? Okay. Rosa Hilda.

MS. RAMOS: As a mother and as a community representative I really want to commend you on your interest in helping children with lead problems.

You must have a pretty good working group on your staff because, you know, getting the Corps of Engineers involved in testing lead on behalf of children, really that's something. I would really like to hear what was their contribution and how you got it.

MR. MARK: Well, we asked. I mean, that's about it. I mean, there was nothing really -- you know, nothing out of the ordinary.

We brought together our partners in this group. It started off with just the hospital doing the testing. We contacted the federal EPA. They brought in -- federal EPA Region 5 brought in the state EPA and the Illinois Department of Public Health. And then they also approached the Army Corps of Engineers out of St. Louis to come over and start doing some work in the community.

They got involved in this project. They attend all of our partnership

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meetings, and have been very cooperative.

MS. RAMOS: Did they give money?

MR. MARK: No, they have not put up actually money, but they have provided some of the site testing and sampling in the area.

MS. RAMOS: They sampled?

MR. MARK: Uh-huh.

MR. LEE: Alberto.

MR. SALDAMANDO: Thank you. I wanted to comment generally on the pilot projects and the concept of the pilot projects.

With regard to lead poisoning, I think the jury's been in for close to 30 years -- I don't know how many years -- that it's a bad thing. And I think it's been known for at least one generation, maybe two, that it does affect people permanently, and the children are most vulnerable, and that children under 5 are probably more vulnerable than children over 5.

I know, for example, that -- after it was discovered that lead was dangerous, the government -- HUD I believe it was -- I've been told bought the paint because it was so cheap after it was discovered to be dangerous and gave it to the Navajo Nation and other Indian Tribes to be used in housing and the painting of clinics. As far as I understand it, there's never been a follow-up by HUD or anyone else as to whether or not that paint is still on the walls.

That leads me to the comment generally about the policy implications of all of this. I commend, really, EPA and the different regions that have undertaken these pilot projects to remediate, to clean up, to take care of children, or our children. I think it's particularly

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lamentable that you're doing it in stages, as you necessarily have to, because more children are affected. As you test, you find more children that could have been helped earlier had there been funds available to do a larger, quicker reaction. But the reaction has long been coming.

It just leads me to believe that there are areas, like Indian reservations and inner city communities, who are affected who are not at all helped with their problems whether it be lead poisoning or PCBs or whatever -- they are not being at all addressed, their children are being highly prejudiced by a lack of action.

It's a concern that I have that perhaps, you know, these pilot projects are necessary and appropriate, that there should be another way of dealing with these issues. It seems to me that EPA and the government generally wait for children to be poisoned and then try to address the problem.

It seems to me that there should be some different view, different attitude, to prevent it from happening in the first place, and I just don't see that with regard to at least the policies that I'm aware of not only on the part of EPA but the government generally with regard to environmental justice. That we seem to wait here until the situation becomes so intolerable and so many children and so many people are affected -- significantly -- through asthma and whatever, that they actually -- it's so intolerable that they come and complain about it. They raise the resources, they identify the place to go, they go through government and they come here and they come to us and we try to address that particular issue at that particular time.

I honestly at this point think it's something that NEJAC should be

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concerned about as to what kind of policies are being effectuated by EPA that lead to that result.

Again, this is not to detract from the need and the good work that EPA is doing through these pilot projects or the good doctors that are attending these issues, but it's kind of a little frightening to know that for every child that's attended to in an area of the pilot project, there must be thousands that don't even know they have a problem.

PARTICIPANT: That's right.

MR. LEE: It is now 3:00 and I know you want your cookies, right? Or whatever. So, Harold, did you want to comment?

MR. MITCHELL: Sure. I'll make it shore. As a demonstration project, has the Department of Education been involved at all since there was so much concern from Secretary O'Riley of the ADD and ADHD testings that have taken place?

MR. MARK: You mean to me?

MR. MITCHELL: Whether they have been involved in this particular project? No.

MR. LEE: Okay, great. Well, why don't we give a round of applause for the panelists.

(Applause.)

MR. LEE: It is 3:00. Why don't we have a 15-minute break, at which point we'll get back for the last panel of the day.

(Recess.)

MR. LEE: I have to start with an admission of something that I should never have done, something I learned I should never do. You know, it wasn't my fault; they told me there were going to be cookies.

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(Laughter.)

MR. LEE: Now that I'm a federal employee I did something I should never have done, which is to make promises I cannot keep.

(Laughter.)

MR. COLE: There's always a first time.

MR. LEE: Right. It may not be the last.

MR. COLE: I ordered 500 cookies on Charles' room tab. They should be arriving soon.

MR. LEE: Okay. I know who my friends are now.

(Laughter.)

MR. LEE: This is going to be the last panel of the day, and so the sooner we get done with this, the sooner we'll be able to be out of here. We are actually making good time.

Let me begin by making two comments. This panel is a multi-stakeholder panel. They're to address the issue of how does one look at this collaborative partnership model, this interagency environmental justice action agenda from the perspective of different stakeholder groups -- the community, business and industry, municipal, local government, tribes and the states.

Part of the backdrop to this is as we begin this concept of developing an interagency action agenda we've been rather aggressive in doing outreach to all these different groups, and we've heard since the very beginning of that process a lot of encouragement and support, as well as very thoughtful suggestions in terms of how to approach this. And we wanted to bring those perspectives to you in terms of looking at this concept as a whole.

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I just wanted to acknowledge a few people. I don't think Quentin Pair and Martha Minter are here, but they happen to chair the Outreach and Communication Subcommittee of the Interagency Working Group on Environmental Justice. Were they here, you could acknowledge them for spearheading our efforts to really do this outreach and the assuring of really getting meaningful input from all the different groups that are partners in this process.

The second point I want to make is this. It has to do with the idea that this interagency action agenda, these demonstration projects, are a platform from which to advocate for a new way of doing business. You know, there is this question that comes up as to whether or not 15 demonstration projects is ultimately going to make a whole lot of difference. In and of themselves, I would say the answer to that is no, that they ultimately have to be translated into policy changes.

But in order to do that we really need to make sure that there is a political will to make sure those policy changes take place. And part of the process of developing these partners among these different projects -- and we're beginning to see the fruits of that in many different ways -- is to really build a constituency for this way of doing business.

I would say that one of the things that I'm trying to accomplish is to see whether or not the concept of environmental justice can generate the broad based political constituency and the partnerships that will bring about the kind of support for changes, policy, and otherwise that leads to a new way of doing business.

So, with those two kind of background comments, I would like to turn this over to the panelists. They are Charlotte Keys who is the

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Executive Director of the Jesus People Against Pollution from Columbia, Mississippi; Sue Briggum who is ill and has provided for you written comments and has asked Pat Wood to present on her behalf; Jesus Nava who is the Deputy City Manager for the City of San Jose, California; Terry Williams the Commissioner of Natural Resources and Fisheries for The Tulalip Tribes in Oregon; and Richard Gragg who is an Associate Professor from Florida A&M University, the Director of the Florida Environment Justice and Environment Equity Center which is established by an act of the Florida State Legislature is doing a lot of coordinating of environmental justice programming on behalf of the different agencies of Florida.

With that, I would just ask Charlotte if you could begin.

PANEL 5

STAKEHOLDER PERSPECTIVES ON INTEGRATED INTERAGENCY STRATEGIES PRESENTATION BY MS. CHARLOTTE KEYS

MS. KEYS: Good afternoon, everyone. I want to say that I do give honor to my Lord and Savior, Jesus Christ, who is the head of our lives. I'm truly thankful and honored that NEJAC has called upon JPAP to be a participant in this event as we talk about just solutions.

I want to say today that although one may have the gift of building relationships and have not love for humanity to solve problems, it profits us nothing. Let me encourage your hearts today to it.

I have learned many lessons from my own personal experience in working as a grassroots activist in Columbia, Mississippi on behalf of building trustworthy, long-lasting and Godly relationships with those

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1 willing to assist Columbia, Mississippi's efforts.

2 Every agency has a moral obligation to fulfill its mandates in
3 protecting the public's health and their environment, more so than just
4 stacking up papers. Hopefully with the Interagency Working Group we
5 can move forward from paper to action in working toward just solutions
6 for many of our communities.

7 In the past, what we know to be present, and as we search for the
8 wisdom, knowledge and understanding for a better future in providing
9 a decent quality of living for all, it has been a long and hard task for
10 many. We have discovered that the only way to succeed in
11 accomplishing the mission of enforcement economic justice is to build
12 trustworthy, honest, loyal and long-lasting partnerships with others.

13 Having made that link of knowledge, we must institute and place
14 mechanisms that work and that provide the right diversity of folks at the
15 table to work toward just solutions. In order to be effective we must
16 review existing partnerships, link with new partnership, and build a log
17 foundation for humanity that can sustain every relationship established.

18 Today JPAP's president has been requested to share with
19 everyone the importance of the Interagency Working Group, and I will
20 probably say the IWG more than just saying Interagency Working
21 Group.

22 First of all, I would say that the purpose of this particular group, as
23 I understand it to be, will be to help provide another vehicle, or a tool, for
24 impacted communities to have a platform for the proper federal
25 agencies to assist with our local struggles for environmental and
26 economic justice as it deals with case-by-case issues.

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1 It is because many in of our communities we need a variety of
2 professional skills or expertise and resources from our federal agency,
3 but find that sometimes it is hard to get them committed to following
4 their mandates to address communities' needs and concerns.

5 Well, hopefully with the IWG group they can help bring to the table
6 the right federal partners to assist our local communities' needs.

7 At this point for JPAP we have basically worked to establish and
8 correlate some of the key partnerships to enhance our struggle, and
9 with in mind I will share with you that we have several different projects.
10 The technical advisor, Dr. Calhoun Bell is in the room. I would ask that
11 she stand, please.

12 (Applause.)

13 MS. KEYS: This person has helped provide a lot of technical
14 assistance for our community in dealing with the superfund technical
15 assistance grant. Along with that -- she did not just stop with providing
16 the technical assistance with that grant -- but she did more outreach to
17 find better ways of enhancing and empowering us to do a better job
18 through offering technical assistance from a project that is known as the
19 CARAT Team process through the Coalition of Black Trade Union. The
20 CARAT Team actually means, Community Action Response Against
21 Toxics.

22 That particular mechanism has provided us an avenue to pursue
23 the proper technical assistance to deal with hazardous waste training
24 and I've been able to attend several meetings at the University of
25 Cincinnati with the ICWU, the International Chemical Workers Union,
26 and the Coalition of Black Trade Union. This is a project that has been

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1 funded by the National Institute of Environmental Health Sciences and
2 some other projects.

3 Along with that we have the Ahead 2000 Information Resource
4 Center, funded by the National Library of Medicine and the Presbyterian
5 Self-Development of People Project. Self-Development of People has
6 a grant program in place to give to community activists so that some
7 think do not have to be 501(c)(3) incorporated. I think they allow for you
8 to actually have funds to start the project because they actually helped
9 Jesus People Against Pollution to start its first office up.

10 And from that there were not supposed to give any more funding
11 but they decided that we needed to actually focus on the environmental
12 health services for our communities and has funded us with resources
13 for our building. That is a mobile facility that we have been working on
14 for two years, which is in renovation stages. This particular building will
15 be used for the Ahead 2000 Information Resources Center.

16 This will provide our community with a place to come and actually
17 learn more about how to do the kind of research on the Internet and
18 dealing with a lot of the environmental disease. And hopefully not only
19 that, not only will we not stop there, but we're working with some
20 medical professionals to open that building up that has the
21 environmental toxicology knowledge to help us to actually start to
22 service some needs for the community.

23 It's not enough to talk about the health needs and not address
24 them. It is time to move from paper to action.

25 Most of the sites and problems that I've been hearing since I've
26 been here is how people are struggling with dealing with a lot of the

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1 environmental health related diseases. There has not been to this
2 point, to my knowledge, a clinic or anything set in place that has
3 positions to address services, environmental health services and
4 treatment. And it is time for us to move from paper to action with this.

5 Hopefully in Columbia, Mississippi we will start that process
6 ourselves. It will not be federally controlled because of the federal
7 resources produced there. But it will be community controlled.

8 Along with that we have a health data project where we had 30,000
9 health surveys that had to go into the computer to find out what had
10 happened because our Federal Government had not studied or
11 investigated the health problems related to the superfund hazardous
12 waste site that had contaminates on it for Agent Orange, along with the
13 community that is adjacent to that site now known as the brownfields
14 site. So we were having to work, and there was a superfund project and
15 a brownfield project

16 From that has stimulated the kind of resources needed to start to
17 address a lot of the goals that the community has actually set to deal
18 with the environmental services, health services, and the relocation
19 needs. And hopefully through the health data project it will give us more
20 statistical data to actually leverage the kind of resources that we seek
21 as we also work on the brownfield pilot project initiative.

22 One of the things I noticed about brownfields is that the health
23 component is always placed in the background. Nobody wants to talk
24 about risk communication or the adverse health effects related to the
25 brownfield sites. Well, I'm telling you that at the brownfield meeting I've
26 been able to participate in a lot of those events and they have actually

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had panels coming from -- well, I served on the panel with Dr. Rueben Warren from ATSDR, the Agency for Toxic Substances and Disease Registry. They have had me there for the past three years I think dealing with the brownfield initiative to focus on environmental health issues and how it affects or impacts the community.

With that, I would say that along with many other existing projects, these kinds of partnerships did not develop overnight. It took some time for us to build trust, to actually work with our federal agencies because what we have noticed in dealing with the past is that you had all of this backlog of mistrust and a whole lot of lies and hypocritical untrue activities taking place.

When it came down to really addressing the communities' health needs, nobody really wanted to focus on these kinds of issues. And even today with the brownfield project, I would say they really don't want to touch that. But it is important for the Interagency Working Group to be established so that every agency that is needed at the table that has the expertise and resources to assist with working on just solutions, they need to be at the table with the community helping to work on these issues together.

Community involvement at the beginning process is very important. Superfund did not have that at the beginning of the Columbia, Mississippi project, but with the brownfield project we were able to have community involvement at the beginning.

This has helped to make the projects in Columbia more effective and it's working better. We're working with politicians that have stated to us they would never come to the table with us. We're working with

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me if I occasionally make some errors. I did read through it and I want you to know, of course, this is a statement that was prepared by Sue, but I must say that I agree with Sue in every instance; in fact, there is one item I will mention at the end which Sue didn't touch on which I would suggest should be included.

Sue was asked to bring the business perspective to the integrated interagency strategies to the table. And from a business perspective, as Sue noted, one of the greatest challenges in resolving EJ controversy centers on context and also on each business' relative role.

As environmental justice advocates remind us regularly, most EJ issues arise from accumulation of multiple sources of health problems, environmental and economic stresses. Quite often we don't know exactly what the factors are that have led to the problem, but we can certainly see the cumulative effect.

In the classic case, a number of facilities from different industries or business sector coexist in the same area with environmental justice challenges such as heavily traveled roads, runoff from unregulated sources, emissions from businesses and individual sources in the communities, and a variety of other sources that we haven't begun to really understand.

All this adds burdens to the community which quite often suffers from insufficient access to medical care and other essential services. In other words, there's a lot of things going wrong and things aren't going right for that community.

Often there's several different governmental authorities involved, both as sources of emissions and also as regulators. Often, because

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state agencies, different ones, that stated that they would never work with us.

So I am looking at the hand of the Lord at work in a lot of these activities. Now, if I had given up at the time when all of these different mechanisms were being put in place and just walked away and gave up hope, nothing would be happening. But I've learned that sometimes that if you pray for patience and understand that you're going to have some suffering -- you're going to have to go through some suffering -- in order to get to where you're trying to go.

Just solutions do not happen because one or two people decide that this is what we need. It happens when the willing, honest and trustworthy partners are willing to come to the table.

I am truly convinced without the love of God in for humanity's health and well-being as top priority we are headed for the toxic destruction of our environment and it's doomed for failure.

But let us love one another and work together on just solutions to end these manmade unjust problems.

Thank you very much.

(Applause.)

MR. LEE: Next we have Pat Wood.

PRESENTATION BY MS. SUE BRIGGUM

MADE BY MS. PAT WOOD

MS. WOOD: I think everybody is aware that Sue Briggum had prepared this statement and was going to read this statement today. Sue was here for a brief period of time, is not feeling well, and went home. I promised her I would read the statement, so please bear with

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you do have a variety of governments involved, no one's really willing to take the first step to try to correct the action or to take on the burden of assuming some responsibility.

Even a business with the best of intentions may find itself overwhelmed by a dilemma of how to play a constructive role in a situation over which the company has only partial control. In fact, quite often the company may be unaware of what the problem is all about.

Similarly, it's clearly unfair to expect citizen advocates to shoulder the burden of organizing a constructive response to these concerns.

We've listened yesterday and today, though, to some of the pilot projects where people have overcome some of those hurdles. As Sue says in her notes, that she sees the interagency demonstration projects as a means to break through this cycle of conflict.

The pilots that have been selected to date share several admirable characteristics, and she mentions three. First, they task a federal coordinating agency with responsibility to get the project going -- in other words, somebody is put in charge to take that first step -- to assure the community needs views are paramount, and engages many of the affected stakeholders as possible in problem solving.

Second, they attempt to connect community groups with already existing federal resources.

Third, they're premised on open dialogue and cooperation, not the old model of confrontation.

It's a good model and it does certainly seem to be working with these pilot projects.

It makes sense. It's place-based, tackles a manageable set of

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issues and parties, and allows for trial and error. When good models emerge, and we're certainly seeing them emerge from some of these early projects, they can be replicated and expanded in future efforts and bad ideas can be discarded.

I don't know that we've found any bad ideas yet.

In many cases the IWG projects remind Sue of the early brownfield pilots which similarly began with a central agencies coordinator and leveraged substantial private sector and government investment from initial EPA grant money. The brownfield projects also generated a new model for truly involved citizen participation and community empowerment.

The most successful brownfield pilots recognized, however, that the critical element in resolving environmental justice concerns is its partnership between the community and the businesses whose activities affect that community. Federal, state and local governments can act as facilitators, regulators and occasionally as funders of studies and planning efforts. But real sustainable progress, for the most part, depends on business and community members working together in that community not just to solve current problems but to address concerns that will emerge in the future.

This partnership has to be real, founded on familiarity and earned trust. One of the reasons for the success of the brownfield programs was that it engaged local business at the onset at individual sites, supported ongoing communication between business and community, and then engaged real estate developers actually through their trade and professional associations to agree upon model that had worked

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someplace, that those models then could be used for public involvement at a broader array of sites. In other words, the program started local but it quickly developed a national standard of cooperation.

When EPA was managing its individual pilots, the agency also coordinated with ASTM on a template for how community involvement should take place during brownfields clean-up and redevelopment, and we know that that template now exists today and is used in a variety of sites.

Sue suggested the same thing needs to happen with the IWG. In some of the pilots -- Spartanburg and Bethel New Life, which we heard about today, come to mind very quickly -- local businesses already are involved. In some other pilots business appears to be missing. Maybe there's no business in the community whatsoever; that may be the case, but I don't think it's the case in all those examples.

But if, indeed, there is a business there, it's going to have some expertise and some resource that would be desirable and could contribute to the IWG process.

Sue has two recommendations which I strongly support. One is that each pilot should actively engage all affected businesses. Look a little harder, if they haven't already done so, to see if there aren't some there in that community.

One of the premises of the brownfield program and the IWG pilots is that citizens must have a role in shaping the development around them, and the Federal Government should facilitate that role. That kind of coordination should be done for affected businesses. Most businesses do see themselves as a citizen and a part of the community.

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If they don't, they should, and I would strongly suggest that the pilots need to go around and knock on a few more doors.

I don't pretend that this will be easy in all cases. The Federal Government's assumed role as facilitator of dialogue and action will be tested. In fact, one thing that hasn't been addressed too much here today -- in fact, Sue doesn't touch on it in her prepared statement -- but in looking at this I -- and I think it's an oversight in many instances because we've certainly heard about it -- we mustn't forget the state role in some of the other community regional activities. It's not simply a matter of the feds and the local citizens; the state in many instances can be a very helpful partner and I think mustn't be overlooked.

But getting back to business, there's incentives for business involvement, which should be used more fully. Businesses respond best when approached as a potential partner as part of the dialogue early on and when they're expected to contribute fairly based on its contribution to the problem presented.

I would also suggest that business tends to respond much more quickly if approached by local community folks, as opposed to being approached by the Federal Government, with all due respect to the Federal Government. That's not really where business sees its closest connections.

Second, once you've contacted that local business, a larger infrastructure for positive business contribution to the pilot program should be created by engaging major business trade associations in the project. It's useful to have individual company participation in specific projects -- in fact, I would say it's essential in most cases -- but the word

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needs to get out more broadly by constructively engaging larger business groups.

Sue notes from her own experience on the NEJAC that much of the substantive work comes actually from the subcommittee work products that have been done within NEJAC which are representative of a healthy balanced participation from community, government and business representatives.

She further noted that this was the model used for the original NEJAC brownfields report and the subsequent ASTM standard which has certainly had meaningful impact on EPA's brownfields pilot program. A comparable but expanded process should take place with the IWG.

Sue suggests that trade associations from affected businesses, along with representatives from major citizen advocacy groups, should be engaged in reviewing the pilots and assisting the Federal Government in their ongoing evaluation of the success of pilot programs.

Just a cursory look at the current pilots suggests a number of relevant associations. For instance, National Association of Manufacturers, American Chemistry Council with its responsible CARE program, American Trucking Association on transportation issues, NFIB which is the National Federation of Independent Business where small business is involved, Pesticide Manufacturers, Pharmaceutical Manufacturers on issues of health, treatment and care. And the list could go on and on.

I think that's a worthy objective. I don't disagree with Sue's

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1 recommendation, but my suggestion would be that before one starts to
2 try to work on the trade associations, the first step is the matter of
3 reaching out to some of the individual companies in particular areas
4 where the pilot projects are underway.

5 I think when these pilot projects have reached a state where we
6 can have success stories developed, I would suggest with the next tier
7 you get more companies involved, and when you have a number of
8 success stories it then becomes a little easier to sell the concept to a
9 trade association. Not a bad idea, but I think one that's going to take a
10 little more time and investment to make it work.

11 Sue concluded by noting that there are additional resources that
12 are warranted once the pilot efforts begin to show success. As I
13 mentioned before, I think it's also important that we not overlook state
14 and regional governments, that it's not strictly a relationship between the
15 Federal Government and the locality. As much I applaud the feds to
16 see the feds finally working together with the interagency effort, and I
17 think it's a really great step -- but to really have it become part of a
18 permanent system that's out there and a real network, we have to
19 expand it, as I said, to reach out to folks that aren't at the table yet,
20 which quite often means some of the state representatives, state
21 involvement, and also local business.

22 Engaging citizens and business groups together to make the
23 projects work, the Federal Government working I think with state,
24 regional and local governments, will foster a powerful coalition for future
25 bipartisan initiatives to address environmental justice concerns. My
26 personal sense is that it's a matter of slowly, step-by-step, building a

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1 if those of you who are familiar with Texas know that the west side of
2 San Antonio is the predominantly Hispanic low income part of town. I
3 had my beginnings there in a family of 11 kids with only my dad
4 working, but had parents who were very socially conscientious and
5 taught each member of our family to care not only for the people who
6 we lived with but also the land in which we lived and occupied.

7 That life experience has been very important for me and has taught
8 me quite a bit about how to work with the minority and low income
9 neighborhoods in each of the cities that I've been employed in, to the
10 point where usually I've had to be the lead in going into the Hispanic
11 neighborhoods and into the African-American neighborhoods and to the
12 low income neighborhoods to attempt to work with them in trying to find
13 solutions, or develop solutions, to some rather complicated urban
14 problems.

15 Those of you who are familiar with some of those towns know that
16 Laredo is a very poor community. It is a gateway from Mexico into the
17 United States and we have large numbers of recently arrived
18 immigrants, predominantly Spanish-speaking, many who are coming
19 from the rural parts of Mexico and are finding themselves for the first
20 time living in an organized community.

21 For many of those folks it's a step from living outside to living in the
22 shanty, which at least provides the roof over their heads and a warm
23 place to sleep during the winter.

24 As I was preparing for my presentation, I thought back at sort of
25 some of the influences of my life and wanted to take one minute to read
26 a small passage from the book "Cry the Beloved Country" by Alan

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1 network of communication so that people have a better understanding
2 of what the problem is and that's how we'll get it addressed.

3 Thank you.

4 MR. LEE: Thank you, Pat. I think you have done Sue proud.

5 Third is Jesus Nava from the City of San Jose. Let me just say
6 that, you know, the level of government that's probably closest to an
7 impacted community is local government and that part of our outreach
8 efforts has been the real engagement with the International City
9 Management Association. They recommended that Jesus come and
10 present. I think that what I'm trying to say here is that a lot of work has
11 to be done to really engage local government, and we're really pleased
12 that Jesus is here to present to us.

13 PRESENTATION BY MR. JESUS NAVA

14 MR. NAVA: Thank you, and thank you for the opportunity. My
15 name is Jesus Nava and I'm currently a deputy city manager of the City
16 of San Jose. That's city number 6. Those of you who are familiar with
17 city managers know that from time to time we are in the unemployed
18 status, so we move around quite a bit and the average tenure is three
19 to four years, even though some folks have been around for as long as
20 13 and 16 years, but those are by far the exception.

21 I started my career in San Antonio and move on to various other
22 communities, including Laredo, Texas on the U.S.-Mexican border, and
23 before coming to San Jose, Las Cruces, New Mexico, which is also
24 considered the U.S.-Mexico border even though it's about 40 miles
25 north of the El Paso/Juárez border. It is a great experience for me.

26 I'm originally from San Antonio, from the west side. I don't know

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1 Paton which was published in 1948 and talks about the Reverend
2 Kumalo going to Johannesburg to find his family and bring them back
3 to the province. I think it goes to the point of what happens when the
4 government does not pay attention to the issue of justice, and
5 particularly to the issues of justice as they pertain to the environment.

6 He's just arrived in Johannesburg and is with a group of priests, he
7 being a priest himself, and he's telling them -- the passage says, "And
8 he told them all about these places, of the great hills and valleys of that
9 far country, and the love of them must have been in his voice for they
10 were all silent and listened to him. And he told them, too, of the
11 sickness of the land and how the grass has disappeared and of the
12 dongas that ran from hill to valley and valley to hill, and how it had
13 become a land of old men and old women, of mothers and children, how
14 the maize barely grew to the height of the man, how the tribe had been
15 broken, and how the house had been broken, and how man had been
16 broken. And when they went away, they never came back and they
17 never wrote.

18 "They talked about young criminal children who lived loose and idle
19 lives. They talked about older and more dangerous criminals and how
20 white Johannesburg had come to be afraid of black crime."

21 It talks about what happens when there are issues of injustice that
22 have not been addressed or where people feel that their land has not
23 only become sick and contaminated by outside influences, but of the
24 feelings that they have when there is no remedy and how they in
25 essence have to work counter to society and counter to the laws of the
26 land in order to get their way.

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As I talked about earlier, many times I am one of the first persons to go into the low income minority communities to try to address some of the issues, and have simply in most instances faced very hostile responses to the local government, to the political systems, a hostility that arises from a sense of injustice, from a sense of neglect.

Many times I've had people say, Well, why should we trust you? You know, the city has never cared about us before but now that we have a major company that's interested in locating here, you are here to address our causes and to say that you are here to help us. We don't buy it.

And, of course, my only response can be, We'll, allow me to work with you and allow me to help solve some of your problems, allow time to go by and allow history to be created so that you can learn that I am a man of my word and that I can be trusted to try to deliver to you not only some benefits for your community but some justice, justice that is well deserved.

What can you all do in working with local governments? Local government is closest to the people. We do have locally elected officials who work with their constituents on a day-to-day basis. There isn't a single councilman in any of the cities that I've worked for who do not know the major citizens of that district or that part of town, who cannot neglect them and who must pick up the phone and call them when there are issues to be dealt with.

Your council members are in direct contact with the constituents of their district in most instances, and it is important to recognize them as leaders of the local community and as potential advocates and

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partners in causes that require the building of consensus in those communities.

Throughout my work I've dealt with a variety of issues. There was one issue in San Antonio, Kelly Air Force Base in the west side, where when the Shah of Iran happened to be in San Antonio and security had to be heightened at the Air Force Base and we had the military police come out and expand the perimeter into the low income part of town, people began to realize that there was more going on at Kelly Air Force Base than simply jobs, including keeping several two million gallon tanks of jet fuel. Those of you who know about Kelly know that there's a lot of missions run out there not even 500 or 600 yards from neighborhoods.

With this new knowledge came some concern about what would happen if there were an explosion or if there were an accident. To go in there and try to explain that, well, it's the Federal Government, and more importantly, it's the military, and we really can't get any information because we're in a heightened security and are being told that that information is strictly confidential, just did not cut it with the population.

Ultimately we had to go to our federal elected officials, including Henry Gonzalez, the late Congressman of the area, to assist us in trying to alleviate some of those fears.

Hopeful influences in your work -- again, I talked about working with local officials, but more importantly, working cooperatively with local officials, both elected and appointed. In many instances those officials understand the history, the current state of affairs, and the future of that community and are always willing to have other partners at the table.

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You can be in contact with them fairly quickly, especially if you work through our elected officials. And more importantly, they can put you in contact with the citizens who will have an important say-so in what is to be done or what is important to that community. That direct contact is extremely valuable and can be made available to the Federal Government if it's worked through the proper channels.

Two, a second influence: Respect the local autonomy of the community. Most of the cities that I've worked for are considered home rule cities; they have the ability to legislate their own rules and laws. Most of them have comprehensive land use plans. These are documents that take into account an extremely long citizen participation process -- they're usually for ten years and guide most planning and zoning decisions.

Become familiar with zoning and land use rules and regulations in those communities. Again, most zoning and land use changes will require public participation and will require a public noticing process of not only the immediate neighbors, but in some instances as far as maybe a mile away. It all depends on the community.

It's important to recognize that those communities are self-governing and have these rules and regulations.

The comprehensive plan and zoning rules are, in my opinion, a double-edged sword. My experience has been that in some communities there is some discrimination in the way zoning and land use have been determined. Not overt discrimination, but perhaps discrimination that has been brought into place just given the history of the community.

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An example would be having neighborhoods pop up in what was once industrial zones because the land is cheaper there and because in many instances there isn't really a strong voice for that community. And then as those neighborhoods build up, having new industry come in and then having the traditional battle between not wanting additional industries moving into the neighborhoods and having the neighbors sort of combat the city on whether a new factory can come in or not.

Again, the Federal Government can possibly play a role in sort of guiding and testing to see if some of those zoning rules are discriminatory and whether they do reflect some historical bias.

Another influence should be to make resources available. And by that I mean, of course, money. Many cities are not as fortunate as the City of San Jose, they do not have the proper revenue streams to take on the kinds of clean-ups or environmental projects that are needed.

So federal money is important. The brownfield projects is a good starting place, and the Sustainable Community Grants which the EPA has also has been providing is a good place to start.

There are some opportunities that are being missed. And having been on the border, one of them is providing funding that can be used in binational efforts, meaning money that can be spent in Mexico or at least in communities where the boundaries or the international border does not stop environmental contamination or sicknesses or any other type of negative effect from crossing into the United States.

Traditionally U.S. money cannot be spent in a foreign country. Cities have been eager to plow some of their own cash to make those projects happen. But looking at binational funding I think is important.

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Another resource is to lend your scientists and your technical consultants to the locality. The EPA has a number of science professionals -- biologists, hydrologists, botanists, arborists. Communities traditionally cannot afford those kinds of scientific resources, but the Federal Government can make them available to local government for their use. It would be helpful and it would prevent municipalities from using lack of funds as an excuse for not having that technical knowledge.

Then, the sharing of data, of information. I talked a little while ago about the reluctance of the military to provide information about not only their installations but what they're doing within those installations. I think it does the surrounding neighborhoods an injustice not to have that information available, or for at least that there be a frank discussion with them.

Finally, coordination between the federal agencies. The tradition has been that if I have a project that I believe has some merit, I put the proposal together, I go visit the regional offices, each individually. I go to Washington, D.C. and visit the national agencies one at a time. Then I ultimately go to the Congressman or Senator's office and then ask them to have one of their staffers look it over and make contact again so that there's some coordination.

I think your efforts are helping in that regard, but again, it's just a start. I think HUD and the Office of Economic Development and the Department of Defense, and others, need to take sort of a page from your book and assist in that cooperation.

Finally, keep the federal process and the language simple. When

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you're dealing with neighborhoods, you're dealing with ordinary people. These aren't Ph.D.'s or master degreed individuals. Some of them have elementary and junior high school levels and you can't expect them to grasp the language or the jargon that is used at the federal or the state, or even the local level. It does them no good when they can't understand what's going on in the meetings and leave more confused than when they arrived.

So hopefully you will take a look at some of my suggestions and some of my recommendation. The International City Management Association is ready to assist in this effort and we do have a variety of individuals who can assist you in your efforts and would be more than glad to do so.

So with that, thank you very much.

(Applause.)

MR. LEE: Thank you, Jesus.

Next we have Terry Williams. We are really honored that Terry Williams agreed to come and present to us. Terry is a former director of the American Indian Environmental Office of EPA and the first chair of the Tribal Operations Committee, as well as his many other associations.

PRESENTATION BY MR. TERRY WILLIAMS

MR. WILLIAMS: First of all, I'd like to thank you for the invitation. It's wonderful to be back and be able to participate again.

I just want to say something first that might relate to this later. At lunch today I was with some friends and I was reminded something that

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my father told me when I was very young. I was about 13.

My friend and I were going out into the North Cascades Wilderness to fish for a week on the river system. But it was the first time we were going out alone without our parents or elders. I told my father that I was comfortable with taking care of myself and my friend and the things that we were going to do, but I was concerned about bears. I had never been alone in an area with bears before.

So I asked him for his advice. He looked at me for a minute and then he said, "Well, son, don't look like lunch."

Sometimes tribal wisdom and knowledge comes in simple form. I'm going to try to be simple today.

I'm going to talk about personal experiences in dealing with a number of processes with local, state and federal governments from a tribal perspective. And with what I'm going to talk about is looking at tribal culture and culture sustainability and look at it from an environmental viewpoint.

That is, our cultures on the environmental side are greatly sustained by the utilization of different species, whether they're fish, wildlife, vegetation, herbs and berries, these types of things that form not only our culture but our health and our economy. It's a subsistence way of life in many ways yet.

I'm not going to talk about the background much; I've listened to you yesterday and today and heard the discussions on the federal relationship government-to-government and tribal standing, and U.S. obligations, trust obligations, and I think you're fairly well versed in that. What I'd like to talk about is the implementation of discovering its

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process.

When you look at implementation, you have to understand what it is that the tribes are trying to accomplish. The tribes, having basically small numbers of people in a country with such a large population, generally have a hard time articulating what it is that they do in terms of culture. You know, who are we and how do we survive. On top of that, explaining to a federal agency the mixture of tribal processes compared to federal and how we see our future, the visions of our future, and how we see relationships.

So, for the federal agencies -- first, I want to thank the Indigenous Committee, too, for putting together the document. I just went through it again. I think it captured very well the issues that are going on in these relationships in trying to understand how we affect each other, and the issues that were raised are very important issues.

But how we assess from a federal standpoint or a state standpoint what the tribal goals or aspirations are, and where we'd like to be, what kinds of objectives do we have -- we sometimes in our management look at where we were historically as a people and what sustained the culture in that historical perspective -- you know, the longevity and the health, the wealth of the people -- and compare that to today and the present; you know, what changes have occurred.

And when you look at that historical perspective of the natural landscape -- from our area in the Northwest we had old growth forest, we had an abundance of fish, we had trade routes, and our health was generally pretty good because of the abundance of food sources -- it was a good condition.

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1 Today, with the greater percentage of that landscape altered, the
 2 species that supported us are no longer there. You know, we've been
 3 through forestry, agriculture, urbanization. Those types of things have
 4 changed the dynamics of not only our social communication and
 5 practice, but also our health because we understand now that as our
 6 traditional diets of food have disappeared that we've had increases of
 7 heart disease, increases of diabetes and cancer, those types of things
 8 that are lost when you switch from a traditional diet to processed foods.
 9 And our people have not fared well under that process.

10 So we have learned to work with the Federal Government through
 11 generally federal processes of developing plans or goals, identifying
 12 how to do assessments both with science and traditional knowledge,
 13 and looking at how to put these things in a process that has
 14 accountability and is affordable and enforceable.

15 In Washington state -- I'm going to mention just a few processes
 16 first that we've worked through that had better outcomes but not desired
 17 as the tribes would have wished.

18 First, several years ago we had what we called the Puget Sound
 19 dredge disposal analysis process which set up the process of dredging
 20 some of our bays and inlets. That was comprised of federal and state
 21 agencies through a NEPA type design process and science in terms of
 22 locating where they were going to dump contaminated sediments.

23 We also had about the same time come through -- or just shortly
 24 after -- the President's Forest Plan, which again was numerous federal
 25 agencies participating in the design of forest practices.

26 Now we have the Endangered Species Act process with the federal

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1 agencies working together on forestry impacts to the environment,
 2 agriculture, and urban and rural developments.

3 In these processes the re effects to tribal culture through our ability
 4 to access land and water, through our ability to access food for our
 5 subsistence, in our ability to gather or collect a lot of these resources for
 6 our economics, and also impacts to our health from both the lack of
 7 food sources or contaminated food sources.

8 What happened in all of these processes were, first, because of
 9 our participation we increase the knowledge of tribal needs in every one
 10 of these processes. And I think before that we had a better outcome.
 11 We increased the thresholds of science and knowledge and had a
 12 better understanding of the effects or impacts to the tribal communities.

13 Even though we did that, we had problems in terms of outcome.
 14 One of the problems I think is based on not that we, as tribal
 15 communities, didn't participate fully enough, but the agency response,
 16 either federal or state and sometimes local governments, were resistant
 17 to some of the process because of the fear of the outcome, fear of the
 18 unknown. We have a tendency to limit our planning processes into a
 19 realm that we have some kind of certainty of outcome, or in a science,
 20 we limit that to where we have a certainty of outcome.

21 That's one of the things that we have realized in Indian Country, if
 22 we don't have a full understanding of impacts, whether they're policy or
 23 science, we know that there can be an erosion of our rights and of our
 24 health -- we have to be able to articulate all of this and work out
 25 solutions that get us into a place where the tribes are more comfortable
 26 about our own future and our own health.

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1 So we are continuing to work with these agencies on identifying the
 2 types of science, identifying collaborative processes in decisionmaking
 3 that have a better outcome.

4 In areas where we've been more successful -- I'll name a few of
 5 these, too. Some are small projects; some are larger. At Tulalip we
 6 participated in a NEPA process that put in an interchange on the
 7 Interstate 5 freeway that had environmental effects and also economic
 8 effects on the tribe. It was about a \$12 million process. On that
 9 process with the NEPA, the tribes took the lead in the NEPA structure
 10 and led through the process with the federal and state agencies,
 11 including local governments, not only in the discussion, but the science,
 12 and worked out a solution that everybody seemed pleased with.

13 Another issue was a Tulalip, a superfund site. It was about a \$25
 14 million project. Again, the tribe and EPA took kind of a co-lead in that
 15 and worked through that process to a satisfactory end.

16 In western Washington we have 20 tribes that work together
 17 through our Northwest Indian Fisheries Commission and we face
 18 Endangered Species Act issue dealing with marble murrelets in our
 19 fishing activities. The fishing activities had a potential of causing harm
 20 or killing marble murrelets.

21 Again, stepping up and taking the lead with U.S. Fish and Wildlife
 22 Service in that evaluation process, we were able to show that through
 23 our science and information that our fishing activities had little to no
 24 impact compared to other problems that the agencies were looking at.
 25 And we managed to work through that and come out with a real positive
 26 result.

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1 With the Pacific Salmon Commission there's a treaty between the
 2 United States and Canada on our fishing activities. The two countries
 3 have set the regulations for fisheries management and the
 4 escapements of stocks in the Pacific Ocean.

5 The tribes in this process are brought in as an equal player in the
 6 decisionmaking process. In fact, we have a veto. If the management
 7 system shows that there are going to be problems that would impact our
 8 tribes, we have the ability to veto and to look for alternatives.

9 Again, over the years -- I've been involved in that process for about
 10 14 years now -- we've had many difficult discussions between the two
 11 countries, but we've always been able to work them out.

12 I think it's important to understand that the decisionmaking process
 13 is where the action is, and when we have to look at effects, if there is
 14 erosion on our culture or if there is erosion on our ability to manage our
 15 resources, if we're in the decisionmaking posture, at least we can
 16 understand the breadth of the issues and impacts and can make
 17 decisions. That's what governments do; even if sometimes we don't like
 18 them, we make decisions. But they're decisions that we can live with,
 19 unlike those decisions that are forced upon us.

20 Another example was with the Department of Transportation in
 21 Washington. They recently went through a revamping of their NEPA
 22 program. I sat in on the discussions. Out of the discussions what we
 23 agreed to was that defining -- bringing the tribes in early into the process
 24 under NEPA -- what we said was to bring the tribes in at the point and
 25 a purpose of need. So when the agency sits down and looks at a
 26 project, when they're trying to define its purpose, we're there to analyze

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that and have discussions through that process with them, and the need of it. And maybe we have the ability to convince them that the need isn't that valuable and the project just doesn't occur, or if it is valuable, we talk about the impacts of mitigation and what that might look like, and how we deal with the mitigation. But, again, we're in there early and we're in the decisionmaking process.

To understand how we think through that process, we think about our ancestors and how we lived and how important that lifestyle was even in today's generation, and how to continue the culture, to work through these issues in a way that respects our ancestors' wishes and respects the integrity of our culture.

To understand that in negotiation processes, which we find ourselves in continuously, again, outlining the process is very important. What's the framework that you utilize to assure the tribe and its tribal members that outcome can be fair and balanced.

And, again, with the science, making sure that the science is appropriate. We're watching some of the federal agencies today for endangered species on salmon, determine baseline and what they measure from. We also know that the baseline that they select can be affected by the information and timeframes that they select. Baseline data expands or contracts by those issues. And if you go into a process -- as far as a tribe is concerned -- where the process itself is limiting or the baseline is limiting, we know the outcome is going to be limiting, and that's a real concern.

One of the things that I've been working on with the tribes to help effect that erosion and to help look at the processes -- I've worked with

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interview individuals, have them tell us what they do in their daily lives, you know, what types of activities do they participate in.

From that information we can extract resource information that we call traditional knowledge or indigenous knowledge. It's information on species, abundance, location and things like that that we can now tie through computer modeling right into our watershed analysis. So we tie together both the science and the traditional knowledge which helps us to deliver a better database.

As we work through these problems, I think one of the messages to the federal agencies is that they need to be open and collaborative, just as the report says. They need to listen and they need to take advantage of the knowledge and the wisdom that is available in Indian Country.

One of the things that I learned when I was director of the Indian Office for EPA -- they had me travel to the different reservations throughout the country to walk the land and talk to the people and try to get a better understanding of what the problems were so we could develop programs and funding to solve those problems -- as I went through Indian Country, after a while it became very evident to me that what the Indian people were telling me was that a lot of things have happened in this country in the change and transformation of the land, and a lot of those affected are people, but they also talked about the lack of the government understanding those types of impacts and what's going to happen in the future.

Individually each tribe was saying to me, it's time for the Indian voice to come out and tell the people of the problems that are being

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the tribes nationally to develop a couple of documents.

The first is what we call NEPA-TEPA document. This is designed to be a national guideline for the tribes to not only be a manual to walk through the NEPA process, but how to develop a TEPA for on reservation or in Indian Country for our guidance to develop Tribal Environmental Policy Acts that we govern ourselves under.

There's also guidance in here for American Indian and Alaska Natives. It's a little different in Indian Country and Alaska.

The second document is called a watershed analysis. Basically what we're trying to do here for the science side, in the Northwest we developed a watershed analysis framework in Indian Country that we later negotiated with the state and the timber industry and then later the Federal Government through the Forest Service. But it was designed only for the Northwest and we wanted the tribes nationally to have the ability to use the same types of tools, so EPA worked with us over about a three-year period and developed this national guide now that all tribes in the country can use. This is going to be available.

It allows us to not only look at impacts, but to do cumulative effects types of studies to give us a better perspective on the broader level of what the impacts might be.

We're in the process right now of developing a third document that would be a companion to this. We're calling that document cultural stories. Basically what that is -- and we're hopeful to have it completed this next year -- is our people have not responded well in survey, when we send people out to survey different types of information, especially collection of science. So we decided to set up a process where we can

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generated from the loss of so much of the habitat, so much of the environment. The impact was not only noticeable in the Indian communities in health and wealth and social interaction, but it's happening to the whole country. Our people have been living on the land, seeing these species disappear, where others who came here not only did not see the species disappear, they never knew they existed. So there's this wealth of knowledge that needs to be called on, this wealth of information.

I was recently approached by NASA who wanted to use our traditional knowledge approach to look at their air programs. They've been tasked with doing a national air study. With that, the science only goes back to so far on vegetation and then it stops because of the people who brought the science came in from other parts of the world. But our Indian people have been here since the beginning and our knowledge and information of the historical background is important to them, so they want to document that traditional knowledge to give them a better handle on what the landscape looked like originally.

I think we have a great opportunity here to work with the tribes to bring out not only that knowledge, but to bring out a way to bring back our health and bring back our economies and sustain our cultures into the future.

Thank you.

(Applause.)

MR. LEE: Thank you. Is it possible the two documents that you have with you, that you can submit them for the record?

MR. WILLIAMS: Yes.

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MR. LEE: Great. We really appreciate that.

The last speaker -- let me just say, I fully agree with Pat Woods' recommendation about working more with states and, in fact, I think that most of the projects have state partners which are ready, some of which are very actively engaged. What Richard Gragg is going to provide for us a pretty unique perspective because he, as I said, works with state agencies trying to develop interagency collaboration among state agencies around environmental justice. He is with the Florida A&M University, Environment Justice and Equity Institute.

PRESENTATION BY MR. RICHARD GRAGG

MR. GRAGG: I'd like to thank the Advisory Council for the invitation to speak on the viability of the integrated Federal Interagency Environmental Justice Action Agenda in Florida.

This morning I will present examples and lessons learned from the perspective of integrated environmental justice strategies in Florida. The three goals that the Interagency Working Group is using as its framework to integrate environmental justice into its policies, programs, and activities consistent with the existing laws and Executive Order 12898.

First I will discuss environmental justice policy, research and legislative issues in Florida and the outcomes to date. I will conclude with some specific examples and lessons learned as Florida implements its environmental justice action agenda.

In 1994 Florida established the Environment Equity and Justice Commission which submitted its report in 1997 reporting that low income and minority communities in Florida were more at risk from

environmental hazards than the general population.

In 1998 the Florida legislature established and funded the Center for Environmental Equity and Justice at Florida A&M University, giving it a mission of environmental justice research, training, education, communities outreach and policy development.

The expertise of the Center currently is environmental modeling, sampling, risk assessment and communication, environmental toxicology and human health, environmental law and policy.

Some related projects and collaborations include the Birth Defects Registry which was established by the Florida legislature in 1998 as one of the recommendations of the final Commission report.

Also out of that report the legislature funded and established the Community Environmental Health Advisory Board. Also, the legislature -- not directly out of the report but tied into the mission of the Center -- the legislature established and funded the Institute on Urban Policy and Commerce.

In 1999 the Center held its first meeting, which was a strategic planning meeting of stakeholders, including state agencies, grassroots organizations, and industry.

In 2000, the Center, working in conjunction with ICMA, the University of South Florida Brownfields Resource Center, the Clearwater Office of Economic Development, and the Greenhood Neighborhood Associations produced the Clearwater Brownfields Area Environmental Justice Action Agenda.

Also in 2000 we had our second annual conference. At that conference the objective was to establish a Florida Environmental

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Justice Action Agenda, which I will give some details on later.

Currently the Center is involved in the Comprehensive Everglades Restoration Plan, and we are working with the Army Corps of Engineers and the South Florida Water Management District putting together a socioeconomic environmental justice management plan which will be one of the focuses of the rest of the presentation.

In its role as the Environmental Justice Resource Center for the State of Florida, the Environmental Equity and Justice Center is promulgating the concept or paradigm of who the focus of environmental justice should be, and we believe it should be the community, and we believe we need to understand that due to environmental stressors and certain socioeconomic and/or cultural issues that communities become aware of these issues, they organize or go through fact-finding, education, training, outreach, solution identification and solution implementation.

This is the paradigm that the Center is stressing among state agencies and local governments to do environmental justice in the State of Florida.

Secondly, the Center has also outlined and is propagating the various factors or variables that are involved in the issue of environmental justice. Some of those I think people are pretty familiar with, but I'm going to outline some of them to show how the state, or the Center, is working to push these things here.

For example, we have economic redevelopment in brownfields. The State of Florida has statute 376 which directs brownfield redevelopment to include environmental justice as part of its policy and

actions.

Just yesterday, on Monday, I believe, I just gave a talk to the Florida Commission on Growth Management, which is in the process of revitalizing all the growth management plans for the State of Florida, and I spoke before the Citizen Involvement Subcommittee on Environment Justice issues.

Another topic I have up there is priority health conditions. The Agency for Toxic Substances and Disease Registry has outlined seven priority health conditions that are of concern when we look to investigate the impact of environmental contamination on human health. Those are respiratory, reproductive, kidney, liver, immune, neurological and cancer.

We are working with the Agency and our counterpart at the University, the Institute of Public Health, to address these issues, and also the Florida Department of Health.

I'm leaving this conference to go back to Fort Myers to speak to the Greater Everglades Ecosystem Research Conference. I'll be giving a presentation on integrating environmental justice into the management plan for the restoration.

Now I'd like to speak on some examples and lessons learned on environmental justice in trying to do this integration among agencies in the State of Florida in local government.

Out of this 1999 strategic planning meeting, which its participants included state agencies, grassroots organizations, advocacy groups and industry, specific outcomes were outlined or concluded for the meeting. These outcomes or desired outcomes is what the Center is working on.

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One of the main focus of the Center in terms of the research is to look at health effects of environmental contaminants.

Our second annual conference, which was built out of that strategic planning meeting -- and we were very grateful that Barry Hill and Vernice Miller-Travis came and spoke at the conference -- that conference objective was to put together an action agenda for the State of Florida in environmental justice. That was accomplished in six areas: health risks and environmental research, documenting environmental justice issues, cooperative action, integrating environmental justice into operations, economic development and transportation.

One of our speakers was the Secretary of the Department of Transportation for the State of Florida who spoke on how this Department of Transportation is integrating environmental justice into its community impact assessments.

Currently the Center is working with the Army Corps of Engineers and the South Florida Water Management District to put together a socioeconomic environmental justice plan for the Comprehensive Everglades Restoration Plan. The restoration plan contains over 60 components, including critical restoration projects, operational changes to the central and southern Florida projects, creation of water quality treatment facilities, and other modifications, with the principal goal of the creation of approximately 217,000 acres of new reservoirs and wetland-based water treatment areas in southern Florida, which you may refer to as the Everglades.

The stakeholders of the CERP include the Army Corps, the Water Management District, the State of Florida, Florida Department of

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socioeconomic environmental justice plan that is what we're specifically going to do under environmental justice. This part of the plan is going to be funded by the Army Corps of Engineers and the South Florida Water Management District. The draft plan is proposing a total funding at \$275,000 over the first three years of this project to initiate this environmental justice plan.

The tasks are environmental justice training to the Army Corps and Water Management District staff, and we are hoping to be able to use the environmental justice training collaborative program to integrate that into this training.

The second task is environmental justice screening and analysis. That has four subcomponents: geographic and demographic data, cursory estimate of impacts, economic and human health data, tool evaluation and development.

Then we'll do environmental justice support teams for the project managers. These are the managers that are building these individual water projects, aquifer storage and recovery facilities, and things of this nature. They'll have to do impact assessments and statements. Then we're going to put together a justice template for them to go through these steps.

Also, the Center is going to enter into a memorandum agreement with the Army Corps and the Water Management District to assist them in carrying out the plan.

That concludes my presentation.

(Applause.)

MR. LEE: Thank you.

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Environmental Protection, the Department of Interior, and the residents of South Florida, specifically those residents that live within the glades, such as tribal groups and people that live in the agricultural area of the glades. Some of you may be familiar with the city and college from Belle Glade, Florida, and we have the Anacape (phonetic) people also out in the glades.

This project is going to last for approximately 50 years. Right now it's costed out at \$8 billion. It will be shared between the Federal Government and non-federal, mainly the State of Florida.

So, in addition to the actual 60 projects which are engineering projects for the control of the water, this management plan includes program level activities. These activities are defined any work that spans multiple projects and system-wide issues, including public outreach, socioeconomic, and environmental justice.

This team that is putting together the socioeconomic and environmental justice management plan is primarily composed of the Army Corps, the Water Management District and the Environmental Equity and Justice Center.

We are using as our guidelines for the environmental justice part of the plan the 1998 final guidance for incorporating environmental justice concerns in EPA's NEPA compliance.

As another important role of the Center -- socioeconomic and environmental justice issues were not initially part of the Comprehensive Everglades Restoration Plan, and through our participation and other people pushing this issue, it is now going to be a part of the plan.

What I'm going to outline here is just the objective 2 of this

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Could we get a round of applause for all the presenters? I think they were four wonderful presentations.

(Applause.)

MR. LEE: One thing that I think is really evident are the intertwining relationships and how different -- you know, kind of relate to each other either on a state and local level with the communities and federal agencies, they actually come together in I think infinitely varied ways. Part of, I think, the ultimate value of this process is to be able to leverage, to be able to target and leverage these resources in a way that makes a difference -- is accessible to communities and make a difference.

Can I open it up for questions and comments? Rosa Hilda.

MS. RAMOS: I think that Sue's presentation is the most powerful tool to empower communities in the future because we have to understand what the strong message is.

Sue is an industry representative and she is telling us that the model that NEJAC developed for public participation really works. An industry representative telling us that it's a good model is something that will have repercussions for communities. We should hear what she's telling us.

The public participation model states that EPA should not develop any guidance, any plan, any assessment, any strategy without including at the very beginning the affected communities and all the stakeholders. That's the only way to do things in order to obtain positive results.

She's telling us -- an industry representative -- that it's good business to invite the community early on.

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1 I really would like to have a copy or several copies of that
2 presentation. Thank you.

3 MS. WOOD: If I could respond. I had copies made. There are
4 copies.

5 I think you're right on target, but I think it's a very simple answer.
6 Industry is no different than any other individual or entity in that
7 community. If you're going to have community involvement and
8 participation, you have to make sure that you have all the
9 representatives of that community at the table. And quite often what
10 has happened in the past -- I think sometimes the Federal Government
11 working with a community group, at the exclusion of either, for instance,
12 the industry that might be there, the state, regional communities, and
13 the people that are not at the table are the ones who, you know, feel left
14 out.

15 We have found that, from the industry perspective, is that when we
16 sit down and make the best of plans and perhaps talk with the federal
17 regulators, but don't bother to stop and think about our community at
18 large, we fail.

19 In fact, I recently heard an excellent presentation by Linda Fisher,
20 who used to be at the agency and who worked with Monsanto for a
21 while -- she talked about lessons learned. When Monsanto got into the
22 biotechnology and started to develop something that they thought was
23 actually going to help the protein problems with the Third World, had
24 worked very closely with the Federal Government and thought that they
25 were making the regulators happy, and they entirely forgot about the
26 public at large.

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1 That was about the same time that the mad cow issue started up
2 in Europe, and they failed miserably. And, of course, it actually led to
3 a demise of a company.

4 It was fascinating. In fact, I would recommend that NEJAC might
5 want to invite Linda to come talk about that story because while it talks
6 about a company and a company's problems, it's really applicable to
7 anything we're talking about in terms of when a small group of people
8 get together and start to think about what's the right answer for a
9 community, if they haven't really looked at who that community is, they
10 run into problems.

11 I think that Sue's message is certainly a message that I, too,
12 endorse. It's a pretty fundamental one, but we've all had to learn the
13 hard way that it continues to be the right one whether we want to
14 recognize that or not.

15 MS. RAMOS: Just for the record, another good example of the
16 working demonstration of the effectiveness of the model is the case of
17 Shintech -- the Shintech case.

18 MR. LEE: Don.

19 MR. ARAGON: Yes, thank you. I enjoyed the presentations that
20 the panel has put forth here and really feel that it would be great if
21 things would work in this manner in an ideal world.

22 One of the things that has happened that I have seen as an
23 environmental director for the Shoshone and Arapaho tribes is that once
24 the tribes start developing enforcement regulations and try to assume
25 primacy to protect their lands and their people, the states sue them --
26 well, actually sue the EPA for granting tribes these authorities.

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1 There's a lot at risk for the tribes. For instance, in some cases
2 tribes have lost land because the lands that were in question where a
3 permit or regulations were being brought forth -- these lands contested
4 were already in dispute and the tribes have lost them through
5 disfranchising. I think it happened in South Dakota where they lost half
6 of the reservation over there.

7 So when we talk about developing environmental protection for
8 Indian lands and those types of things, I think one of the things that
9 needs to be brought forth with the entities that are planning, such as the
10 Department of Transportation, with the Federal Government and with
11 the states, and so forth -- I think they need to sign some type of a
12 document that they won't sue each other over who is the authority
13 agency here.

14 I think that these could work on behalf of Indian Tribes, for
15 instance, if the states would just accept the tribes for their expertise that
16 they have developed.

17 I know Mr. Williams here was the first director of the American
18 Indian Environmental Office and during his tenure there he had kicked
19 off a lot of things that are now coming to being for Indian Tribes. It is
20 great. We are now getting water quality standards throughout Indian
21 Country. These are also going to impact on development when we take
22 a look at what the EPA is doing in developing core water quality
23 standards across the nation for Indian Tribes.

24 Indian Tribes were somewhat shocked here at a meeting that we
25 had not too long ago when they were talking about their economic
26 development. They have to meet their water quality standards just like

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1 anyone else.

2 So when we are looking at rules, regulations and those types of
3 things, you know, I think Terry has the right idea for Indian Tribes, which
4 is to develop their own TEPA process and also recognize and respect
5 the NEPA process. But in many cases the Bureau of Indian Affairs
6 doesn't recognize either. They have what they call the BIAM-30 which
7 is the Bureau of Indian Affairs Management Programs.

8 I appreciate what the panel said here and I just wanted to make
9 those comments that, you know, if and when the tribes have exercised
10 their tribal sovereignties, they have gotten themselves into litigation.
11 Thank you.

12 MR. LEE: Thank you, Don. Alberto.

13 MR. SALDAMANDO: Thank you. I also appreciated the
14 presentations, especially Sue Briggum's and the way it was presented.

15 But I'd like to say that in terms of power relationships very much --
16 for instance, Intel may be a very good employer and a very good
17 company in San Jose, but we know that Intel also has been critical in
18 the fight over the petroglyphs and the Indian artifacts, and the whole
19 area of petroglyphs in Albuquerque, New Mexico.

20 It's the power relationship of we've got jobs for you -- if the
21 jurisdiction, whether it be state or an Indian government, or if it's a small
22 community -- we will not bring you the jobs unless you do not only what
23 we want but the way we want it done. That has been more of the
24 experience than the cooperation that the people on the panel have
25 demonstrated.

26 So I think there is still a great deal of work to be done and I hope

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1 that you continue educating your constituencies, particularly the state
2 and city jurisdictions as well as industry, to take into account local
3 communities.

4 MR. LEE: Great. Well, the first thing is that we will definitely
5 forward a message to Sue Briggum in terms of the importance and
6 significance of her message.

7 Peggy.

8 MS. SHEPARD: I'd like to thank all of the panelists for their
9 presentations. They were very thorough. I'd like to direct a question to
10 Dr. Gragg.

11 You outlined a fairly rigorous program, you've been very busy.
12 What I didn't understand from your presentation was the level of
13 community education required to participate in developing a plan that
14 deals with, you know, complex issues of habitat protection, water
15 quality.

16 What was the quality and breadth of the community involvement
17 in developing this plan and those particular components?

18 MR. GRAGG: I must say, I think that's one of the shortcomings of
19 the plan. And that is, there hasn't been extensive community
20 involvement from the beginning. The communities of South Florida
21 raised the issue of this CERP plan and what its objectives were, and its
22 main objective, or promoted objective, was to get the water right. There
23 was no primary concern about the impact of the plan on the habitants
24 of the area. That was somewhat ignored, and like I said, it's only
25 recently that it has come back on the table in a movement forward to
26 put together a plan to look at some of the specific impacts on the

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1 communities that will directly impacted by this project.

2 MS. SHEPARD: What is your academic outreach to those
3 communities? I mean, what's the quality of that?

4 MR. GRAGG: Our academic outreach to the communities at this
5 point is to serve as a technical resource center to the communities for
6 the things that you mentioned. But I think the real objective, as I've said
7 previously and which was reiterated here, is for community participation
8 at the beginning of the process, not to bring something to the
9 community and ask them for comment after the fact. It could be a
10 better plan and could be more acceptable from the community if they
11 have ownership in the development of it.

12 MR. LEE: Okay. Well, I wanted to make a couple of
13 announcements before we close for this afternoon.

14 First is that Jane Stahl asked me to announce that the State
15 Environmental Justice meeting is going to take place tomorrow morning
16 at 7:00 a.m. in the Arlington/Fairfax Room. This is the regular meeting
17 of state environmental justice coordinators that takes place at every
18 NEJAC meeting.

19 The second is that Public Comment begins at 6:30, which means
20 you have an hour and a half for dinner.

21 Lastly, I just want to once again thank this panel for their very
22 thoughtful and provocative presentations. I think we all learned a great
23 deal from what you had to say, and I would just ask that we all give
24 them a round of applause.

25 (Applause.)

26 MR. LEE: So, we are adjourned.)

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1 (Whereupon, the meeting in the above-entitled matter was
2 adjourned, to reconvene at 6:30 p.m., this same date.)

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PUBLIC COMMENT

1 MR. TURRENTINE: This Sixteenth Meeting of the National
2 Environmental Justice Advisory Council is now in session for the Public
3 Comment period, the second such period of this meeting.

4 Let me say for the record and for those who wish to present this
5 evening just point out what our mission is -- not so much what it isn't,
6 but what it is -- so that at least you know what we are chartered to do,
7 what we can do, and what we cannot do.

8 NEJAC is a Federal Advisory Committee that was established to
9 provide independent advice to the EPA Administrator. Having said that,
10 that's what our mission is, that's what our charter is -- to provide advice
11 to the EPA Administrator. We have no other legal mandate nor
12 authority to do anything beyond that.

13 It may be frustrating for those of you who might have thought our
14 mission was otherwise. I felt it was important that we at least set the
15 ground rules or the ground work for what we do, how we do it, and why
16 we do it.

17 Tonight, unlike last evening, we will not focus on single issues.
18 Respondents will be able to report on whatever issues they choose to
19 bring before the Council.

20 Additionally, tonight, as was the case last night, the clock will be
21 running on each respondent. And I'm going to ask, in the spirit of
22 cooperation, respect and consideration for those who are to come after
23 you, that you adhere to the time limitations and don't force me to set
24 you off. I don't want to do that; I would truly not like to do that. I would
25 ask that you observe the timekeeper and adhere to that as best we

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possibly can.

If we're able to do that, we can get through this process and be in bed probably before the Supreme Court does what they're going to do.

(Laughter.)

MR. TURRENTINE: It's been a long day. This is a part of the agenda that I rather enjoy because I hear from the people who are experiencing environmental injustice, and they come to us and they report to us their concerns.

So, without further, we're going to get started. Before I call the first person I would like to point out that I've got a written statement from -- I guess it's Ann McCampbell -- it's a written statement on MCS -- multiple chemical sensitivity and a resolution that we will pass on to the appropriate subcommittee. But I want the record to reflect that the written statement will be a part of this record of the Public Comment Period.

WRITTEN STATEMENT
SUBMITTED BY ANN McCAMPBELL, M.D.
MCS TASK FORCE OF NEW MEXICO
(was accepted into the record)

MR. TURRENTINE: Is David Baker in the room?

(No audible response.)

MR. TURRENTINE: Madeleine Pepin?

Ruthie Garrett Walls? Is Ruthie in the room? You can come up to the table.

Is Debra Ramirez or Frank Ramirez or Darvin Ramirez -- any of those present?

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(No audible response.)

MR. TURRENTINE: Leo Woodberry? Is Leo in the room?

(No audible response.)

MR. TURRENTINE: Kenneth Bradshaw? Are Kenneth or Doris Bradshaw in the room?

(No audible response.)

MR. TURRENTINE: We might get through this rather quickly tonight.

Is Dagmar Darjean in the room?

(No audible response.)

MR. TURRENTINE: Dorothy Felix, Part Hartman or Erica Jackson?

(No audible response.)

MR. TURRENTINE: Is Dr. Beverly Wright in the room?

DR. WRIGHT: I'm here.

MR. TURRENTINE: Okay, Beverly, would you join us at the table as the next person to report. Thank you. You may proceed.

PRESENTATION BY DR. MADELEINE PEPIN, Ph.D.

OUR LADY OF THE LAKE UNIVERSITY

SAN ANTONIO, TEXAS

DR. PEPIN: I'm Dr. Madeleine Pepin from Our Lady of the Lake University. I teach ethics in the Environmental Science Program there. I want to make some remarks.

I teach by the case study method on dealing with limited English proficiency populations. Over the years I've done a case study on Falls City, Texas which is about 40 miles from San Antonio, a Polish-

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speaking community. The people aren't immigrant; they're third or fourth generation, it's just that once they're out of high school they don't use English much. They don't read Polish.

There were uranium mines in Falls City and one of the mines became a radioactive waste dump after the ore played out. In a ten-year struggle that started about 1980 the community tried to deal with the Department of Energy, which was remediating a bankrupt mining operation, and tried to deal with the Texas Department of Health and the Texas Railroad Commission which regulates mining.

They were told repeatedly that translation services couldn't be provided, that that was too expensive. Although there are always individuals in the community that can translate questions, translate statements of concern, although documents don't need to be translated because can't read that language anyway, just this complete stonewalling. The parish priest would go to Austin to hearings and attempt to translate for people, and it wouldn't be allowed. This was before the Environmental Justice Executive Order.

In recent years we've been dealing with Kelly Air Force Base in San Antonio. The RAB won't provide any translation, doesn't really permit people to just translate for people. They're dealing with the same sort of community, third and fourth generation, educated in the United States, don't really read Spanish. All that's needed is just someone to help with questions. But the stonewalling on that was just intense until about six months ago the Air Force decided that it should translate.

What it did was, instead of going to the universities or your city government where people can negotiate bilingually, they hired a few

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people to at the public meetings talk to the Spanish speakers completely in Spanish so that only English-speakers could talk to the important people. The Spanish speakers had to talk to people you never saw in your life and would never see again.

This is really incredible. It's an environmental justice problem, but it's also a job competency problem. A college freshman can look up the census data on the population in a neighborhood. To pretend like we need to translate documents when you know from the census data that people don't read that language, is absolutely absurd.

I find it incredibly hard to educate students in the area because of these things. I've had incidents of taking students to meetings; Air Force officials that can't pronounce their names would rather act like they don't exist.

Related to the problem of environmental education in the area, I need to take my students on field trips to the border. That's about a three-hour drive. My students are 80 percent Hispanic. Whenever we go to the border, as we come back we had a terrible incident with U.S. Customs. Now, American college students look like American college students all over the country, but it seems if their skins are brown, U.S. Customs doesn't regard that as so. We also get stopped by border patrol. We haven't had much trouble with that.

But if we're going to address environmental justice along the Texas-Mexico border, we're going to have to quit acting like south Texas is a foreign country and we're going to have to quit treating the people that live there like they're an invading force.

That's what I have to say.

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1 MR. TURRENTINE: Let me just ask you and also ask all of the
2 other presenters, tell us as precisely or concisely as you can what you
3 would have us do. What would you like for this body to do.

4 DR. PEPIN: Okay, I have a list.

5 MR. TURRENTINE: Okay.

6 DR. PEPIN: Number one, that all federal officials consult with the
7 local governments or the local universities for an accurate and complete
8 account of the demographics of the affected community. Even if
9 Federal Government people can't look up census data, local people
10 can.

11 That federal officials take note that there are many non-English
12 speaking communities in the United States and that the members of
13 those communities weren't educated in a foreign country; they were
14 educated right here in the U.S., they read English.

15 Number three, that Federal Government consult with local
16 governments or universities on the type of translation services needed.
17 In the local places we know how to deal with these issues. You don't
18 have to do it in Washington in order to do it in San Antonio.

19 Number four, that federal officials consult with local governments
20 or universities on how to obtain the translation services needed. For the
21 Air Force Base, for instance, just call up the universities. We've got lots
22 of bilingual faculty members. Call up the city. The city liaison people
23 can deal in both languages. Why act like it's impossible?

24 MR. TURRENTINE: I want to thank you for that. Can we have a
25 copy of those recommendations?

26 DR. PEPIN: I submitted it.

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1 MR. TURRENTINE: Okay, great. Are you going to be here
2 tomorrow?

3 DR. PEPIN: Yes.

4 MR. TURRENTINE: Okay. I would invite you to go to the
5 International Subcommittee meeting tomorrow. I don't know what their
6 agenda is for tomorrow, but I suspect that it's sometime during the day.
7 You'd be able to talk to Alberto and further -- see, I don't want your
8 presentation to just float out there; I want it to be directed to some part
9 of this Council so we can at least address those issues to the degree
10 that we can.

11 DR. PEPIN: Okay.

12 MR. TURRENTINE: And so I would ask you to attend that
13 subcommittee meeting tomorrow.

14 DR. PEPIN: Okay.

15 MR. TURRENTINE: Are there any comments from the Council?
16 Rosa Hilda.

17 MS. RAMOS: I would certainly encourage you to write to EPA
18 Region 2 asking them how they make arrangements for simultaneous
19 translation that could -- you could use that as an example in the
20 dialogue with the Department of Energy.

21 I don't know who has more money, the Department of Energy or
22 EPA, but EPA, certainly in Puerto Rico, in many cases they hire people
23 who have this equipment that translates simultaneously and you can
24 talk with the English-speaking people while speaking Spanish. This is
25 nothing so difficult.

26 Also, the agency pays a little bit more to employees who do know

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1 Spanish to act as, you know, liaison with the communities and the
2 officials.

3 So, those are alternatives that if you document them, you could
4 use them as an example for the Department of Energy, hopefully.

5 MR. TURRENTINE: Yes, Pat.

6 MS. WOOD: You talked about the Polish community, third
7 generation Polish community that actually pretty much I guess speaks
8 Polish amongst themselves.

9 DR. PEPIN: Right.

10 MS. WOOD: I'm curious, if you'd share with us, how do they -- is
11 their English language background enough to be able to deal with
12 environmental and other regulatory issues that they run into from day to
13 day? How does a community like that exist in this day and age?

14 I know we have folks at a number of the federal facilities that speak
15 English or Vietnamese or Spanish, or what have you, but Polish, that
16 one surprises me a little bit.

17 DR. PEPIN: Well, they exist. They can read English. They can
18 read most documents. It's just when -- like I can read Spanish; there's
19 nothing I can't read. But if I go to a meeting that's conducted in
20 Spanish, I don't have the easy vocabulary access to ask my question.

21 These people operate the same way, both the Polish-speaking
22 community and the Spanish-speaking community. It's the verbal
23 fluency that's lacking.

24 As for dealing with government documents that are heavily laden
25 with jargon, most of the English-speaking population can't deal with
26 those documents either. It would be nice to require documents to be

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1 written in plain English.

2 MR. TURRENTINE: Thank you very much.

3 Doris.

4 PRESENTATION BY MS. DORIS BRADSHAW
5 DEFENSE DEPOT, MEMPHIS, TENNESSEE
6 CONCERNED CITIZENS COMMITTEE

7 MS. BRADSHAW: As you know, I brought to your attention the
8 digging of mustard gas bombs in our community back at the last
9 NEJAC. I gave Charles Lee a presentation at one of the meetings in
10 Atlanta, and I think I did the same presentation, almost, to the NEJAC
11 board.

12 What we were complaining about is not having an emergency
13 response plan in place. Also, we need an air monitoring system outside
14 the site.

15 Now, I thought this was something very simple to ask EPA for. I
16 don't know if the person that is on our site, you know, ever got this
17 message that we wanted those monitoring systems while they're doing
18 the clean-up around this site because the community is like 15 feet from
19 where the site starts.

20 On September the 15th there was a release in our community that
21 caused three workers to have to be rushed to the emergency room --
22 exposure to the mustard gas chemicals in the ground. They were in full
23 protective clothing with the type of breathing apparatus that was
24 supposed to protect them.

25 These people were checked at the hospital and sent back to work
26 the next day. They were complaining of headaches, vomiting and sinus

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1 obstruction.

2 But the sad thing about this, there have been seven releases in our
3 community that weren't reported. We had seven releases.

4 I didn't know who we were supposed to turn to to help us. I sent
5 out a letter -- and I also sent it to Phyllis Haris' office at EPA. This
6 letter at the bottom -- this was my official environmental justice
7 complaint. So I thought that I would hear something from her. But I
8 didn't hear anything from that department, Turpin Ballard that was
9 supposed to be on our site, the oversight person -- didn't hear nothing
10 from him. No more than when we were at the county commissioner's
11 office and he stated there was a concern.

12 But in the process, we don't know what this community was
13 exposed to. And I have the letters that I sent on the 14th of April and
14 also the letters of October the 15th. The Defense Logistics Agency did
15 not answer the letter for October the 15th.

16 And the other complaint is Region 4 knows that NEJAC was here
17 in Washington, D.C. Believe it or not, December the 11th they decided
18 when they were going to do testing in our community. We also hear
19 Howard University is going to do testing. Even though I told them, I
20 said, I'm going to be in Washington this date, I would like to be at home
21 when you do the testing in our community so I know where you testing,
22 but they decided they going to do it on December the 11th whether or
23 not I'm there or not.

24 So this is showing the inconsideration that this department is
25 constantly like a battleground. When they want to do something, they
26 just do it whether we like it or not.

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1 So I'm not getting the type of cooperation from this particular
2 person in EPA. I don't know if it's the whole department or what; I don't
3 know if it's the whole EPA Region 4 or what. But I'm tired of asking for
4 simple things, things that I think that, you know, it shouldn't hurt. They
5 didn't have to go on the grounds of the Federal Government to put the
6 air monitors system; people were willing to put them in their yards. And
7 that's all we wanted to know, to make sure that if something was
8 released, that we wouldn't get the bulk of what was released into the air.

9 DLA didn't have any of those monitoring systems calibrated to
10 check for all the chemicals, even the chemicals that they knew were in
11 the ground. So we're helpless again.

12 There have been certain health problems reported, but we don't
13 have the proof, we don't have the data to say, you know, what was
14 released in our community.

15 Thank you.

16 MR. TURRENTINE: It's interesting, at least from my standpoint,
17 I've heard more than one public commenter tell us that they've had
18 meetings scheduled that were in conflict with a known NEJAC meeting,
19 knowing that the people were expected to be at the NEJAC meeting,
20 I guess I don't really understand how that can happen if people are
21 genuinely concerned about helping you with your problems.

22 I don't know if any of the other members of the Council recall other
23 people coming forward with those types of complaints, that meetings
24 have been scheduled when they knew the community "loud mouth," if
25 you will, was going to be out of town. It's almost like they want to come
26 in when you're not going to be there to monitor what they're going to do

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1 so you can add some legitimacy or some credibility to whatever the
2 findings are.

3 That causes me some concern and I just want to know if any of the
4 other Council members would like to weigh in on this discussion. Yes?

5 MR. MITCHELL: I just want to ask one question of you, Doris,
6 regarding the Enforcement Accountability Division there at Region 4.
7 What has been your response there?

8 MS. BRADSHAW: There has been none. I got track records of
9 environmental justice complaint after complaint that was filed. The first
10 complaint -- I don't blame Connie because she tried to do what she
11 could and all it was was just a complaint.

12 The second complaint, it got lost for about six months. But, you
13 know, they finally responded to it.

14 But this third one that was sent out on October the 15th, this was
15 dealing with our lives. And if this is the agency to protect our health,
16 you know, I am so afraid -- maybe it should be called the agency that
17 protects some because when it came to us we was -- no one responded
18 whatsoever, they ran like a bunch of cowards under the table and was
19 nervous and hoping that we didn't ask questions.

20 MR. MITCHELL: In regard to the same situation in Spartanburg
21 and regarding with Tim -- Tim Fields and Pat Tidwell, that when we ran
22 into those exact same problems, we ended up having to come to
23 headquarters and headquarters did the necessary actions back at the
24 region and they basically set up a meeting with the residents in the
25 community in Spartanburg to kind of regroup and start over.

26 I'm just wondering at this point, you know, how many times do you

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1 have to approach an agency before you get some kind of result? I
2 mean, if you keep running into a brick wall, it seems as though
3 someone in headquarters needs to step up to the plate on the
4 enforcement accountability side.

5 MS. BRADSHAW: I want to say one more thing. When we
6 complain and they know that -- with federal facilities -- the remark has
7 been, we can't do anything about it. But you know the higher officials
8 that can do something about it, that has accountability. You know who
9 to contact. This agency knows that they can reach the people that we
10 need to talk to. Do something other than sitting back and saying, well,
11 my hands are tied and I'm not going to do anything.

12 If you try -- I would like for you to say, well, I tried and I couldn't get
13 a response. Dr. Warren, that's one thing, he'll tell, he honestly will tell.
14 If he can't get something done and he have talked to people, he'll let
15 you know who he talked to and what they said.

16 I feel like that you have a moral obligation more so than just
17 listening to complaints -- you have a moral obligation to help these
18 people in this community.

19 Now, there's nothing you can do now, the release has happened.
20 I talked to Charles Lee. I can call people's names. You got my e-mail
21 -- I hope you got my e-mail. But if you had said, "Doris, I'll try to do
22 something" -- just let me know that you have heard from me. I didn't
23 even hear that.

24 MR. MITCHELL: Doris, is this a federal facility?

25 MS. BRADSHAW: Yes.

26 MS. RAMOS: Doris, it breaks my heart seeing you time after time

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1 coming to these meetings, bringing the same problems. If the
2 information I have received is correct, there is a big limitation for EPA
3 in solving your problems. It seems that EPA is having continuity
4 problems in Region 2 because the EJ coordinator is no longer there so
5 there are additional problems.

6 But what I do not understand is why relocation strategies have not
7 been discussed with the community? Why not?

8 MS. BRADSHAW: Because these people are God and they told
9 us nothing would happen. They told us no accidents, nothing would
10 happen. That's what they told us.

11 MS. RAMOS: When you say "the people," you mean the --

12 MS. BRADSHAW: They are God, they know everything. They can
13 predict everything. And so --

14 MS. RAMOS: You mean the operation of the depot?

15 MS. BRADSHAW: Of the service, the Defense Logistics Agency.
16 That's what we were told so we were supposed to trust these white folks
17 with our lives.

18 MS. RAMOS: But if the pollution is there and it's moving towards
19 you through releases or plume movements, I think you should really
20 consider, you know, pushing relocation if --

21 MS. BRADSHAW: Rosa, that may be okay with industry, but
22 you've got to understand, this is the Department of Defense. If some of
23 you haven't seen the news clip, the document "Standing on Dangerous
24 Ground" about the Defense Depot, the statement -- what the
25 Department of Defense told Bill Lark on television, there is no apology
26 and no clinic, and we have been told, no, we will not move you.

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1 So this is genocide. We have to accept it. We're too poor to
2 move. And I'm not going to move away from a community that I was
3 raised up in until they move everybody else. So, people are dying and
4 we are moving out.

5 MS. RAMOS: I think Doris would be a good candidate to be
6 included in the Intragency Working Group dealing with federal facilities.
7 I think she should be invited to participate.

8 MR. TURRENTINE: I frankly don't know what to say.

9 MS. BRADSHAW: I just thank you for listening.

10 MS. RAMOS: Doris, I'm saying this not as a NEJAC member, but
11 as a community leader just like you -- you have the privilege of having
12 people in Congress go there, go there.

13 MS. BRADSHAW: Rosa, we are there now. We have been there
14 and we're going to try to make things better for every DOD site, and
15 that's where we have to go.

16 MR. TURRENTINE: Peggy.

17 MS. SHEPARD: I just want to ask Charles Lee if the federal
18 facilities subcommittee is meeting tomorrow. Does it start meeting
19 tomorrow?

20 MR. LEE: No. It's a work group.

21 MS. SHEPARD: Well, the work group.

22 MR. LEE: The first meeting face to face would be sometime in
23 January. It's met once by conference call thus far.

24 MS. SHEPARD: And will that be a public meeting in January?

25 MR. LEE: No. It's more of a meeting of the members. If you
26 mean by public meeting, meeting with the public?

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1 MS. SHEPARD: Or open to --

2 MR. LEE: Well, I don't know. I'm not sure how to answer that
3 question. I mean, I think that's something we need to talk to Brandon
4 and to Rose about, in terms of how they want to approach that meeting.
5 That's all I can really say at this point.

6 MS. BRADSHAW: But we're not -- you know, the people that
7 lobby for that community, we're not on it. We don't have anything to do
8 with that committee. Nothing but one person, and I think that was Dr.
9 McClain. But the rest of us, we're left out of that working group. And I
10 still don't understand why.

11 MR. TURRENTINE: Pat.

12 MS. WOOD: Picking up on that point, since earlier today they
13 were asking for case studies for the Federal Facilities Working Group,
14 it seems to me that this would be a perfect one for a case study. I
15 assume you're going to send some information --

16 MS. BRADSHAW: I will not give a case study. I just don't want --
17 I don't feel like this is even a platform to address DOD issues because
18 nothing has happened in five years, and I think that -- I'm very frustrated
19 with the procedure.

20 And I'm not angry at anybody on this board, don't get it me wrong,
21 it's just that EPA is the wrong people to go to. We need to deal with
22 people that are accountable and liable for what's happening in our
23 community. I don't care if DOD, DOE, DOT, all of them signed on the
24 line, still EPA is not going to have the jurisdiction that they need to do
25 enforcement.

26 MS. WOOD: Doris, you're absolutely right on that, that this goes

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1 beyond EPA's authority. But if my understanding of the whole idea of
2 the Federal Facilities Working Group is to try to highlight some of these
3 other issues which EPA doesn't have the authority -- if you have a work
4 group identifying some of these cases and producing a document that
5 cites some places where what amounts to a hole right now in terms of
6 our structure of statutes and legislation -- obviously, I represent industry
7 and my feeling is we have responsibilities, but I think DOD has the
8 same responsibilities that we have.

9 MS. BRADSHAW: They should.

10 MS. WOOD: And there needs to be some way to highlight that.
11 One of the ways to do that is to put together a document with some very
12 good case studies.

13 You've been before this group time after time talking about these
14 things; I would suggest you'd want to rethink as to whether or not you
15 don't want to submit just an e-mail to the folks about what's going on
16 there and have them take a look at it.

17 EPA can't force DOD to do anything. But a document that cites
18 some of this and starts to get widespread distribution can be helpful to
19 you.

20 MR. TURRENTINE: Doris, I think -- you know, you're not going to
21 be submitting that case study to NEJAC.

22 MS. WOOD: Yes.

23 MS. BRADSHAW: Well, I'm just saying that NEJAC has enough
24 information about what has went on at that site that they can submit that
25 as a case study.

26 MR. TURRENTINE: See, I don't know what the work group has

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1 established as a set of rules, but I do know that they indicated that a
2 simple letter to them indicating what your problem is would put you in
3 the mix for the case studies.

4 In other words, they indicated they're going to highlight some very
5 major issues that are around federal facilities.

6 MS. BRADSHAW: I understand. It should be the people on that
7 work group that work in these communities that know about what's
8 going on in the communities so that they wouldn't have to ask.

9 You know, I don't know the procedures for this work group, what
10 they use, what criteria. We had no information. And, plus, I missed out
11 this morning on what was going on so I'm kind of totally lost, so I might
12 be repeating something that happened earlier.

13 But my questions have not been answered at all on how this work
14 group was set up, and I know I'm one of the original people that lobbied
15 for this for years and years and years because we weren't getting any
16 kind of satisfaction for this board.

17 So until you can tell me how people got on this work group that I
18 haven't seen at a NEJAC meeting since I've been here --

19 MR. TURRENTINE: What I can tell you -- I can't tell you how it
20 was set up, but I can tell you that Luke Cole as a member of this
21 Council made a suggestion today that at least three to four additional
22 community people be added to this work group, and Charles Lee
23 committed that if Luke would give it to him in writing, send it to him, that
24 they would consider that, and there's a chance that you may get on
25 there. That's what I'm suggesting.

26 MS. STAHL: I'm having one of those de ja vu moments and it

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1 MS. BRADSHAW: I'm not blaming you.

2 MR. TURRENTINE: Thank you.

3 Beverly.

4 PRESENTATION BY DR. BEVERLY WRIGHT
5 XAVIER UNIVERSITY

6 DR. WRIGHT: Well, all I can say is I'm glad I took my high blood
7 pressure pill before I sat up here. I'm not going to say that I'm not
8 blaming you, the board, for not making certain that Doris is a part of the
9 work group. To me it's a crying shame. And when it reaches the point
10 that NEJAC is discriminating against community people who started the
11 movement, I'm really pissed off.

12 I want an explanation of what the process was. I would like to
13 know who did the choosing, and we need to know who is on that
14 committee. And any time -- if Doris is not on it, there shouldn't be a
15 committee. Doris has been coming here for years and years. I am just
16 so pissed.

17 I think that as NEJAC members you all are being passive and you
18 need to start taking some action and getting angry, asking questions,
19 marching up to Carol Browner's office in the tradition of the original
20 NEJAC.

21 Now I'll get on to my own questions. And I make no apologies.

22 I'm coming here tonight to talk about the Thompson-Hayward site
23 in New Orleans, Louisiana. The Thompson-Hayward chemical facility
24 -- and I'm reading because I'm just really pissed -- The Thompson-
25 Hayward chemical facility is located at 7700 Earhart Boulevard in New
26 Orleans, Louisiana. From the 1940s until 1977 it was operated as a dry

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1 seems to me that at our last meeting we established this work group as
2 a way of fitting substance that we all kind of knew was there into a
3 process that worked for us. Unfortunately, the process doesn't seem to
4 be working for us and the substance that I think we already knew
5 because we actually spoke it, was that we needed a vehicle for requiring
6 federal facilities to comply with the same standards that anyone else
7 would be required to comply with.

8 So when Doris says that we know enough about this, we might not
9 know the specifics of the situation at the Defense Depot, but we do
10 know from her prior presentations, as well as the many other
11 presentations that we've had in the past, that we are at a brick wall in
12 dealing with federal facilities when they are responsible parties and we
13 need to find the vehicle to require them to meet the same standards that
14 anyone else would.

15 Also, the last time around I mentioned that there was an
16 opportunity to join an "unholy alliance" with those bad state people -- but
17 the states, through the environmental council of the states, recently
18 passed a resolution asking for the same thing. So here is one area
19 where we are really all -- we've found a common enemy, if you will, and
20 it's something that we really need to address not through setting up
21 another work group, but for calling for the meeting of standards that
22 already exist for everybody else.

23 Perhaps that should be the task of the work group, will be to
24 identify the vehicle to make that happen.

25 MR. TURRENTINE: Doris, thank you for indulging us because we
26 certainly haven't provided you with answers.

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1 and liquid chemical formulation facility. After 1977 it was used for the
2 warehousing and distribution of industrial pest control and dry cleaning
3 chemicals. Commercially it has been inactive since 1988.

4 There was a settlement awarded to residents in the area.
5 Individuals living within a specific radius of Thompson-Hayward received
6 money as well as a million dollar endowment fund set up with the
7 Greater New Orleans Foundation. The City of New Orleans received
8 \$500,000 out of the settlement, which is to be used for some sort of
9 capital improvement in the neighborhood. None of these moneys have
10 been used as of yet.

11 What has happened? Testing of surface soil, deep soil,
12 groundwater and drainage pathways leading from the facility showed
13 pesticides and volatile organic compounds. There was clean-up action
14 at the site conducted by the facility owners in 1989. It included
15 removing tanks, excavating and disposing of contaminated soil, and
16 plugging site storm drains and sewer drains. The excavated areas were
17 backfilled with clean material and the entire site was covered with
18 asphalt.

19 The Louisiana Department of Environmental Quality is in charge
20 of on-site contamination, while the Environmental Protection Agency is
21 over all off-site contamination.

22 What is happening. In 1997 the Louisiana Department of
23 Environmental Quality and LDAF -- I don't know what that is -- and the
24 past and present owners of the Thompson-Hayward site signed a formal
25 agreement outlining the steps needed to complete site investigation and
26 clean-up. As of October 2000, DEQ is at least one year behind

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1 schedule. You need to know that this is a revised schedule from 1988.

2 The timeframe LDEQ originally had with the signing of that initial
3 agreement needed to be revised and was done so in May 2000.
4 According to the new framework they have fallen behind again.

5 This is a statement from EPA. The EPA has not totally written off
6 the Thompson-Hayward site, but the potential for further work is
7 extremely unlikely.

8 And I have before me a revised schedule naming September of
9 2001 as the implementation of remedial design.

10 Now, the Thompson-Hayward site has negatively impacted the
11 poor Black community in New Orleans known as Gert Town within
12 which it resides, the City of New Orleans and Xavier University, which
13 is a predominantly black Catholic University that is also located in the
14 Gert Town community in several ways.

15 The inaction of LDEQ has resulted in this situation not being
16 resolved and has stifled the economic development and community
17 revitalization in an area of great need and great potential. The City of
18 New Orleans found itself unable to complete a major highway artery
19 known as the Earhart Expressway because of the dangers imposed by
20 this site. The highway literally stopped at the beginning of Gert Town
21 which is the Xavier University community and it picks up outside the
22 boundary of the community and the university, creating an unexplained
23 eyesore.

24 Thirdly, this facility is located across the canal from Xavier and
25 around the corner from my office. The community has requested that
26 we join them in the struggle since we are also affected by its presence.

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1 Xavier University has a long history of working with the community.

2 The questions that we need answered are as follows:

3 Why is it that no progress has been made on remediating this site
4 since the 1997 order?

5 Secondly, since the second schedules were drafted in June of
6 2000, why has nothing, again, been done to this date?

7 Thirdly, what authority, if any, does EPA have to supervise the
8 response of LDEQ?

9 And, what remedies or steps can communities take to ensure
10 action by LDEQ?

11 Lastly, we wondered to what extent race and class lends itself as
12 a reason for this inaction. We also pose the question, the answer to
13 which is obvious to us, that is: If the facility were located near Louisiana
14 State University, would nearly four years pass without the initial
15 judgment being implemented?

16 Thank you. Any questions

17 MR. TURRENTINE: Thank you. Are there any comments or
18 questions by the Council?

19 (No audible response.)

20 MR. TURRENTINE: Charles, I don't want to put you on this spot,
21 but I think Beverly's question relative to the makeup of the work group
22 and actually who's on it and how it was decided, you know -- again, I
23 don't want to put you on the spot, but that's not something NEJAC can
24 answer; that's something the Office of Environmental Justice has to
25 respond to.

26 DR. WRIGHT: Absolutely.

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1 MR. LEE: I can't respond to that directly right now. I mean, there
2 was a process. It involved the Office of Federal Facilities. It involved
3 us and it involved other federal agencies.

4 DR. WRIGHT: Where did the nominations for the committee come
5 from?

6 MR. LEE: It was sent in from a number of people.

7 DR. WRIGHT: So people could nominate?

8 MR. LEE: Yes.

9 MS. WRIGHT: And then it goes up --

10 MR. LEE: And we had asked people to nominate. Basically, as
11 was explained this morning, it went through a -- there was a meeting
12 that went through all the nominations. The breakdown was as was
13 explained this morning. I think it was two community people, two
14 NGOs, and a business person, a state person, local government. I
15 think that's it, there's ten persons. And two tribal people. And there's
16 going to be one more Alaska Native that's added at this point because
17 of the point that was raised --

18 DR. WRIGHT: So it's broken down racially and ethnically?

19 MR. LEE: There was the intent to make sure there was racial
20 balance, geographic balance, issue balance.

21 MR. WRIGHT: So you specifically have two African-Americans,
22 two Latinos, two Asians, two --

23 MR. LEE: I don't remember specifically how that broke down. I
24 mean, the list we can get for you. That's not a problem.

25 DR. WRIGHT: I would like to get the list. The other thing, as you
26 know, I'm not a stranger to the NEJAC, and I must say there have been

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1 quite a few changes, some positive, quite a few negatives from where
2 I sit. This is my own criticism.

3 But I also know that it is possible for people to send in letters with
4 strong support for certain candidates, or rationales for people to be
5 added to the NEJAC. I plan to launch such a cause for Doris and get
6 community people to sign on across the country.

7 Thank you.

8 MR. LEE: Like I said this morning -- Beverly?

9 DR. WRIGHT: Yes?

10 MR. LEE: Like I said this morning, it was raised that there should
11 be more community persons be added to that work group. This is
12 something that I think we can seriously look into, and I think we can
13 make that happen.

14 I know I shouldn't make promises that I may not be able to keep,
15 but I think that this is something that we can make happen.

16 DR. WRIGHT: Well, Charles, I believe that if you make a promise,
17 we can work with you to make sure it happens. I believe that citizens
18 still have some power --

19 MR. LEE: I mean, I think that would --

20 DR. WRIGHT: -- that we can do writing and so on and so forth.

21 MR. LEE: I think the points that were raised this morning were
22 good points.

23 DR. WRIGHT: Well, I'm just going to repeat that I hope you do get
24 more people added. That's still not -- I'm saying --

25 MR. LEE: No, I'm saying --

26 DR. WRIGHT: -- I hope that this happens.

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MR. LEE: What I'm saying is that the points that were made this morning I think were good points.

DR. WRIGHT: I wasn't here this morning so I don't know what points were made.

MR. LEE: The points about more community people being added to that work group. This is something we're going to look into and this is something we'll take up with the other federal agencies.

I don't think this is -- this is not something is that unilaterally decided by EPA.

MR. WRIGHT: I do understand that, Charles. I clearly understand. I'm just telling you what I'm going to do. And so I'm just saying that, you know, I think you should move forward in the way that you intend to move forward, and we're going to move forward in the way that I think we should move forward, with people who believe like I do.

Even if you are successful in getting more people on the committee, that's still no guarantee that certain people will be on the committee.

MR. LEE: That's true.

DR. WRIGHT: And for that reason, we are sending forward these letters requesting that this is done.

MR. LEE: I think that if there's certain people, like you say, that you think should, I think that you should send in letters, make a case for them.

I mean, I think the process is -- I mean, I'll be quite honest with you, it's not a closed process. I haven't seen any manipulation in terms of the process. There are differences of opinion as to who should or

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should not be on it, who would be better or what kinds of persons in terms of the proper mix, the background, geographic location, issue locations and other things.

There are differences of opinion among the people that are working on this, but I certainly think that, you know, if there's strong opinions that you want to make or others want to make, that they should be added to the process. I do not see this as a closed process.

DR. WRIGHT: And, Charles, I will repeat. I am not new to NEJAC.

MR. TURRENTINE: Thank you, Dr. Wright.

DR. WRIGHT: You're welcome.

MR. TURRENTINE: Is Lynn Pinder in the room? And is Ethel Lane in the room? Ethel Lane. Ms. Pinder.

PRESENTATION BY MS. LYNN PINDER YOUTH WARRIORS

MS. PINDER: Good evening. My name again is Lynn Pinder. I'm the founder and executive director of a youth organization in Baltimore, Maryland called Youth Warriors. We basically organize young African-Americans around environmental justice issues. I've just been recently hired as the Southern Regional Coordinator for the Northeast Environmental Justice Network.

I want to thank NEJAC for this opportunity to speak. I will direct my comments to, one, the impact of NEJAC as the state level, and, two, the involvement of youth age 18 and under and the young adults age 19 through 30 as a recognized voice on NEJAC.

Regarding my first point, about three or four years ago the State

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of Maryland, at the request of one of its delegates, created a Maryland Environmental Justice Task Force. I honestly believe that the intent and the desire of most of the people on the committee was sincere; however, the fact that the Maryland Environmental Justice Task Force was predominantly made up of business and governmental agencies was a major concern to me.

The term EJ to me signifies the call of action of individuals and groups from high-risk impact neighborhoods organized to take the lead in initiating action against environmental ills. As a community activist that participated voluntarily on the Maryland Environmental Justice Task Force, I felt that the interest of the community was not as highly regarded as those of the business and government sector.

I am in no way attacking the Maryland Environmental Justice Task Force. I am glad that it was created. However, I question the relationship, if any, that NEJAC has or had in advising this task force and other state committees like it. My question in particular is how can NEJAC do a better job of connecting with and providing guidance to state led environmental justice task forces and committees.

Regarding my second point, on the youth, how does NEJAC view the input of youth and young adults? There is a graying of the leadership in the environmental justice movement and is it an important position of NEJAC to foster youth development and youth leadership in the EJ movement?

MR. TURRENTINE: Charles, I'm going to interrupt your dinner again because the questions being posed are questions that the Office of Environmental Justice is going to have to respond to.

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MR. LEE: Can you repeat the question?

MS. PINDER: One, my question in particular is how can NEJAC do a better job of connecting with and providing guidance to state led environmental justice task forces and committees? I know that Maryland is just one of many states that are now beginning to not only pass legislation but actually put together state wide environmental justice task forces that seem to be operating outside of NEJAC, which to me doesn't really make sense.

And then the second thing is, how does NEJAC view youth and young adult involvement with its agenda?

MR. LEE: You want a long answer, right?

You know, from the point of view of the -- I mean, let's take this because you've asked a question from the point of view of the NEJAC. Actually, let me answer it from the point of view of the Office of Environmental Justice, which is not the same thing as the NEJAC.

MS. PINDER: Okay.

MR. LEE: I mean, work with the states around environmental justice is very important. There are a number of initiatives that focus on that.

As you know, there had been -- it is not being funded right now -- for two years the State/Tribal Environmental Justice Grants, of which New York, New Jersey, Tennessee, and a number of other states have been recipients of this.

Another area that's gotten significant attention is the partnerships you heard about this morning in terms of the environmental justice training collaborative and work with the states.

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1 Thirdly, I think we do a lot of outreach to states.

2 And let me just say that on the training collaborative one of the
3 major areas of work is with the states and with the environmental
4 council in states which is, of course, the organization of the
5 commissioners of the departments of environment of the states.

6 We do a lot of outreach to states in all different kinds of ways in
7 terms of work with and dialogue with states on individual basis. For
8 example, you know, we spoke at the recent conference of North
9 Carolina on environmental justice that was sponsored by the
10 Department of Environmental Natural Resources, Department of
11 Transportation and Health and Human Services.

12 You know, Richard Gragg talked before about the efforts in Florida
13 that is the result of the state legislature. There is work with the State of
14 California which recently passed environmental justice legislation. One
15 of the most significant efforts is that of the California Air Resources
16 Board which chose Barrio Logan as one of the major sites for its
17 neighborhood assessment in children's health programs.

18 We can go on and on and on and on.

19 MS. PINDER: Right. I guess --

20 MR. LEE: I think -- let me just bring this all together.

21 MR. PINDER: Okay.

22 MR. LEE: I think that overall, you know, this is a process that's
23 beginning. There are -- and this is something that we're all feeling our
24 way through. And this is something that the issues that you're talking
25 about -- particularly, for example, state advisory committees and things
26 of this nature, they're the product of the states. They're not the products

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1 of the EPA, nor are they products of the NEJAC. A lot of them are
2 modeled after the NEJAC. You know, the Maryland Environmental
3 Justice Advisory Council being one of them.

4 The reason I'm giving you all this background is because there is
5 this set of relationships that we're trying to build that you and others can
6 really try to input into, and we welcome that.

7 For example, tomorrow morning -- and at every NEJAC meeting --
8 there is a meeting of state environmental justice coordinators. There is
9 an EPA Region 3 monthly conference call of all the EPA Region 3 state
10 environmental justice coordinators, and there is a yearly annual meeting
11 of all those states.

12 So there's a lot of ongoing work in you and the concerns that you
13 have can really be brought to bear.

14 MR. TURRENTINE: Let me just be very clear in response to your
15 question regarding the NEJAC.

16 We simply can make and offer advice to Carol Browner. We can
17 offer advice to Carol Browner regarding involvement with the states.
18 But it's still going to have to be EPA that does that, or that promulgates
19 that. We can't go any further than provide advice and counsel to the
20 Administrator.

21 So I just want that to be very clear, that it's not a role that NEJAC
22 can play beyond making advice and consultations with the
23 Administrator.

24 MS. PINDER: Right. I understand that --

25 MR. LEE: And I think the thing to point out is, you know, what the
26 states do in terms of environmental justice is something that the states

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1 decide. And so I think in terms of working with the states there are a lot
2 of opportunities and avenues in which there can be new ideas, dialogue
3 that can be introduced. But ultimately, you know, there are 50 states
4 with 50 state programs.

5 MS. PINDER: Yes. And I understand that and I appreciate your
6 comments regarding my question, but I guess what I'm feeling is that
7 the purpose of this Maryland Environmental Justice Task Force was to
8 give comments to the governor and so it was basically modeled after
9 NEJAC, yet they didn't consult NEJAC, as far as I know, or use any of
10 the information from NEJAC to help, you know, put together policy for
11 the State of Maryland.

12 And so, you know, I understand your limitations as an EPA-
13 coordinated council, but I just wonder what type of advice and guidance
14 is available to give to the states.

15 And I just wonder, also, if you could just touch on the issue about
16 the youth and young adult involvement in NEJAC.

17 MR. TURRENTINE: Before we move on to that one, there's
18 probably three comments regarding the initial question, so we're going
19 to go to Pat, Annabelle and Alberto. Oh, I'm sorry, and Jane. I had the
20 wrong one -- Jane.

21 MS. WOOD: Ms. Pinder, I actually have a couple of questions for
22 you.

23 One, the U.S. Constellation, which is located in Baltimore, which
24 is one of our old Revolutionary War or shortly thereafter battleships
25 that's recently been restored, I had the pleasure of being on board a
26 couple of months ago and they were talking about an inner city youth

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1 group that they were working with that they were actually teaching the
2 folks shipbuilding and carpentry skills.

3 I don't remember the name of it and I was curious if you were
4 familiar with the group, and then also if you could tell us a little more
5 about Youth Warriors and what that group was doing.

6 MS. PINDER: Sure. You're probably talking about Living
7 Classrooms.

8 MS. WOOD: Yes, I guess that's what it is. Well, but my
9 understanding is Living Classrooms is for once the ship is restored,
10 which it is, teaching kids trades. But then before they even got that far
11 they have been doing some great restoration on that ship and were
12 using and training a number of inner city youth.

13 MS. PINDER: Right. I'm sure Living Classrooms was one of the
14 organizations that was involved with that.

15 Youth Warriors has been in existence now since 1996. It was
16 originally a passion that I had -- I'm 29 and I was 24 at the time when I
17 started the organization. I applied for a grant through a national service
18 organization called Youth Service America through the Fund of Social
19 Entrepreneurs. They fund young adults under the age of 30 around the
20 country to start nonprofit organizations.

21 Having worked at Physicians for Social Responsibility as a national
22 organizer on environmental health issues and having worked at the
23 Alliance for Justice on taking issues, I had a very strong desire to work
24 on EJ issues because I was at these national beltway meetings and I
25 was always like the only Black person there and I was an intern. I had,
26 you know, some strong feelings as to why my community -- I was born

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and raised in inner city Baltimore -- why we weren't represented at the table.

And so I had to do some research and some legwork on my own and I met people like Connie Tucker and Peggy Shepard and Dr. Mildred McClain and Damu Smith who have since become to me like my elders to help guide me and the organization that I'm now head of into a direction of working on issues like lead poisoning.

In the past we partnered with a community-based group and we actually received an environmental justice small grant to actually do a lead poisoning awareness campaign for middle school and high school youth.

We also currently now do a community garden in Baltimore as a basic flower garden, and we basically provide after school programs and summer camps for middle school and high school aged children, raising their consciousness about environmental justice issues and giving them the opportunity to understand that what's going on in their neighborhood is impacting people all across the country and that they can have a voice in it.

MS. WOOD: Could I just add one follow-up question to that?

MS. PINDER: Sure.

MS. WOOD: Since you said it's the Living Classroom that's pretty much dealing with the ship, is it your sense that they're really reaching out to the inner city community for that program?

MS. PINDER: I think Baltimore is a very funny town, it's very segmented. To be honest with you, I'm not exactly sure. I think that there are many good groups in Baltimore that's doing good things, and

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I think Youth Warriors is one of them. And I always think that there's room for improvement.

MS. JARAMILLO: Let me try to respond to the first part of your question in terms of the relationship of NEJAC to state advisory councils.

In our state we also have an environmental justice advisory board which is advisory to the governor of the state. It was established by executive order.

That did not come because NEJAC existed. It came as a community and advocate driven advisory council as recommendation to the chief executive saying there are some issues of concern in our state that we have to deal with.

While I think it's useful to have a connection to the NEJAC in terms of listening to the many issues that are around the country and to see what commonality there might be in some of the solutions, I think it's very important that they be very, very focused on what happens in an individual state because we're going to have different issues.

So, although we can see, you know, the national advisory council as a model, it should be seen as just one of many types of models in that each council or board needs to establish its own focus and how it's going to work.

But I think the models that work best are those that are driven from community and advocate -- using a community and advocate genesis, so to speak, rather than being established by a government agency in response to a problem, because I think that does make the connection to the community if we can get that.

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Now, there's no doubt that there's the same type of growing pains in a state entity that we see with this advisory council and its parent organization or its parent connection. There is that conflict and there's a lot of work to be done to work through that. But I would look it more as trying to get the local or the state council or board as establishing its own agenda and using NEJAC as a resource, but not necessarily trying to get NEJAC to assist in that process.

I'm all for getting young people on board. In fact, on our advisory council we do try to do that. We do that through the executive appointments process.

MR. TURRENTINE: Jane.

MS. STAHL: Thank you. A slight twist on what Annabelle said because I think that she really did make many of the points that I would otherwise have made. And that is to point out that the states and EPA have a love/hate relationship. When it's convenient, we love each other; when it's convenient, we hate each other.

And NEJAC, you know, for better or for worse, falls into that same kind of category. It was also tainted, as was environmental justice in general, with the publication of the Title VI guidance several years ago which pitted the states against EPA, as opposed to bringing us together as a community of environmental protection agencies.

I think we've worked to overcome that contentiousness, but we are far from finished. So, to expect that states would turn to NEJAC or EPA in general for guidance, I think would be misguided; I don't think it's going to happen.

I think it's also, for better or for worse, the fact that NEJAC, as an

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entity, is not seen as a resource to anyone but EPA. So, you know, it is perhaps as a model something to be looked at, and as a repository if you look around the horseshoe of people who have experience and expertise in many EJ issues as individuals, I think it is in fact a provider of technical assistance, if you will. But as a group I don't think it is seen generally as a resource. And perhaps that's something that can change.

I would also second the fact that the strength of the environmental justice movement is, has been, and continues to be, with the community groups and the effectiveness is often felt most clearly on a local level. So kind of, you know, building from the roots up. So there are opportunities for being more effective -- don't hit me or anything -- at the state level in certain instances than one might be at the federal level.

And finally, I would very much like to urge you to reach out to the youth and to your colleagues to reach out to youth because one of the great positives that we have at the state level, at least in my experience, is a diversification of state environmental protection staff. And just as there is a graying of the environmental justice community, there is to some extent a graying of the environmental community.

I was saying to one of my colleagues earlier that I'm a product of Earth Day. Well, that was a while ago. And there isn't an influx of dedicated young people who want to work in the environmental professions as a whole, and even fewer coming from the minority communities.

If we can't diversify our state environmental agencies, we will never be successful in achieving environmental justice as a day to day

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integrated part of our business. It will always be something extra that we have to strive for.

So, yes, we are interested and we are aware of the shortcomings, and I would urge you to help us attract young people into the profession.

MS. PINDER: Well, that's part of what we do. You know, in the past -- for the past three years we've been taking youth to the Maryland Environmental Legislative Summit to give them the opportunity to actually sit in and be a part of that whole process.

But, you know, when you're invited -- and I understand everything that's been said, but I just want to make it clear that part of the frustration is that community members are invited to come to NEJAC and voice their concerns about what is going on in their community, but yet the states aren't looking to NEJAC as a model to help solve some of those problems. And so when community members go back home to work within their states, they're kind of stagnated because here they have a national entity that's saying we want to help you, but the state is not even looking towards that national entity.

I really understand everything that's been said tonight and I really appreciate your taking the time to explain it, but I just want to put that out, that it is frustrating. It really is.

MR. TURRENTINE: Thank you very much.

MR. LEE: There were a couple pieces of information -- I mean, let me just say this. Significant effort is being made to cultivate relationships with states and their environmental justice programs. Like Jane said, it's a tortured relationship, but I think there are a lot of positive things in it, and we've still got a long way to go.

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Now, with respect to youth, there's a couple of things that I should bring to your attention. I think one of the Office of Environmental Justice's really premier programs has been since 1992 the Environmental Careers Organization. It places students from diverse backgrounds in offices of EPA. Since 1992, \$13 million have been devoted in this effort and 1,600 students have been placed.

Since last summer, the Office of Environmental Justice began to look at the placement of students in community organizations. That has happened last summer and is being done again -- and it's being renewed.

So these are two different efforts.

With respect to the question of youth on the NEJAC, if that's a question that you want to raise, I think it's a very good question to be raised. As to whether or not, you know, there should be much more diversity from the point of view of youth in that perspective on the NEJAC -- you know, I think it's a good thing for the NEJAC itself to explore and I would urge that you raise that question.

MR. TURRENTINE: Thank you very much.

Ms. Lane.

PRESENTATION BY MS. ETHEL M. LANE
NEIGHBORHOODS FOR JUSTICE

MS. LANE: I am now representing Neighborhoods for Justice in Central Cities South in Phoenix, Arizona. Neighborhoods for Justice consists of eight neighborhoods. I'll give you a little bit of the history of what we are dealing with.

The area's located in downtown Phoenix, but it's south of the

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railroad tracks. The area is where the founding fathers first settled, but they discovered that they were in a flood zone so they moved out. And we, as usual, moved in.

Later on, people of color, Blacks and Hispanics, settled in the area. In '52 this was the only area where minorities could buy new homes. I mean, it was segregated. You couldn't. So we called this the new homes area.

In the '70s -- we also had a landfill down there that the city was using. In the '70s they discovered -- early '70s, somewhere along in there -- that all of the garbage could contaminate, so you had to separate, and the city moved their landfill.

In the process of them moving, we discovered another hazardous waste site in the particular area. And all of this, mind you, is on one street -- 15th Avenue. We have two hazardous waste sites. We have one recycling paper company. We have one metal company.

One of the hazardous waste sites is within about two blocks of a school. The other hazardous waste site is within about five blocks of a school.

We have two schools in this neighborhood and a boys and girls club. It's not like the neighborhood is isolated. There are citizens in the neighborhood, but the hazardous waste sites are only about five blocks from each other.

This is when I was telling you last night, you received a letter about IWU, and they are still in business, in fact, in the process of suing the City of Phoenix because they refused to give them the permit to expand their facilities.

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This particular facility is a site for storage of toxin waste. They receive toxic waste as far as California, and it's stored there.

The other facility, their biggest customer is the City of Phoenix. They're called Safety Clean.

By the same token, after the flood -- you know, this area was red-lined with the flood. Then it was also, after they got the dam straightened out, if you're familiar with the City of Phoenix -- after they got the dam straight where they could control the water, then the airplanes started flying over. So it was red-lined again behind the noise and the grease from the airplanes.

On the first of 2000 we got that straightened out. But in the meantime, a neighborhood this old, being red-lined so much, depending on the Federal Government for funds, they couldn't get any -- so the neighborhood is old, but the citizens have worked in this area all their lives to buy and pay for their homes. They can't afford to take a few pennies from the city and go and relocate, and the city is not going to relocate them. They are now turning their backs. So we feel as if out of sight, out of mind, even though we're right behind the state capitol.

The children are beginning to suffer with asthma. Not only asthma, but heart disease is running rampantly, upper respiratory -- that includes the whole gamut of it -- and cancer.

Now, is this caused by the environment? Because it's a terrible environment. Or is it from something -- some other cause? You know, we don't know. We do know there's a problem in this area.

We are now asking you for help. Give us some direction. Even though you didn't answer the complaint we sent in, that's quite all right,

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1 I'm here in person to tell you about the complaint. And we are now
2 trying to correct what should never have been in the first place. It was
3 not our fault.

4 We've asked for monitoring stations from ADEQ. They told us that
5 it costs too much money. The nearest monitoring station is in the
6 cemetery where the bodies don't talk, you know. So we have no
7 monitoring station down there.

8 There is a great need because there's too many upper respiratory
9 diseases. There's too many illnesses. And once you get out of this
10 area, you're all right. You leave home, you go to work, you get into this
11 area, you become ill. You go out, give you a few minutes, you're okay.
12 I suspect there's something going on.

13 And we also have -- let me add this -- the truck route. We have the
14 trucks -- the trucks are routed through on the first freeway that was ever
15 built in Phoenix -- this goes between the hazardous waste site. So
16 we're dealing with carbon monoxide, particulate from diesel trucks, and
17 the hazardous waste sites, the recycling plant. The city don't enforce
18 any laws so we've got all kinds of acids and junk laying around.

19 Is this what's -- you know, we need some information, some help.
20 This is why we're here.

21 MR. TURRENTINE: Thank you, Ms. Lane. What I'm going to ask
22 you -- now, you'll be here tomorrow, will you not?

23 MS. LANE: We're supposed to leave. We're scheduled to leave
24 in the morning.

25 MR. TURRENTINE: Oh. Is there anyone in the room from Region
26 9? Can we get you all together? Because what I want to have NEJAC

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1 on. We found out that the people had a permit, so we checked with the
2 Louisiana Department of Environmental Quality to find out about the
3 permit.

4 The Louisiana Department of Environmental Quality told us that
5 the permit was in their office and in order for us to view the permit, we
6 had to come to their office during work hours -- not lunch time; work
7 hours -- to obtain copies of this permit. So we did get a copy of the
8 permit. I'm sorry I didn't have the original permit to give to you;
9 however, in order for us to have a public hearing on that permit, we had
10 to write to Louisiana DEQ asking them for a public comment period.

11 I don't see why we should have asked them. They should have
12 asked us did we want one before they issued any part of a permit.

13 However, after they issued the permit they came to us. We had
14 the public comment period and everyone there said that they did not
15 want this because it's only three-quarters of a mile downriver from our
16 connection point.

17 Now, you must remember that we are divided by the river, we have
18 a collection point on one side of the river for the east bank, and we have
19 another on the other side of the river for the west bank. Now, when we
20 get a little further down, less than ten miles, is Lutchet Gramercy.
21 Lutchet Gramercy is considered as a town in St. James Parish and they
22 also have their water collection points. Since they have the water
23 collection points downriver from where they want to process this -- wash
24 these barges and things, it would go to their water collection points.

25 We should not have to ask DEQ to let us talk to them to keep
26 these people from having that permit

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1 look at is probably the Health Subcommittee and also the Waste Facility
2 Siting Subcommittee to look at and study the situation there and see
3 what direction we can provide to Ms. Lane.

4 Ms. Lane, the gentleman over here is from Region 9 and he is
5 someone I'd like for you to get with, and continue to talk to us. I know
6 he will continue to talk to us and he will continue to talk to the
7 subcommittees that I just mentioned.

8 I don't think you'll come back here again and say we didn't respond
9 to your at all. We may not respond to your satisfaction, but we will
10 respond to the best of our ability.

11 MS. LANE: Thank you.

12 MR. TURRENTINE: Thank you.

13 Richard Burton. Is Patty Lovera in the room?

14 PRESENTATION BY MR. RICHARD BURTON
15 ST. JAMES CITIZENS FOR JOBS AND THE ENVIRONMENT

16 MR. BURTON: Good evening. I'm Richard Burton, St. James
17 Citizens for Jobs and the Environment.

18 I have two sets of documents that are supposed to be passed out
19 to the members of the NEJAC. If we can please pass those documents
20 out.

21 One of the main issues that I'm here to talk to you tonight about is
22 a company called Belmont Fleet. They obtained a permit to wash
23 barges in the river. They're going to take the water from the river, wash
24 the barges out, and dump the residue back in the river.

25 Now, when we found out that this company was going to do that,
26 we checked and checked and checked and found out what was going

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1 Another thing I want to talk to you about is something that goes on,
2 we all know about it, and no one says anything about it. That's the
3 spraying of sugar cane. Spraying of sugar cane in Louisiana, and most
4 other places, too, is not regulated. The chemical that is used to spray
5 the sugar cane is not regulated. The burning of the sugar cane residue
6 after they cut it is not regulated.

7 Now, when I was in chemical class, I wasn't too much of a good
8 student; however, I do know that if you take a chemical and burn it, you
9 can have a different subject afterwards. You will have a different kind
10 of chemical afterwards. And no one ever addressed that.

11 When they spray the sugar cane fields, it rains, the water goes into
12 the ditches, into the river. It's never regulated. It's never talked about.
13 No one does anything about it.

14 We have quite a few people in Louisiana who are sick from the
15 spraying of the sugar cane. The farmers are supposed to let the people
16 know when they will be spraying. They don't do that.

17 We have a lot of people who are sick. I know a young man
18 working on a farm, handling the chemicals and everything, and right
19 now the young man has no control over himself. I know the boy
20 personally. I have assisted his mother in taking him to the hospital.

21 That's how bad the chemicals are. And no one talks about it. No
22 one's doing anything about it.

23 As I said last night, EPA in Washington should talk to EPA Region
24 6 and let them know Louisiana DEQ has too much authority and it
25 should be taken from them.

26 One of the documents that you have in front of you on the top right-

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hand corner has a number 3 on it. That document is from the Parish, and it tells you how they process the water that we drink. If you read that document, you will find out that the water plant was built in '56. Since '56 we have very little upgrade. All the chemicals that go in the river go in us because they don't clean them. They just clean the dirt out of the water to make the water look good and smell good.

Thank you.

MR. TURRENTINE: Thank you, Richard. Tseming.

MR. YANG: Thanks. I appreciate your concerns. This issue of pesticides was taken up by the International Subcommittee at the Atlanta meeting. It's not an issue that has been resolved yet.

Unfortunately, the subcommittee person who knows most on this and has been most involved in these issues, Fernando Cuevas, is not here at this meeting. He actually was not able to attend the NEJAC because the Office of Pesticides and Prevention and Toxics had a simultaneous meeting on pesticides scheduled during this very time. So he actually chose to attend that meeting to address issues of worker protection standards and other issues that are being presently dealt with.

But if you -- I'm trying to think on how to proceed -- but if you give us your information, it's something that we're continuing to consider. Pesticides is an issue that is woefully under-addressed by EPA, especially with regard to how states are enforcing sprayings and exposure of residents nearby as well as farmworkers.

MR. BURTON: In one set of the documents you have in front of you is a letter concerning that same issue.

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pictures of these people, you know, discharging those chemicals into the river because if you do that, you will empower EPA to intervene. Not only to deal with the state agency, but with EPA and maybe with the Coast Guard.

MR. BURTON: Well, Region 6, all they have to do is look out their window and they'll see it. EPA Region 6 can see the spraying that is going on.

MS. RAMOS: No, no. I'm talking about the discharges from cleaning the barges.

MR. BURTON: Okay. The permit, when we asked for the public hearing, if you'll notice on the first few pages, they put on the pages in typing in part of the wording, "draft permit," meaning that it's not a permit anymore, it's just a draft.

MS. RAMOS: But I'm telling you, if somebody is discharging chemicals without EPA authorization into the river, that's a violation. But you have to document it.

MR. BURTON: You don't have to. I used to do it myself. In 1980 I came to Louisiana -- I came to Convent, I was washing barges in the river, I was dumping this stuff out of the barge back into the river.

MS. RAMOS: You know, we have the same problems in our community. And, you know, the best recommendation I can give you is to take photos and then bring them to EPA. And then give a follow-up to that inspection, ask for the inspection report and for further enforcement actions.

Don't depend on the Louisiana State. Obviously they don't care what you think about them, they don't care about the community. Try

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The documents that I gave to each of you, I would like for it to go to EPA as part of our comments. Thank you.

MR. LEE: Is Olivia here from Region 6?

MR. BURTON: She just walked outside.

MR. LEE: Well, we'll make sure that she gets informed about this and request that she get in contact with you.

MR. BURTON: Okay.

PARTICIPANT: Charles, I'm (inaudible) and I can talk to Mr. Burton (inaudible).

MS. RAMOS: How do you know that the pesticides used in the cane fields is not regulated? Do you know the name of the pesticide?

MR. BURTON: We tried to get that information from the farmers but they don't want to give it to us. However, we know the effect on the people. It has made several people sick.

The individual that I was talking about that works with -- on the farm, he used to play baseball for me. I had a baseball team in Convent and he used to play ball for me. The boy was in good health. And when I saw him, his mother asked me to take her to the doctor and I saw him, I almost cried, and I asked her what happened to him. And she said, that's from him working with the chemicals on the farm.

MS. RAMOS: We community members do know what those chemicals can do to farmworkers.

I would ask the office to put this gentleman in contact with Delta because Delta could be, you know, a good resource for him in that problem.

Also, I would encourage you to buy a small camera and take

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to deal more with EPA by giving them tools to enforce the violations. And that tool is photos, photos of them dumping into the river. Okay?

MR. BURTON: I understand. Thank you.

MS. SHEPARD: Tseming. No? Okay. Tom.

MR. GOLDTOOTH: I will look back in some of my files. I remember something in reference to some kind of study that was done on the types of pesticides applied in sugar cane operations. I'll try to look for that. Okay?

The other thing is that I think I want to add some additional recommendations than what Rosa had suggested. Most of the chemicals that are used in agriculture, you know, there are certain -- as you probably know, whoever is applying those has to be certified, depending on the type of chemicals. There's going to have to be some, you know, research there and maybe Region 6 can help out here and check into that. The Department of Agriculture I believe is also involved with this issue.

But I remember there were some issues with chemicals that were being used in the sugar cane operations and I'm going to have to look for that.

And there are also some nonprofit organizations. There's one here in Washington, D.C. that especially works on pesticides. It's a coalition of individuals. It's an organization, the National Coalition of Pesticides, against pesticides, or something like that. I will give that information to you.

It would be good for -- Haywood, on a lot of these testimonies I know NEJAC does go way back, you know, from the beginning. I mean,

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we've always been concerned about the tracking system. I mean, when people offer testimonies around these issues, and sometimes we don't respond, we don't say anything, we don't ask any questions, and we say thank you and they go back to their seat. We have always been concerned about does someone ever follow-up and get back to them about the issue that they talked about.

So I'm concerned that at least with this NEJAC once again we have someone that's going to say make sure that we respond to every individual that offered comment, that there's some follow-up. We have different regions here, we have different programs here, Water Office, Pesticides Office, Air Office, so it's usually a maze. It's a maze to figure out which department in this bureaucracy has responsibility for follow-up. So somehow from the NEJAC here it gets broken down, which could take months, sometimes days or weeks.

Our expectations is that the Office of EJ, to the best of its capability, will be able to take these recommendations and kind of decipher them, which department in the agency is responsible for follow-up. And usually it gets kicked down to the regions. And we realize that sometimes it's in the regions where there's complications as far as communication between that region and the impacted community.

But then, you know, it's back to where we want to assure you, as well as the others that testified, that there's follow-up and there's a tracking system. Okay?

Those are some comments I wanted to offer you.

MS. SHEPARD: Tom, Marva will talk a little about the tracking system.

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going to take in responding to what I had told them about these other two organizations. So, Region 6 did get back to me.

MR. LEE: I mean, just to reiterate, every comment that's made here is responded to either in terms of referral to the proper office, and the person that made the public comment is gotten back to, like Richard said. I mean, that's a system that is in place.

I don't know if it's the best system that exists, and it might do well to look at it. I think that a lot of the questions that get raised raise other kinds of issues that are very hard to deal with in terms of just the tracking system.

MR. BURTON: If you'll remember, Charles, one time you got back in touch with me. It was on one incident that I had spoken and you got back in touch with me also.

MS. RAMOS: Madam Chair?

MS. SHEPARD: Yes. I'm sorry. Rosa.

MS. RAMOS: I think it would be a good idea to invite Region 6 to give a report for the next meeting on how they are addressing Mr. Burton's request.

MS. SHEPARD: Good idea. Pat.

MS. WOOD: Maybe this isn't a question we really want to deal with this evening, but Annabelle and I have been sitting here talking amongst ourselves about what happens. I mean, it's good to know that we have a log that keeps track of if the region answered or -- but I'm afraid that a lot of those answers might be kind of the standard answer that we see.

I guess the bigger question is did we advance resolution of some

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MS. KING: I just wanted to let the NEJAC members know that the same method that we've been using for years, since I think Richard Moore was chair, was when he asked us to respond to the public commenters and give them a copy of the response. We still do that, we keep a record. You guys just haven't gotten it because it's so large. But we always have this here at the meeting if you want to look at it.

What happens is that we refer it to either the region or a program office if it's site specific. Some have -- a lot of the comments that came out of the May meeting are going to be referred to the Federal Facilities Working Group, that sort of thing. And whatever we've done, we've copied the person who made the public comment and we have the record here to show you that too.

MS. WOOD: I have a question. How do we know then that the region, or whoever got the referral, followed up?

MS. KING: The region, when they respond, they send us a copy of their response. We have ten long files of NEJAC and it's in our archives.

What we've been doing with most of you is that we do send you any responses to resolutions or letters to the Administrator, but because it's such a large volume of stuff and a lot of you have complained to me that you don't want all this paperwork all the time, that we've just kept it on a database file and it's always here for you to look at. But what's here is just a note of what happened.

MR. BURTON: May I say this? In response to that, when NEJAC was in Louisiana, I spoke for another organization, and NEJAC in Region 6 did get back in touch with me and told me what they were

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of these issues with this correspondence. I only raise for perhaps consideration at another time, have we gone back through those logs and said, okay, is there a pattern here? What did we learn? What happened? What do we do next?

I don't know where that question goes, but I'd at least like it on the record that we need to chew on it a bit.

MS. SHEPARD: Okay, good.

Thank you very much.

MR. BURTON: Thank you.

MS. SHEPARD: Oh, I'm sorry.

MS. WALKER: Just a quick note. It made me wonder, if everyone is getting a response, then why do so many people keep coming back? I mean, what are the responses?

MS. SHEPARD: Well, I'm told that sometimes the responses are not helpful to those people, so they continue to come back to keep the visibility of the issue alive in front of us.

Rosa.

MS. RAMOS: And sometimes they bring new problems, just like in this case.

MS. SHEPARD: Exactly.

Ms. Lovera.

PRESENTATION BY MS. PATTY LOVERA

CENTER FOR HEALTH, ENVIRONMENT AND JUSTICE

MS. LOVERA: Good evening. My name is Patty Lovera and I'm here to represent the Center for Health, Environment and Justice, which is based in Falls Church, Virginia.

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CHEJ works with grassroots groups nationwide. Over the past few years we've discovered a frightening trend that directly affects environmental justice communities. This trend is the practice of building new schools on or near contaminated land, which places low income and children of color at great risk.

For example, in Houston, Texas a school is being built that will serve a predominantly Latino population. The school is located directly under the flare and stacks of a Goodyear Chemical Company plant. The shadow of the stack crosses the outdoor running track which will be used by about 3,000 students.

The community surrounding the school fought to have the school built on another available piece of land on the other side of the neighborhood, but they lost that fight.

In Rhode Island five schools whose students are predominantly African-American children have been or are being built on top of industrial waste sites.

Community members worked long and hard to stop these proposals, including going to court. But they also lost. The only concession they were able to win was that the construction activities which could stir up the contaminated soil -- when those activities took place next to an existing school, they're supposed to stop when the students would enter and exit the building.

In Quincy, Massachusetts, the proposed site for a new high school which would serve a racially mixed area of African-Americans, Asians and working class white populations, was formerly a Bethlehem Steel plant.

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Last week, after widespread public outrage in Quincy, this site was withdrawn from consideration.

The Gordon Elementary School in New Orleans, Louisiana sits on top of a Superfund site. It is likely to reopen now that EPA has undertaken some surface clean-up around the building. This school will house children from the surrounding low income African-American neighborhood.

The Secretary of Education and President Clinton are pushing for federal funds to build new schools and renovate schools across the country. If this appropriation is passed, it will provide enough resources for the construction and renovation of about 6,000 schools.

Besides these federal funds, states are also investing in school construction and renovation. Massachusetts, for example, has plans to build or renovate 150 schools.

But at this time there are no standards for what constitutes a child-safe school with regard to environmental contamination.

Over a year ago CHEJ and a coalition of other organizations asked the EPA's Office of Children's Health for guidance on this issue. Their answer was that there are no guidelines and no plan to develop them.

This is a critical issue which directly impacts the environmental justice community. If there is no guidance, schools serving low income families and children of color will continue to be built on or near sources of contamination. And once a school is built and the money spent, it is much more difficult for communities to move local and state governments to close a school and rebuild.

CHEJ's Poisoned Schools Campaign, which involves more than 40

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groups, has worked over the past year to design some siting criteria for new schools. These criteria were developed in part from the work of leaders in Los Angeles, California who fought the siting of the Belmont School on a contaminated former industrial site.

The siting criteria include a review process that a local government must go through before deciding to build a school on any piece of land. Also included are a requirement for buffer zones around schools and maximum levels for chemicals in soil and groundwater.

Our biggest concern over these proposed criteria is with the maximum exposure levels. The levels we have proposed are the lowest residential clean-up levels used by any government authority. But this does not necessarily mean they are safe for young children.

To address this issue, the Poisoned Schools Campaign is organizing a group of children's health scientists to come together to review these numbers and recommend levels that are protective of children's health, if that's possible given our limited knowledge about children's special vulnerability to chemicals.

This criteria proposal is a draft document and we would really like the input of NEJAC members. I hope that you will review the document and provide the campaign with your comments and concerns.

As NEJAC moves forward over the next year, the coalition hopes that you will consider taking on the issue of schools and environmental hazards. Many of the chemicals children are exposed to affect their ability to learn and some have even been shown to lower children's IQs.

As a mother in Louisiana said, "The polluter keeps giving our school computers so our children will learn and be competitive in future

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job markets. But because of the chemicals they breathe every day, our children can't sit still long enough to learn how to use them."

This is an important environmental justice issue with major consequences for future generations.

The draft criteria for school siting are attached to my testimony, which I think has been distributed to you. We would appreciate your reviewing them and commenting.

On behalf of CHEJ and the coalition working on this issue, I urge you to give serious consideration to adopting this issue in the future.

Thank you.

MS. SHEPARD: Thank you. It's a really important issue. I'm on the board of the New York State Healthy Schools Network and we've had several issues of toxic schools in Harlem. So I know it's a very important issue. I hope that we do discuss perhaps taking on the issue of children's environmental hazards in schools.

Tom.

MR. GOLDTOOTH: Peggy, I'm just wondering, since you live in the neighborhood, I assume, it would be good to refer her to the appropriate subcommittee tomorrow.

MS. SHEPARD: I'm trying to figure out which one is the appropriate one.

MR. GOLDTOOTH: Yes.

MS. SHEPARD: Whether it's Health or Waste.

MR. GOLDTOOTH: Health probably. You have someone raising their hand out there, Peggy, from the EPA staff.

MS. SHEPARD: Oh, okay.

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1 Will you be here tomorrow?
 2 MS. LOVERA: I think so.
 3 MS. SHEPARD: Okay. The Health and Research Subcommittee
 4 will be meeting. It will be great to have you attend.
 5 MS. LOVERA: Thanks.
 6 MS. SHEPARD: Thanks. Rosa.
 7 MS. RAMOS: In my opinion, you know, expecting EPA to
 8 intervene in school location is very, very difficult to obtain.
 9 What I would do in your case -- and I'm a community leader -- is
 10 to organize the community to request EPA multiple inspections of the
 11 chemical plants that are close to the schools. This has been used in
 12 Puerto Rico by communities and I would encourage you to
 13 communicate with the Region 2 administrator to learn more about these
 14 initiatives.
 15 It's a strategy in which all types of inspectors, EPA inspectors, visit
 16 a facility and they inspect everything. You know, water discharges, the
 17 smoke, everything. And they push the industry to comply if they are in
 18 violation.
 19 That's a way to protect the children. So, you have to do your work
 20 with EPA in trying to move forward this type of initiative.
 21 Here is Mr. Muszynski from Region 2 and I don't have any doubts
 22 that he would assist you in understanding better what is involved in this
 23 type of initiative. And it's very productive.
 24 MS. SHEPARD: It's really a state by state, you know, issue.
 25 Anyone else?
 26 (No audible response.)

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1 or guidelines. And those plans must be developed with input from the
 2 outside community. They cannot be developed internally and they have
 3 to document that.
 4 The third part of that law required a study to be done on Title VI.
 5 I was the senior research analyst on this report: Tennessee State
 6 Agencies and Title VI.
 7 What we tried to do was to get agencies to address the
 8 agreements that are inherent in Title VI and making sure their being
 9 non-discriminatory in all their activities.
 10 One of the things that we've also tried to do in the last few months
 11 -- especially in the last few months -- our state law was passed in '93,
 12 but in the last few months -- is bringing all of the state agencies together
 13 around the table to decide how we're going to address all these issues,
 14 including environmental justice.
 15 Our state received one of the State Tribal Grants back in '98, and
 16 for the last two years we've been developing strategic plans to address
 17 environmental justice and looking at a multimedia approach to looking
 18 at coordination of permitting.
 19 One of the things that we have done in our work as far as
 20 environmental justice strategic planning and grant was conducting
 21 surveys of the business community with state and federal agencies.
 22 One of the things we found out from the business community survey is
 23 that a lot of the business community persons said that they felt that the
 24 biggest part of public participation is their membership in various
 25 chamber organizations and trade associations. We found that a very
 26 striking commentary on what our present state of environmental justice

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1 MS. SHEPARD: Okay, thank you.
 2 J. Gilbert Sanchez?
 3 (No audible response.)
 4 MS. SHEPARD: Kimberly Bandy? Tamia Boyer-Robinson?
 5 PRESENTATION BY MS. KIMBERLY BANDY
 6 TENNESSEE HUMAN RIGHTS COMMITTEE
 7 MS. BANDY: Good evening. My name is Kimberly Bandy. I'm the
 8 state Title VI Director with the Tennessee Human Rights Commission.
 9 This evening I want to talk briefly about what we're doing in Tennessee
 10 regarding Title VI and environmental justice.
 11 What I want to talk to you about is not about any kind of
 12 environmental violation just yet, I want to talk to you about what we're
 13 doing as far as Title VI in Tennessee, and talk about environmental
 14 justice.
 15 In Tennessee what we have tried to do is look at Title VI as a
 16 comprehensive method of administration. What we did in '93 was that
 17 the state passed a state law that mirrors the federal law on Title VI. As
 18 the state director I primarily advise 36 state agencies, from the
 19 Department of Environmental Conservation to the Department of Labor,
 20 Department of Transportation regarding their Title VI activities.
 21 Our state law had three primary parts. The first part required that
 22 whenever the Comptroller's Office does an audit of compliance with
 23 financial or performance auditing standards that they look at Title VI
 24 compliance also.
 25 Also, our state law requires that each state agency that receives
 26 any federal financial assistance develop Title VI implementation plans

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1 is in the State of Tennessee.
 2 Myself, as chair of the intrastate committee as part of the
 3 Environmental Justice Steering Committee, I conducted surveys of what
 4 the state's knowledge was of environmental justice, and at that time
 5 they didn't even know anything about environmental justice, the same
 6 way they didn't know anything about Title VI when we started looking at
 7 it back in '93.
 8 EPA Region 4 has been very instrumental in helping us in looking
 9 at our strategic plan and breaking down those barriers as far as
 10 environmental justice and how the state does business in this area.
 11 So one of the things I wanted to bring to NEJAC and my goal for
 12 being here, is to facilitate relationships with the Federal Government
 13 and to learn how the Federal Government is addressing this issue and
 14 take it back to our state.
 15 One of the things we've done in the last -- I guess in the last seven
 16 years since our state law was passed -- there's been a lot of focus on
 17 state agencies compliance. Now we're seeing a lot of interest from local
 18 government level and private industry, especially on Title VI. Now we're
 19 seeing it on environmental justice.
 20 I've worked very closely with the Department of Justice, with the
 21 U.S. Commission on Civil Rights, the Department of Transportation on
 22 the federal level, U.S. Department of Health and Human Services on
 23 Title VI, and we hope to -- the emphasis we have placed on Title VI in
 24 the last seven years, we want to try to give that same emphasis and
 25 awareness to environmental justice concerns. So what we try to do is
 26 try to incorporate a massive sustained effort to educate folks on the civil

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rights principles and pulling those together with environmental justice principles to try to comprehensively address the quality of life of our citizens of Tennessee.

I thank you for your time.

MS. SHEPARD: Rosa. Shirley?

MS. PATE: Hi, my name is Shirley Pate and I'm the DFO for the Enforcement Subcommittee of NEJAC. I wanted to invite Ms. Bandy to participate in our Title VI implementation panel that we're having tomorrow. We will be having representatives from the Department of Transportation, Housing and Urban Development, and the Department of Justice. We look forward to also having you there with us. Thank you.

MS. SHEPARD: Thank you. Rosa, did you have a comment?

MS. RAMOS: No.

MS. SHEPARD: Okay. You are Tamia Boyer-Robinson.

And the next person will be Jenny Torres-Lewis.

PRESENTATION BY MS. TAMIA BOYER-ROBINSON
ENVIRONMENTAL EVANGELISM

MS. BOYER-ROBINSON: Good evening. I'm Tamia Boyer, environmental consultant of Environment Evangelism Consulting Services of Temple Hills, Maryland.

I'm before you tonight to comment on a future environmental justice project that I'm doing, from a personal as well as a professional commitment as a result of the work of the Maryland Environmental Justice Advisory Council, which I'm a member of.

In '97 legislation was passed which introduced the Maryland

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Environmental Justice Advisory Council, and among our goals which was mainly to go throughout the State of Maryland and identify environmental justice issues, we chose the avenue of holding public meetings in four quadrants of the state.

At these meetings attendance, unfortunately, was very low, but the attendance that was there was very active. One thing we found out as we went into the community to identify environmental justice, one big question that was asked of us, as well as we, the Council, were challenged with answering was defining environmental justice.

For the community persons who attended the meeting, as they gave their definitions, examples, and experiences with environmental justice, we found that environmental justice for most people, you know, expanded to various problems and situations of their lives, and not maybe so much focused on environmental from the impact on human health from some impact on air, land, water or waste.

One of our recommendations that came about from our public sessions throughout the State of Maryland was to develop a GIS data model that would do community profiling that would help identify environmental justice situations, but also help bring the focus or the attention as to what environmental justice is, or how does the environment impact you.

This GIS model we think will be significant in that the community health indicators chosen for this model are what the community persons who attended the meeting, what they felt environmental justice was. And those community health indicators we're looking at are health, income, housing and homelessness, food assistance or nutritional

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quality, child care, education, transportation, public safety, and environmental quality.

Again, the goal of this GIS model for community profiling to support environmental justice is to encourage public collaboration and partnership for an effective environmental justice program and process.

Additionally, this GIS model hopefully will identify and incorporate within the context of environmental justice environmental health concerns and research into the public policy and decisionmaking process.

I'm asking NEJAC members, as well as all those present, for any comment or feedback if you have an interest in this method of community profiling for environmental justice, or if you have experience.

Unfortunately, I don't have really any handouts on details of the proposal for the project, but I did place on the table back there a sign-up sheet if you have interest or experience in this area, with contact information of me and how you can leave contact information.

Thank you.

MS. SHEPARD: Well, as a member of the New York State EJ Advisory Committee, we are considering how best to basically map out EJ communities. There are many people on our advisory committee who are afraid that mapping an EJ community would be to red-line it in some way. What are your thoughts on that?

MS. BOYER-ROBINSON: One thing from this model that I'm proposing, I don't foresee that it will give a cause or reason for environmental justice, but what I am thinking and hoping and anticipating that the model will show is a coincidence of the

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disproportionate negative impact on communities of color such as the community that I'm using, Prince George's County, and I'm actually using just two districts within that county. This county is 65 percent African-American.

MS. SHEPARD: What I'm asking you is do you believe that drawing maps of EJ communities will hurt investment in those communities?

MS. BOYER-ROBINSON: Possibly. I say that because there has been a recent -- in this same community in which the project will be held in -- there has been a proposal for a new entertainment site to come about, and from that environmental impact statement and hearings addressing this proposal, this new entertainment site, there was review of environmental justice and the proposal for the entertainment site is still going forth, but it did cause a delay in the beginning of this project and there was more -- I think the businesses that wanted to come into this area that did kind of interfere or as you mentioned -- I'm sorry, what was the word you used?

MS. SHEPARD: Well, some people use the word "red-line."

MS. BOYER-ROBINSON: Red-lined some investment. But, as I said, it's going forth. So I can see that that's a possibility, but --

MR. TURRENTINE: Art, did you want to respond? Art is from the Maryland Environment Department and a former member of NEJAC.

MR. RAY: Thank you for the opportunity. Over the course of time that we looked at this, there was a substantial debate and I had similar concerns that you raised, Peggy, in terms of drawing circles around them.

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1 MS. SHEPARD: Oh, it doesn't concern me. I think we should do
2 it. But it does concern some people.

3 MR. RAY: Well, I mean the concern was raised.

4 MS. SHEPARD: I think our communities are already red-lined.

5 MR. RAY: One of the things I think we were looking at is to be
6 able to sort of build the capacity within this GIS system to more
7 instantaneously view various factors, like you outlined on that. It wasn't
8 like you were going to draw a series of circles around the map; we
9 wanted to have the ability to more better and quicker analyze the
10 situations in the communities.

11 We also wanted to factor into this sort of community -- we used to
12 call them profiles, but that's got a stigma on it now; we now call it
13 assessments -- assessments.

14 We wanted to also include the relevant community leadership
15 there, try and give a history of the issues that that community would
16 have there.

17 It was almost a ready-made data base that could useful to the
18 community itself, to the Department and also actually to some industries
19 which wanted to actually come in and locate in that community. If you
20 would want to deal with that community, you need to know who you're
21 dealing with. You know, I think it was a pretty receptive opportunity.

22 We had included that in an EPA grant proposal that we never got
23 But we'll keep trying.

24 MS. SHEPARD: So you were able to figure out who the
25 community really was?

26 MR. RAY: Well, actually, we're still working on that.

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1 MS. SHEPARD: Okay.

2 MR. RAY: Okay, thank you.

3 MS. SHEPARD: Yes, Don?

4 MR. ARAGON: Thank you. Arthur, EPA has a substantial amount
5 of data on communities. I believe if get ahold of Ed Liu, he has -- we've
6 been working with him. And they're doing some pilot projects now with
7 Indian reservations. In Region 8 out in the Denver Office, they have
8 done some extensive mapping using the environmental justice stuff like
9 you're saying. They have also done this on the levels of income and
10 what is the status of those communities.

11 They have done an extensive amount of work, and so I do know
12 that they have the capabilities of doing it and they also have the
13 software that might be of help to this young lady.

14 MR. RAY: The only problem -- and I can't help but take a shot at
15 EPA -- is that I always worry about the data that EPA gives out on
16 anything. I tend to maintain that a lot of the better data comes from the
17 state and local level. That's where EPA gets their stuff from.

18 MR. ARAGON: Yes. I think that the collected -- most of the data
19 that they have has been sent in to them from other entities like the
20 different tribes and the different states, and so forth.

21 MS. SHEPARD: Marinelle.

22 MS. PAYTON: I was basically going to say the same thing that
23 Don said, and that is that EPA has an awful lot of interesting models.
24 OPPT, the Office of Pollution Prevention and Toxics, in particular, and
25 Dr. William Sanders' office.

26 I know there's a model -- I can't recall the name -- I think it's a risk

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1 indicator, or something like that. It's based on toxic release emissions
2 in specific areas. That might be helpful to you. It is by geographical
3 location.

4 Also, I'm just curious as to your model, what you're doing. Are you
5 considering the criteria of health as an indicator to consider --

6 MS. BOYER-ROBINSON: Yes.

7 MS. PAYTON: -- the health of the community as well as the
8 polluting facilities? I think it really would be nice if it was done by health
9 as a criterion.

10 MS. BOYER-ROBINSON: Okay. Health is one of the indicators.
11 Yes. And environmental quality, which would take into account
12 industries that may impact land use or natural resources, is another
13 indicator of the model.

14 MR. RAY: You know, one of the things -- health is such a broad
15 topic to do an ambitious study like this. I mean, one of the things that
16 we've been working with up at the Baltimore Urban League is something
17 sort of targeting what in particular a community's asthma incidence
18 would look like just to see how this whole project would be ground-
19 proofed or not.

20 So, I mean, health is an indicator --

21 MS. PAYTON: Right.

22 MR. RAY: -- but, you know, you have to look at various aspects
23 of health. It's something that we're still working with the community and
24 our Department of Health and Mental Hygiene on.

25 MS. PAYTON: Right. Well, health is a broad term. A better word
26 for it would be "disease" instead of health. I mean, health is very

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1 subjective. Disease is a much more objective term. Mapping of, for
2 example, the various cancers or chronic diseases like heart disease,
3 hypertension, et cetera, I think would be very helpful in particular when
4 it comes to permitting. Not that we have become that elaborate to date,
5 but hopefully in the future perhaps health, disease and illnesses can
6 become a criteria for permitting, especially in considering
7 decisionmaking around that area. Thank you.

8 MS. SHEPARD: Thank you. Jane.

9 MS. STAHL: I just wanted to comment that the strength of the GIS
10 system is that you don't need to necessarily draw circles around an area
11 and create the illusion of a stigma or not. And the other thing is that as
12 you build your layers, you can begin to equate the incentives and
13 disincentives between brownfield sites and greenfield sites, and put your
14 natural resource information in on the same -- in different layers but on
15 the same basis so that you're trading off. So that building in or bringing
16 opportunities to a developed area seem no more onerous than trying to
17 develop an area that's slated for preservation or natural resource
18 protection.

19 It also allows for the planning to actually ameliorate or mitigate
20 what might be seen as more extensive burdens for building either in an
21 EJ community or in a sensitive natural area.

22 Art probably knows than many of us the power that comes not only
23 from natural resource and GIS planning basis, but when environmental
24 protection and health programs can be married, as I believe they are in
25 Maryland, to a governor's call for smart growth so that when all of the
26 state agencies begin to work together towards the same ends the tools

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become more all the more powerful.

So while, you know, indeed there are places and times where simply circling an area and saying this is an EJ community would be a stigma and a disincentive to any kind of growth or redevelopment or rehabilitation or regeneration, if it's done as part of a package, it doesn't necessarily have to have that same negative effect.

So, hats off to Maryland.

MS. SHEPARD: And you are a member of Maryland's EJ Advisory Group?

MS. BOYER-ROBINSON: Yes.

MS. SHEPARD: Okay. Well, thank you very much.

Our next speaker is Jenny Torres-Lewis.

PRESENTATION BY MS. JENNY TORRES-LEWIS

NATIONAL PUERTO RICAN COALITION

MS. TORRES-LEWIS: Good evening. My name is, again, Jenny Torres-Lewis. I'm the Vice President for Public Policy at the National Puerto Rican Coalition here in Washington, D.C.

I'm just going to read from the testimony just to keep on the time constraints and the obvious fact that I'm very exhausted from being here as well as having a long day at the office.

Thank you for the opportunity to testify on behalf of the National Puerto Rican Coalition, a nonprofit organization representing the interests of seven million Puerto Rican U.S. citizens throughout the mainland and the Island of Puerto Rico.

Many environmental issues affect Puerto Ricans and Hispanics in general, including brownfield redevelopment, Superfund sites,

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environmental health impacts, and the under-representation of Hispanics at EPA and other decisionmaking bodies.

Since there is limited time to present my comments, I will speak only on one issue, the Navy's bombing exercises in Vieques, Puerto Rico, an issue which has touched the hearts of many Puerto Ricans and which the governor-elect and presidents of all political parties on the island, as well as Puerto Ricans on the mainland, have objected to as recently as this past month.

Since the 1940s Vieques has been used as a bombing range for the U.S. Navy military training exercises. Despite existing regulations, the Navy has used live bombs, depleted uranium and napalm on the range and allowed foreign allies to test weapons. The Navy has ignored environmental laws, severely destroyed the natural environment, and has introduced health hazards to the residents on the island.

The Navy bombing has done damage to both the land and the ocean ecosystems. The topography of the eastern part of Vieques is disfigured and there is a loss of an extensive part of the vegetation.

These environmental impacts contribute to the natural microclimate of the island and have resulted in a decrease in rainfall in that portion of Vieques Island.

The ocean ecosystem also has suffered significant damage. There are numerous bombs, pieces of artillery, bullets, rockets, parachutes, flares, and metal fragments of different types found on the coral reefs.

Research indicates that the environmental damage is severe and environment restoration is urgently needed. A recent study entitled

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"Ciencia y Ecologia: Vieques en Crisis Ambiental" points out that the damage of one, two or three years of additional bombing cannot be underestimated. The report states "one more year of bombing is equivalent to 10, 15 or 20 years of ecological impacts and health risks."

NPRC is also concerned about the impact of the resident population. The people of Vieques suffer from a multitude of illnesses and lack of adequate health care facilities to provide treatment on the island. The cancer rate is suspected to be 27 percent greater than that of the main island of Puerto Rico, and the infant mortality rate is among the highest of any Puerto Rico municipality. There are higher rates of psychological disorders, depression, alcoholism, and various mental illnesses.

Undoubtedly there is a correlation between the high incidence of illness and the community's proximity and exposure to the bombing exercises.

The probability of toxins released from bombing exercises reaching the food chain is also a concern. Scientific research demonstrates significantly high levels of metals in plants and marine life. The report again entitled "Ciencia y Ecologia: Vieques en Crisis Ambiental" illustrates the numerous metals found in plant life on the eastern part of Vieques. Bombing activity, natural fires, decomposition and consumption of herbivores are all routes linking these contaminated plants to the food chain.

Because the winds in Vieques generally blow from the east to west, contaminants released by the bombing travel from the live impact area to the civilian population. Airborne contaminants may land in

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distant plants or be inhaled by the resident population.

Recent analysis also indicates that the resident population and marine life are put at risk by low-frequency, high-amplitude sonic booms caused by ship to shore shells travel to their target in Vieques at two times the speed of sound. These noise levels are potentially lethal to fish and endangered species, as well as harmful to humans.

NPRC is particularly concerned about the potential adverse consequences for small children whose smaller lungs resonate at somewhat higher frequencies than the lungs of adults and may thereby be put at greater risk.

The current agreement between the existing Governor of Puerto Rico, President Clinton and the Department of Defense allows the Navy to use inert bombs and opens up the possibility of using live fire ammunition in the future. Both live and inert bombs seriously disrupt the natural environment and ecosystems and have been cited by researchers as harming human health.

NPRC strongly believes that the Navy bombing must stop in Vieques immediately. We take this position with the strong support of Puerto Ricans and other Latinos throughout the nation.

We recommend the following:

The Council members should advise EPA to fund research on the environmental damage to the Island of Vieques.

Because of harmful noise pollution, the spread of existing toxins by inert bombs, and past violations, the Council members should advise EPA to consider denying the Navy its National Pollution Discharge Elimination System Permit.

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1 And, finally, Council members should advise EPA to carefully
2 monitor the clean-up of Vieques to ensure that there are no hazardous
3 materials left behind, and every effort should be made to restore the
4 land completely so that the Vieques community may have future use
5 and access to this part of the island.

6 Thank you for your attention. This concludes my statement.

7 MS. SHEPARD: Rosa Hilda.

8 MS. RAMOS: I will reserve my comments or questions related to
9 the Vieques issues after hearing other Vieques community member
10 comments. But I do want to comment the coalition for intervening on
11 behalf of the Vieques people and I really encourage the coalition to
12 support other movements or communities who are disenfranchised in
13 Puerto Rico, not only Vieques, but other communities. So I encourage
14 you to do that. And thank you very much.

15 MS. SHEPARD: Thank you. You know this is an issue that our
16 International Subcommittee is taking up, if you're here tomorrow.

17 MS. TORRES-LEWIS: Okay. There is also a waste and site
18 facility meeting. I believe that some representatives from Vieques will
19 be attending as well as representatives from NPRC.

20 MS. SHEPARD: Great. Say hello to Manny Mirabel for me.

21 MS. TORRES-LEWIS: I will.

22 MS. SHEPARD: I used to work for him at the state Division of
23 Housing in New York.

24 MS. TORRES-LEWIS: He was supposed to be here tonight but
25 due to a conflict of schedule he was unable to attend.

26 MS. SHEPARD: Okay, thank you.

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1 MS. TORRES-LEWIS: Thank you.

2 MS. SHEPARD: The next speaker is LeVonne Stone, then Teresa
3 Juarez and Rivera Castaño.

4 PRESENTATION BY MS. LeVONNE STONE

5 FORT ORD EJ NETWORK

6 MS. STONE: I wanted to talk to you tonight concerning land use
7 controls. I feel that land use control --

8 MS. SHEPARD: Excuse me. Could you just state your name,
9 please, for the record.

10 MS. STONE: Oh, I'm sorry. LeVonne Stone, Director of the Fort
11 Ord Environmental Justice Network. I'll start again.

12 I wanted to talk to you tonight concerning land use controls. I feel
13 that land use controls are one more effort to disallow the minority and
14 low income communities the clean-up process that they deserve. When
15 you put up fences and put up signs that are suggested to stay in place
16 over a period of time, and then we're finding that they're moving on to
17 clean up other sites in more affluent neighborhoods -- we don't want
18 land use controls that are going to stay in place.

19 The base clean-up team feels that the community is not important
20 enough to clean up, especially ranges. We have two very large ranges,
21 44 and 45, that's considered or will belong to the City of Seaside where
22 the mixture of minority, African-Americans, Latinos and other ethnic
23 groups reside. The only thing separating the citizens from these ranges
24 are a road and fences.

25 These sites are supposed to be cleaned up according to the health
26 and safety impacts to the local communities.

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1 We feel that two things can be done. First of all, the community
2 can be trained to interact and remove some of these unexploded
3 ordnances. It has been done in another community that we're aware of.

4 Because the community also doesn't have jobs, the economic
5 impact to the community is very severe since the closure of the bases
6 and people are being driven out of their homes.

7 Politics should be kept out of the clean-up process. Agency
8 infighting concerning decisions to clean-up when there are threats to the
9 health and safety of children and the affected local communities should
10 not be tolerated.

11 It's wonderful to see that the blue butterfly and the legless lizards
12 are going to be preserved, but when the contest is between preserving
13 those species and the health and safety issues of the community, then
14 the decision should be pretty clear as to what should be done, and we
15 should not have to choose -- the community itself should not have to
16 choose on whether or not we're going to tolerate safety impacts to our
17 children and our community or save butterflies and legless lizards.

18 There should be some agency responsibility to find out what the
19 solution is and clean-up these areas.

20 I also wanted to say that when the Executive Order was written on
21 February 11th, 1994 by President Clinton, when it came to
22 implementation and the agency responsibilities it said, "to the greatest
23 extent practicable and permitted by law, and consistent with the
24 principles set forth in the report on the National Performance Review,
25 each federal agency should make achieving environmental justice part
26 of its mission by identifying and addressing as appropriate

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1 disproportionately high and adverse human health or environmental
2 effects of its programs, its policies, and activities on minority
3 populations and low income populations in the United States and its
4 territories and possessions, the District of Columbia, the
5 Commonwealth of Puerto Rico and the Commonwealth of the Mañon
6 Islands."

7 Now, I think that's really clear. And all these other documents that
8 are being produced -- being produced -- year after year, month after
9 month, I think they need to be burned. What we need to do is start
10 implementing what this Executive Order says.

11 If we start to implement and not worry about the language each
12 agency has, and it's being watered down over and over again in each
13 document that's being produced -- and I feel like the seriousness of
14 what is happening in our communities in implementing the Executive
15 Order in carrying out environmental justice agency-wide and across this
16 nation is being considered a joke.

17 And I think that we need to bring the importance and escalate the
18 importance of environmental justice in that any agencies responsible or
19 willing to carry out for the communities the interacting and the
20 implementation of these processes needs to be mindful of the
21 community and the importance of participating in any process that
22 would help to solve the problems.

23 Thank you.

24 MS. SHEPARD: Okay, thank you, Ms. Stone.

25 Teresa Juarez? No?

26 (No audible response.)

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MS. SHEPARD: Okay. Rivera Castaño?

PRESENTATION BY MR. RAFAEL RIVERA CASTAÑO
COMITE PRO RISCATE Y DESARROLLO

MR. CASTAÑO: Good evening, ladies and gentlemen. My name is Rafael River Castaño. I am from Vieques, first of all, but I am a physician epidemiologist and a retired professor of epidemiology from the School of Public Health of the University of Puerto Rico.

I was very glad -- surprised and glad -- to hear the representative from the National Puerto Rican Coalition bringing out the problems that we have in Vieques with the Navy bombing.

As an epidemiologist, I have no doubt that the Navy bombings are causing the -- the contamination caused by the Navy bombing is causing most of the illnesses that we have in the community. One of these is the cancer incidence. The cancer incidence in Vieques is 28 percent higher than the rest of the Island of Puerto Rico.

But it was not like that before. During the '60s the cancer incidence in Vieques was lower than in Puerto Rico. It began raising in the '70s.

If we consider that cancer has an incubation period -- if you can call it an incubation period -- of about 10 to 20 years, we have to look and to ask what was happening 10 to 20 years before the cancer incidence in Vieques started rising and came to the top of Puerto Rico.

The Navy has occupied two-thirds of the land of Vieques for the last 60 years. But in the '50s and '60s they only did some -- in the '50s they did landing maneuvers, landing practices. It was in the '60s when they started the bombing and it increased in the '70s. So by the time

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the incidence rate started to rise in 1972 it's just the time when they started -- ten years after they started bombing the island.

Now the incident rate is probably much higher than in Puerto Rico. The problem is that we don't have good statistics anymore since 1990. But I'm sure that the incidence rate in Vieques is about 30 to 32 percent higher than the incident rate in Puerto Rico.

If we compare the mortality rate of Vieques, of cancer in Vieques, it's higher than in Puerto Rico and it's higher than in other communities that have more or less the same demographic pattern as Vieques. It even has a higher mortality rate than Cataño which is known to be a very highly contaminated town in Puerto Rico. So there's no doubt that the contamination in Vieques is causing this cancer incidence rate, the high cancer incidence rate.

And this contamination, as the lady just before mentioned, and Neftali can assure through his studies, are getting into the population. The contamination within the population is -- we are finding that many people in the town, in the civilian population, are contaminated with the same toxic substances that appear in the impact area and in the bombing area.

And we have found also that these toxics are going into the food chain and possibly into the air and water in Vieques. So there is no doubt in my mind, as an epidemiologist, that the bombing in Vieques is causing these higher contamination and higher rates of cancer, that we don't have documentation from them.

So this is why we are asking that the Navy has to stop bombing Vieques now. Not three years from now, but now.

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Thank you.

MS. SHEPARD: Rosa Hilda.

MS. RAMOS: Dr. Castaño, I just wanted to say that I have a lot of respect for your group. I think that the work that you have been completing during the years deserves a lot of credibility because of your involvement and commitment.

I do have another opinion regarding the cancer incidence. The Health Department completed, with EPA funding, an epidemiological study regarding cancer in Cataño. They revised the data of 20 years and Cataño has not 30 percent, but 100 percent of cancer incidence compared with the rest of Puerto Rico.

I do agree that the cancer incidence in Vieques has increased as to be significant, and I understand that the Vieques case is the worst example of what can result if you don't invite the affected community to participate in the decisionmaking processes.

The Vieques problem, it's a shame what has happened with the island where every politician in Puerto Rico has taken advantage, has used your cause to benefit their own shady agenda and then have thrown you aside when they got what they needed.

I encourage you to continue your conversations with the government, the Federal Government, and I would recommend EPA to invite Mr. Castaño to be part of a work group regarding federal facilities.

MS. SHEPARD: Alberto.

MR. SALDAMANDO: I was going to make the same or a similar suggestion. I think the problem of Vieques is obviously way beyond our ken when it's been the U.S. Congress and there's been a great deal of

justified protest about it, and will continue to be. I think lamentably so, it has to be that way.

We have a problem with the Department of Defense on a great many issues, including one where they want to put a bombing range in a Native American community in Montana that has already been found to be a community suffering the adverse effects -- or, disproportionate effects of environmental damage.

I appreciate your testimony because I think we can also unfortunately use the Vieques experience to try and struggle against this bombing range in Montana, and I hope I can be in touch to solicit some other research because it is an incredible problem. I thank you for your testimony.

MS. SHEPARD: Rosa.

MS. RAMOS: I do have a petition for your group as a community member. If you ever receive support from people who are abusers themselves in other communities, such as ours, do not accept that support. The next time that the Mayor of Cataño visits your community, kick him out.

DR. CASTAÑO: We already did.

(Laughter.)

DR. CASTAÑO: We already did.

MS. SHEPARD: Thank you very much for your testimony.

MR. ARAGON: Peggy, can I make one comment?

MS. SHEPARD: Oh, I'm sorry, Don.

MR. ARAGON: The DOD was here yesterday and they've given some testimony, but they also have some funds to do some clean-up

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work, like Roberto was saying.

They're in the process of cleaning up a bombing range now on I believe it's the Rosebud Reservation in South Dakota where they have had this military bombing range. It's about 40 miles wide and, oh, I don't know, maybe 40 miles long. But they've had a lot of unexploded ordnances that when they dropped the bombs they buried themselves into the dirt. And they've been there for 20 years -- 20 or 30 years, and now it's really a complex problem in cleaning that up. I know that DOD is working with that tribe over there to try to work out the problems. Then I hear that they want to cause it again. This is ridiculous.

I think that -- you know, I think this gentleman would be an excellent person to put on one of the federal facilities or something like that so that they can get some assistance.

MS. SHEPARD: Okay, that committee is really growing. Charles. Thank you very much.

DR. CASTAÑO: Thank you.

MS. SHEPARD: Our next speaker is Stephanie Farquhar and then Betsy Boatner.

PRESENTATION BY MS. STEPHANIE FARQUHAR
UNIVERSITY OF NORTH CAROLINA,
SCHOOL OF PUBLIC HEALTH

MS. FARQUHAR: Hi, thank you. My name is Stephanie Farquhar and I'm from the University of North Carolina, School of Public Health and I'm speaking more as a public health researcher than as someone with a very short tenure of involvement with NEJAC, which has been about 48 hours.

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neighborhoods and recorded environmental stressors, including such things as vacant lots, abandoned houses, trash, illegal dump sites, broken street lots, inoperative industries and factories. And they also looked at how these observed problems in their neighborhoods affected people.

This is where they broadened the definition of health. They didn't only look at cancer and asthma rates; they looked at how people felt. How did this daily exposure to this stuff affect them? They looked at emotional, physical and spiritual wellbeing. And now they're working at how to best interpret, using some GIS systems that we talked about earlier, to interpret and apply the results of their information gathering efforts for community mobilization and advocacy, and how to ignite the interest of decisionmakers, including groups like EPA and DOT and HUD.

Another project came out of eastern North Carolina, Rocky Mount, Tarboro, and Princeville. Hurricane Floyd hit back in September of 1999 and it devastated some of the small town and communities in that area. This is sort of the ultimate environmental justice issue because it was the lowest income communities of color that were placed in the flood planes in the areas of lowest elevation.

FEMA's response to the devastation was placing ten temporary housing sites that were scattered throughout North Carolina. The people were left with no phones, no transportation, inability to obtain loans, exposure to intensive livestock operation runoff and sewage, and a complete loss of sense of community as well as disrespect and outright discrimination from some of the federal and state agencies.

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I was delighted to hear earlier today about some of the community-driven demonstration projects, although work that I've worked on has been community-based environmental justice work, and I fear that even though there is community involvement that federal, state and local government agencies, attorneys, academics, funding agencies, forget that community residents are very capable of assessing what they need and deciding how to get it.

I also fear that community members' stories and voices are lost in some of the environmental justice processes that tend to be dominated by these other entities.

I have two case studies or examples of my work -- not of my work, of communities that I've worked with which are very sophisticated and organized in their strategic efforts to document a community's own environmental realities. And it's important, of course, to understand that community members know their physical and social environment better than any agency or organization or academic outsider and that they know their history, they know the politics of their neighborhoods and they're very privy to the fact that they need evidence or proof in order to get the attention of city and county stakeholders and decisionmakers.

One is in Detroit, Michigan that was actually funded in part by EPA. The residents face a great amount of urban blight and deterioration. They see it, they taste it, they smell it every day and they realized themselves that they needed to somehow document this as evidence that this is something they're exposed to because other people would not take up the issue for them.

So they actually physically got out, walked around their

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So what they decided to do -- the 1,000-plus families still left in these temporary housing sites -- and you should note that they're all Black residents -- and they were also placed, the original housing sites -- one of the original temporary housing sites was placed on a landfill until that was discovered and FEMA quickly moved to get the residents off of that temporary housing site before the media got ahold of that story, although eventually they did and sort of blew the cover.

But the residents themselves decided that they needed to systematically document their plight, so they're going out, they're having conversations, they're having town meetings, they're collecting the information through surveys and photographs, and this will ultimately be presented to the media and FEMA and EPA and other decisionmakers in a February Flood Survivors Summit.

This is all taken on by the community members. I think these two case studies can serve as a reminder of the untapped and sort of underestimated power of a community's potential involvement in environmental justice issues. They have answers if we care to listen.

I wasn't really prepared to talk about specific suggestions or recommendations, but I think that one would be to include communities on the ground level and think about who is the community. It's not necessarily the first community-based organization that's willing to participate, but you have to maybe dig deeper and think creatively about who represents the community.

Also consider broadening the definition of environmental and health data to get beyond perhaps when they're looking at brownfields and toxic wastes, which are very, very important, and get beyond

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1 looking at only cancer and asthma, which are also very important. But
2 try to broaden it beyond these sort of traditional outcomes.

3 Also possibly -- and this would be to NEJAC and the Office of
4 Environmental Justice -- consider linking up with other federal agencies,
5 such as FEMA, for possible partnerships and collaboration in the future.

6 Thank you.

7 MS. SHEPARD: Gerald.

8 MR. TORRES: Can we have copies of these studies that you're
9 talking about?

10 MS. FARQUHAR: Excuse me?

11 MR. TORRES: Can we get copies of these studies that you're
12 talking about?

13 MS. FARQUHAR: Sure. Yes, I can get copies to you.

14 MS. SHEPARD: Marinelle.

15 MS. PAYTON: That's basically what I was going to ask. I was just
16 curious about the two studies that you referred to.

17 MS. FARQUHAR: The two states?

18 MS. PAYTON: The two case studies.

19 MS. FARQUHAR: Oh, yes, right.

20 MS. PAYTON: What are they?

21 MS. FARQUHAR: One is Detroit, Michigan and one is eastern
22 North Carolina.

23 MS. PAYTON: Okay. Thanks.

24 MS. SHEPARD: Alberto, is your card up? Or, Don, is your card
25 up? No? Okay, Tom.

26 MR. GOLDTOOTH: I was just wondering what is the racial

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1 characteristics of these two communities.

2 MS. FARQUHAR: Detroit, Michigan -- the groups that I worked
3 with -- east side Detroit is 97 percent African-American, and then
4 southwest Detroit is about 50 percent Latino and 25 percent African-
5 American and 25 percent white. So they are two different communities,
6 pretty disjointed communities in Detroit, Michigan that I was working
7 with.

8 In eastern North Carolina, Princeville is actually all black, the only
9 incorporated all black town in North Carolina. And Tarboro and Rocky
10 Mount are also a high percentage African-American.

11 MR. GOLDTOOTH: I just want to say that I'm director of the
12 Indigenous Environmental Network and we're a native grassroots
13 environmental organization. We totally embrace community-based
14 health surveys, health assessments.

15 We recently met with the Indian Health Service which is our
16 primary health care provider in Indian Country around the topic of
17 environmental health. In fact, one of our concerns was the potential
18 support of community-driven health research. It wasn't surprising that
19 they didn't know what we were talking about. They assumed what we
20 were talking about, but they didn't know.

21 It's through centers like yourselves and others that we're building
22 quite a resource list of public health institutions and other resource
23 groups that can help our communities do these things.

24 I was wondering how many in your School of Public Health are
25 people of color that are involved with the project.

26 MS. FARQUHAR: Zero.

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1 MR. GOLDTOOTH: Okay. I just wanted to know.

2 MS. SHEPARD: Thank you.

3 Ms. Boatner.

4 PRESENTATION BY MS. BETSY BOATNER
5 AMAZON ALLIANCE

6 MS. BOATNER: My name is Betsy Boatner and I work for an
7 organization called the Amazon Alliance. It's based here in
8 Washington, D.C. The organization is an alliance between indigenous
9 and traditional peoples of the Amazon Basin and environmental,
10 indigenous, human rights and other support organizations throughout
11 North America.

12 Although U.S. policies affect indigenous peoples in the Basin in
13 many ways, through trade, international agreements such as under the
14 Climate Change Convention, there is one particular policy that I would
15 like to draw your attention to this evening that will have serious
16 environmental justice implications.

17 This policy has already and will increasingly bring harm to the
18 health and livelihoods and environment of indigenous and peasant
19 communities in Columbia.

20 The policy that I'm referring to is a package of military aid that is
21 being used to fund efforts to fight drug production and trafficking in the
22 country of Columbia. It's commonly referred to as Plan Columbia.

23 Recently our organization brought a delegation of indigenous
24 leaders from the Columbian Amazon to Washington, D.C. to speak
25 about their concerns, to share their perspectives, and to give testimony
26 in their own words to what is happening there.

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1 Of the \$1.3 that are included in this aid package, a very large
2 portion of it is committed to counter narcotics operations. U.S. money,
3 U.S. tax dollars, are being used to purchase helicopters, spray aircraft,
4 hire private contractors to spray -- to fly planes over the land and spray
5 chemical herbicides primarily over coca crops, crops of coca leaves
6 which are used to produce cocaine.

7 However, the chemicals often land outside of their intended
8 targets, and that's where the problem lies. The chemicals land on food
9 crops and they destroy them. They land on water supplies and they
10 contaminate them. They land on livestock and they have poisoned
11 them. They land on people and they have made them sick.

12 According to the indigenous leaders who came here, as well as the
13 local and national offices of the Human Rights Ombudsmen in
14 Columbia, hundreds of people have documented these effects. People
15 have complained of digestive ailments, respiratory infections, skin
16 rashes, eye infections, and a host of other ailments.

17 Who, you might ask, is particularly most hurt by this policy? It is
18 poor people. It is peasants. It is people of color. It is 48 indigenous
19 tribes that live in the Columbian Amazon.

20 Indigenous peoples are particularly affected because the presence
21 and activities of counter narcotics forces violates their territorial
22 autonomy. It also places at risk a very important component of their
23 culture, which is the use of the coca leaf. Sometimes immemorial coca
24 leaves have been used for healing practices and for traditional
25 ceremonies and as a dietary supplement and so it is also threatening
26 this very important integral part of their culture.

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1 Assuredly, we all want to see an end to drug abuse here in the
2 United States. The ironic twist to this is that this policy will do nothing
3 to decrease drug use here in the streets of America. Study after study
4 show that efforts to control drug production at the source are completely
5 ineffective. In a study by the Rand Corporation it has been found that
6 domestic drug treatment programs are 23 times more effective than
7 aerial eradication.

8 So, for every dollar of the millions of dollars that are being spent on
9 counternarcotics operations in Columbia, they are dollars that we are
10 not spending on drug treatment programs here. They're dollars and
11 energy and time that's not being focused on changing a draconian drug
12 policy here in the United States that victimizes people for non-violent
13 offenses, particularly people of color and people of low income.

14 And so while this policy is not only creating a very severe
15 environmental justice crisis in Columbia, it is also perpetuating an unjust
16 system here.

17 To the extent that the International Subcommittee raises
18 awareness on U.S. policy related environmental justice concerns, to the
19 extent that the EPA may be involved in preparing assessments of
20 environmental implications of this policy, I ask you to please seriously
21 consider looking into this issue further.

22 I would be happy to speak with anyone about this issue, and I also
23 ask you to refer to the press release which I think was distributed to you
24 and to see our Web page, usfumigation.org in which we have much
25 more detailed information.

26 Thank you very much. I appreciate the opportunity to speak before

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1 MR. GOLDTOOTH: In addition to -- I think your press release
2 mentions one of the chemicals, glyphosate -- I believe that's roundup --
3 that's one of the labels, is roundup.

4 It was my understanding -- and maybe you can correct me -- is
5 also, in addition to this roundup, there are reports of other chemicals
6 that are related to the DDT family that were being sprayed in Columbia
7 as well.

8 And in addition to that, are you aware of the introduction of a
9 fungus, a spore, that's supposed to be utilized as well? Are you aware
10 of that?

11 MS. BOATNER: Yes. Thank you, Tom.

12 Regarding the other chemicals, according to the State Department
13 and the Colombian National Police, no other chemicals are being used.
14 However, there is very inadequate monitoring and oversight of these
15 operations presently and so no one can verify that that's the only
16 chemical being used. That's one of the things that we are looking into,
17 is trying to assess -- to determine somehow what are the actual
18 concentrations and what is the actual content -- what are different
19 surfactants and inert ingredients that are being mixed with the, I guess,
20 active ingredients.

21 But I'm not aware of any other chemicals being used at this point,
22 although many different ones have been used previously.

23 MR. GOLDTOOTH: And has this fungus -- I don't know, there's a
24 name to that.

25 MS. BOATNER: It's fusarium exosporium.

26 MR. GOLDTOOTH: Right.

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1 you.

2 MS. SHEPARD: Thank you.

3 Alberto.

4 MR. SALDAMANDO: I appreciate the Amazon Alliance's
5 testimony. In Santiago at the regional meeting for the World
6 Conference Against Racism we developed an indigenous declaration in
7 which indigenous peoples from I think it was four or five different
8 countries wanted and did achieve a condemnation of Plan Columbia in
9 our declaration. Also, the program was denounced by indigenous
10 peoples at the plenary.

11 I was kind of involved in the drafting and we included Venezuela,
12 Columbia -- several South American countries in that condemnation and
13 the cunas from Panama were very angry because we did not include
14 them as well in the condemnation.

15 I would really like a list of all the indigenous peoples, from
16 whatever the countries that are affected by this plan -- there is, at least
17 among South American indigenous peoples, a high awareness and
18 condemnation of this plan. So I appreciate the testimony and I guess
19 it would be up to the International Subcommittee to make an appropriate
20 recommendation to the administrator with regard to this U.S. policy.

21 MS. BOATNER: Thank you.

22 MR. SALDAMANDO: If you would come to the committee meeting
23 perhaps tomorrow afternoon, we could -- in fact, if you could draft
24 something, that would be nice too.

25 MS. BOATNER: I'll look into it. Thank you.

26 MS. SHEPARD: Tom.

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1 MS. BOATNER: And it was being seriously considered and
2 promoted by the U.S. administration in working with the U.N. DP,
3 however, at a meeting of the Andean Ministers of Environment they
4 decided to not use fusarium exosporium for any eradication efforts
5 because of the serious health and environmental implications it
6 presents.

7 However, the Colombian Ministry of Environment is still
8 investigating other possible biological controls and it's something that
9 we're staying alert about.

10 MR. GOLDTOOTH: Well, I support the recommendation that
11 Alberto had made for his subcommittee to look into this issue. It raises
12 this concern I brought up earlier about the role that EPA has in the
13 international affairs. In the same way that they have responsibilities
14 here on a domestic level, what are their responsibilities internationally
15 since we do through the EPA agency have an International Affairs
16 Office and they are very active, as you know, like in the air climate.
17 There are EPA technical staffers part of the U.S. State delegation team.

18 So I'm concerned about this and hopefully something can come
19 out of this meeting tomorrow.

20 MS. SHEPARD: Two quick questions. Gerald.

21 MR. TORRES: Just a quick comment. I mean, I was going to
22 raise the issue of the fungus that Tom raised. I really urge you to
23 monitor that as closely as you can.

24 The other thing that's really critical is the effect that this policy has
25 not just on the physical environment and the health of the population
26 there, but it destabilizes the governments so that the capacity to -- for

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like governments there to address the problems that they have within those communities and within those countries is set back.

I'm working with people at the University of Texas, both botanists as well as remote mappers as well as people who are working with indigenous people in those countries. I would urge you to keep a close eye on it.

I think if you can get something drafted, it would be really helpful.

MS. SHEPARD: Tseming.

MR. YANG: Yes, just quickly. I would echo what Alberto has said in terms of this being a really important issue.

What I'd ask, to the extent that you can in your organization, the more specific you can be in terms of how EPA-- there's an EPA handle to these problems, as you mentioned, with environmental impact -- I mean, there's of course an issue with regard to U.S. actions abroad and the applicability of statutes such as NEPA. But to the extent that you can have ideas or suggestions for how EPA's involved in that, that can help us a lot in addressing these issues.

These are issues that we are trying to look into on an ongoing basis. Tomorrow's meeting is focused specifically on really trade agreements, and so we have State Department people as well as Trade Representative Office people there. These are all part of what we're interested in. Thanks.

MS. BOATNER: Thank you. I just wanted to add that this is really an opportune moment to act, to take action to prevent this from happening even more so. Although fumigation has been going on in Columbia since 1994, they are significantly increasing operations and

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the battalions that are prepared to engage in these activities are slated to begin their operations in December.

Thank you very much for your comments.

MS. SHEPARD: Thank you.

I'm now going to call our final speakers. Yvonne McSwain-Powell, Sandra Reid, and Armando Gandarilla.

MS. JARAMILLO: Peggy, it's my understanding that there was somebody else that had signed up late, an Andre Brought.

MS. SHEPARD: Okay.

Could I just ask that you each identify yourselves and your organizations when you start.

PRESENTATION BY MS. YVONNE McSWAIN-POWELL
P.E.A.C.E.

MS. McSWAIN-POWELL: My name is Yvonne McSwain-Powell. I'm with PEACE, People Effective Against Chemical Eugenics.

Whatever happened to love thy neighbor as thyself? This year I found out some shocking information about my community. The discovery was made when I began to search for the causes of many illnesses and deaths within my community.

I discovered for over a decade my community was provided contaminated water. The water contained high levels of chloride, sodium, strontium, manganese and boron.

I recently learned that strontium is a type of radiation. Can you imagine drinking radiation for over a decade or more?

This information is based upon government documentation written by a specialist in the Department of USGS, the United States

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Geological Survey. These reports were published in 1982 and 1983. I learned of these reports this year, in 2000.

The well that provided water to my community in Richton, Mississippi was not officially shut down until 1994. The problem with this well was declared an emergency situation in 1991 and a new well was built in 1992, but we were not put on it. We were not removed from the contaminated well until 1993 or later.

In our quest to get answers to so many questions we encountered state officials changing documents, ditches where off site chemicals had been reported were filled with new soil. DEQ has said that the documents written by USGS which stated the possible cause of contamination are not really true. In these documents they suggest that industry may be the cause of the contamination.

There are many industries within my town. There is American Wood, Joslyn, Kerr-McGee, Richton Tire and Timber Company, Koch-Gateway Pipeline, Denbury Crude Oil, Georgia Pacific, Pope Mill, Shell Oil Company, Century Resources.

Once the DEQ, the Department of Environmental Quality, pointed out that the document discovered was a very old document. I reminded him of another old document which continued to play a great part in our lives today, the Declaration of Independence which states, "We hold these truths to be self-evident, that all men are created equal and they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness, that to secure these rights governments are instituted among men, deriving in their just powers from the consent of the governed."

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That is why I ask who forgot our rights? The agency that was put in place to govern and protect our health and safety? These agencies are supposed to regulate industries. My community's rights have been snatched away. We know because of the high incidence of diseases such multiple myeloma cancer, lupus, kidney failure, heart attacks, incurable skin rashes, loss of eyesight, cataracts, gastrointestinal problems, bone and joint breakage, tremors, diabetes in children. A baby was born recently with high blood pressure.

The right of life, liberty and the pursuit of happiness no longer exists for my community. People in my community are not stealing away in a peaceful sleep to join their Creator. They are leaving this world with pain and suffering.

When will the innocent suffer enough at the hand of government that allows industries to contaminate and pollute communities? Many of these companies listed have recently been found guilty of polluting. Let me reword that; they have been found guilty in every state but Mississippi. I wonder why.

We have been told that the water is good to drink. But just last month one of the residents within the community had arsenic in her blood, at 19.2 milligrams. A document that shows arsenic triple the levels was changed this year and reflected a keypunch error. The cluster of multiple myeloma cancer in my community is three out of 150 people, but the state epidemiologists say this is insignificant. According to the American Cancer Society it should be four in 100,000 people.

We recently took split samples of soil taken on site at a local company. The results from our sample show contamination being

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1 present. DEQ found none. Ms. Beth who works for the Department of
2 Environment Quality said it is possible for all contaminants to be found
3 in one sample.

4 That is why I am here today. We are trying to reach out to the
5 state agencies, but they have become an extension of the industrials
6 and are unwilling to see that there is a definite problem. My community
7 has suffered long enough. We are continuing to ask again that well
8 C15560010 be reopened. We deserve to know what has brought this
9 death blow to our community.

10 For the McSwain community in Richton, Mississippi justice must
11 be served.

12 MS. SHEPARD: Okay, thank you very much. Are you going to be
13 here tomorrow for any of the subcommittee meetings? Perhaps you
14 would like to come to the Health Subcommittee?

15 MS. McSWAIN-POWELL: Yes, I will.

16 MS. SHEPARD: Okay. Thank you. Yes, Marinelle?

17 MS. PAYTON: Just one question. The information that you
18 passed out, you were at the May meeting in Atlanta?

19 MS. McSWAIN-POWELL: Yes. My sister spoke there.

20 MS. PAYTON: Okay. And you submitted to us the letter from
21 EPA --

22 MS. McSWAIN-POWELL: In Atlanta.

23 MS. PAYTON: Right. Okay. So I'm assuming the information
24 attached -- is this a report that was done by EPA, an assessment? Can
25 you tell me?

26 MS. McSWAIN-POWELL: That report was done by the state

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1 health department where they found arsenic at 1.00 --

2 MS. PAYTON: Uh-huh.

3 MS. McSWAIN-POWELL: -- and changed it this year and said it
4 was a keypunch error.

5 MS. PAYTON: Okay. So this was done after the May meeting,
6 after your report --

7 MS. McSWAIN-POWELL: Yes.

8 MS. PAYTON: Okay. And currently there's chlorine, strontium,
9 bromide --

10 MS. McSWAIN-POWELL: Strontium. I don't know if it's strontium
11 90 or what. I hope it's not strontium 90.

12 MS. PAYTON: Okay. As well as arsenic in the water?

13 MS. McSWAIN-POWELL: Yes.

14 MS. PAYTON: But I thought -- did you say that the wells were
15 closed in 1992?

16 MS. McSWAIN-POWELL: The well was cemented and grouted in
17 1994.

18 MS. PAYTON: Oh, okay. But there's still apparently a problem in
19 the water?

20 MS. McSWAIN-POWELL: The center aquifer is contaminated and
21 it has contaminated the Tallahala from which we get our water. No one
22 has cleaned up the center now.

23 MS. PAYTON: Okay. Your community organization is the only
24 one that's involved, P.E.A.C.E., in this area?

25 MS. McSWAIN-POWELL: In Richton, yes.

26 MS. PAYTON: All right. And, I'm sorry, I didn't hear anything that

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1 you said about the Mississippi Department of Health. Have they looked
2 into this issue at all?

3 MS. McSWAIN-POWELL: We recently supplied them with the
4 survey that we had done within our community. We have also told them
5 and constantly on the phone with them requesting that they do a health
6 survey. And we are also asking that ATSDR come in and do a health
7 consultation to survey and take samples from our community.

8 MS. PAYTON: And have you gotten any response from ATSDR
9 yet?

10 MS. McSWAIN-POWELL: We've had Dr. Rubin Warren, but they
11 have not complied to what they're going to do.

12 MS. PAYTON: Okay. So there are people that are looking into the
13 problem.

14 MS. McSWAIN-POWELL: Right.

15 MS. PAYTON: Okay, thank you. We can talk tomorrow.

16 MS. SHEPARD: Tom.

17 MR. GOLDTOOTH: I notice in the Metro/State news clipping you
18 have here, which is dated November 25th, in the article it said the
19 U.S. EPA has taken notice of the residents claims and last month
20 agency representatives began steps to take water and soil samples.

21 Then, the EPA has become involved then?

22 MS. McSWAIN-POWELL: DEQ?

23 MR. GOLDTOOTH: No. This article says U.S. EPA, not the state.
24 I'm just wondering the status of that.

25 MS. McSWAIN-POWELL: U.S. EPA is supposed to be going to
26 take soil samples also.

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1 MR. GOLDTOOTH: Okay.

2 MS. McSWAIN-POWELL: But we wanted technology to
3 pinpoint where this contamination was coming from this well.

4 MR. GOLDTOOTH: And that's a public water system that you're
5 on now, your community?

6 MS. McSWAIN-POWELL: No. It has been cemented and
7 grouted.

8 MR. GOLDTOOTH: I mean, that's the private well system? The
9 private wells?

10 MS. McSWAIN-POWELL: No, it's a community -- it's a city
11 well.

12 MR. GOLDTOOTH: A city well.

13 MS. McSWAIN-POWELL: Uh-huh.

14 MR. GOLDTOOTH: Okay. What's your source of water right now?

15 MS. McSWAIN-POWELL: From another water association.

16 MR. GOLDTOOTH: I see.

17 MS. McSWAIN-POWELL: That's also in the Tallahala.

18 MR. GOLDTOOTH: Okay. Thank you.

19 MS. SHEPARD: Okay, thank you very much.

20 Oh, I'm sorry, Rosa.

21 MS. RAMOS: You know, I used to be a medical laboratory
22 technician many years ago, and I really find it very difficult to believe
23 that a keypunch error occurred in this case.

24 MS. McSWAIN-POWELL: I do too.

25 MS. RAMOS: Maybe you should know that a laboratory technician
26 or any part of the staff who lies in a report is liable, could lose its

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license. I would recommend you to inquire officially the laboratory to certify that this is true because this could lead to a criminal investigation afterwards.

MS. McSWAIN-POWELL: They could not find the data to support this. They did not find the data to support the change in the documents.

MS. RAMOS: To support, you know, justification for the --

MS. McSWAIN-POWELL: Right.

MS. RAMOS: Why, then you should file a complaint. You mean the state could not prove their allegations? Is that what you're saying?

MS. McSWAIN-POWELL: True.

MS. RAMOS: But you don't have any information from the laboratory itself?

MS. McSWAIN-POWELL: The lady said based upon the way she would have done it, she don't feel that it was contaminated. But we have all the signs of people that have drunk arsenic. We have cataracts of the eyes, we have the warts and we have the moles, certain type moles and the warts that grow inside your hands and on the bottom of your feet -- we have those signs and symptoms.

MS. SHEPARD: Okay, the last comment will be Marinelle.

MS. PAYTON: I'm just curious in reference to this chart that you gave us. Who collected the data?

MS. McSWAIN-POWELL: We, as a community, collected the data from the community. And out of 300 people there were 50 known cancers. And you can read on as to we have a lot of musculoskeletal and gastrointestinal problems, irritable bowel syndrome.

MS. PAYTON: Okay.

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because the Nashville Tennessean had done a health evaluation of the asthma in the community, and they found that there was no conclusive evidence of anything from the facility causing the health effects in the children.

Unfortunately, nobody remembered that the question became not whether or not releases were causing asthma, but whether or not the children were receiving adequate health care. It has become politicized. It has not become an area where we are dealing with the actual impacts of releases from these facilities.

I'm asking this panel to please look into some of this. I know that right now you are developing a federal facilities committee. This is very, very controversial.

Right now we have just recently had an Executive Order passed where the President has approved that the Department of Labor look at the worker health effects. I worked on the legislation where DOE admitted that they had harmed the workers, that they had put them in brutal conditions. In Oak Ridge the Scarboro community is less than a quarter of a mile away from Y-12. But the Oak Ridge community itself is actually surrounded by these weapons facilities.

This is the origin of the Manhattan Project. The water from Oak Ridge -- Y-12 is built on top of a stream -- the water from that area where they have admitted that they have lost more than four million pounds of elemental mercury has been tracked with cesium and mercury as far as Chattanooga to the Chickamauga Lake area.

The actual health impacts have never been appropriately addressed, and part of this is because of the political situation and

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MS. McSWAIN-POWELL: In almost every household there's someone sick.

MS. PAYTON: And on what date was the data collected?

MS. McSWAIN-POWELL: It was collected in October of this year.

MS. PAYTON: Okay, thank you.

MS. SHEPARD: Okay. Thank you very much.

Ms. Reid.

PRESENTATION BY MS. SANDRA REID

OAK RIDGE HEALTH LIAISON

MS. REID: My name is Sandra Reid. I am originally from Oak Ridge, Tennessee. I'd like to thank everybody for their sterling quality of staying here in the audience, and of course, the panel.

Fifty years ago the United States Government took land away from the people of East Appalachia and they built a weapons facility there in Oak Ridge, Tennessee. It consisted of the Y-12 weapons facility where right now we have the United States repository for highly enriched uranium. We also have X-10 that is now known as Oak Ridge National Labs, and K-25 that is a gaseous diffusion facility.

We'll fast-forward to 1998 when the Department of Energy gave half a million dollars to the Joint Centers to come in and to reassure an African-American community that was next to Y-12 that their health effects were not caused by any releases from the Y-12 facility.

At that time, EPA came in and was supposed to do soil sampling. Damu had come in a few months prior to that and had confirmed that highly enriched uranium was actually in this community. The CDC came in and also looked at the health effects within the community

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because we have a Department of Energy that is not answerable to any agency, and we have a Department of Justice that is there fighting to prevent any kind of effective analysis or answer or health effects on this.

We have in our community a situation where a black organization called the Joint Center was brought in with \$537,000 to advise an African-American community of less than 200 people that their health concerns were not related to a weapons facility. And all that came out of it was that that community said, we are concerned about drugs and we don't know what to worry about from this facility.

This is an extraordinary situation. There is no other site in the United States that has faced something like this. We had the CDC come in. I can tell you the amount of money that has been spent on this very small section of our community that has caused division between the African-American community and the white community that are equally fitting under EJ concerns. As the East Appalachia people who had their land taken away from them, it is pitting them against one another.

And we have a community that is desperately fighting for economic survival because Oak Ridge was built to build bombs. Their whole mantra is that nothing has affected the community.

We have an incinerator that is the only incinerator in the United States licensed to burn mixed radioactive waste and PCBs. We have documented levels of contamination in both the environment and off site, and yet nothing has affected our community, according to the literature from DOE.

I am appealing to this panel to please start addressing this. I am

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1 a very inadequate representative from our community. I was hoping
2 that one of our other members would be here to represent this and I,
3 therefore, did not have anything appropriately prepared to share with
4 you.

5 But I want to tell you that there are so many inadequacies in
6 addressing the health effects. I am a nurse. I will tell you now that
7 when I hear this lady talk about measuring the health effects there is no
8 way that you can measure blood samples in a patient and tell me what
9 is happening to them on the chronic level. We do not have that data
10 available.

11 When I have a patient who comes to me in the emergency room
12 and I measure their blood, what I am measuring is an acute exposure.

13 Seven years ago when I came to listen to all of you on EJ issues
14 I was hearing exactly the same concerns related to health and I haven't
15 seen anybody move forward, and I am extremely frustrated.

16 What is the disconnect here where we are not recognizing that in
17 medicine when you look at an acute exposure in a worker, and this is
18 the standard that toxic exposures are based on, it does not translate to
19 acute exposures to this lady in her community; it does not translate to
20 what happens to a person who is exposed on a routine basis to multiple
21 substances, to synergistic exposures, and to substances like cadmium,
22 lead and mercury that each of them potentiate the toxicity of the other
23 substance.

24 What I would recommend, instead of all of you saying that EPA is
25 unable to address something or that you as a committee cannot
26 address this, you are the people who have been active in this arena, we

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1 cancer. In addition, there are numerous individuals who are sterile, but
2 those are the most difficult ones to discuss, these issues, because of
3 the privacy of that.

4 We are requesting funding to support our research in the following
5 areas: One, to identify the cumulative health risks and incidences; two,
6 to identify the resident concerns as it relates to the environmental
7 hazards; three, to remediate the health risks and contaminants.

8 I only have one question for this panel, and that is to ask you what
9 is the timeline for bringing companies and/or government entities into
10 compliance? I mean, we continue to get the runaround from everyone
11 in Phoenix. I know that we push hard to be the number one city in the
12 nation, and that's the marketing strategy that we have down there, but
13 within a mile radius from the City Hall we have all this contamination.

14 So my question is, what is the timeline for bringing companies and
15 government into compliance. Would anybody know?

16 MS. SHEPARD: Luke, would the Enforcement Subcommittee like
17 to address that?

18 MR. COLE: I guess we could take that on. I don't -- I mean, I'm
19 not sure that's a question that can be answered. I mean, that's one of
20 those -- it's kind of the rhetorical -- can I refer that to Willard Chin?

21 Willard do you have an answer for us, please?

22 MR. CHIN: Armando, I think you raised a series of issues, you
23 know, for ideal facilities probably in the air and the waste program.
24 Armando and Felicia and I with Romel and Running Grass met this
25 afternoon. We'll have to get back to you program by program, air, water
26 and waste. Thanks to the meeting, we have like a list of ten action

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1 are depending on you to lead the charge and to say NIEHS, start
2 making the money that is available to you to address the health
3 concerns. And I appeal to you to now do that.

4 I thank you for the extra time.

5 MS. SHEPARD: We will refer this to the new facilities siting
6 committee when it meets. Thank you.

7 Mr. Gandarilla.

8 PRESENTATION BY MR. ARMANDO GANDARILLA
9 NEIGHBORHOOD FOR JUSTICE

10 MR. GANDARILLA: My name is Armando Gandarilla and I
11 represent the Neighborhood for Justice, the Grand Park Community.

12 In the Grand Park community there is an increasing concern that
13 the area is contaminated. Motorola admitted that they contaminated our
14 water base in having a plume going into our area, is one.

15 A chromium plant being set on fire and burning our area, is
16 another.

17 Arizona Public Service has admittedly contaminated our ground,
18 and they refuse to remove the contamination.

19 The airport has added new runways, and where initially they
20 discussed the process and they agreed that they would not run them
21 over the Grand Park community, are now doing so.

22 We are surrounded by a freeway with the truck route being on the
23 south side, which is our neighborhood, which adds to the contamination.

24 An informal survey with the community members -- and I'm
25 discussing the senior members -- we came to a conclusion that there
26 are at least 35 people that live in one quarter are that have died of

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1 items of specific facilities in communities. So we'll have to get back to
2 you, again, on the water and the Superfund program. And also ATSDR
3 in terms of the potential cancer cluster scenario. So, the public health
4 agency and EPA will be getting back to you next week when I get back
5 in the office.

6 But in terms of compliance with -- specific facilities in compliance,
7 we'll have to see if in fact those facilities are actually in violation. And
8 as you mentioned, we're in the process of doing a targeted enforcement
9 strategy in the south Phoenix area where we identify south Phoenix as
10 one of our high-risk areas and the Superfund program and the waste
11 program are doing a focused inspection program in those
12 neighborhoods and looking at facilities that may be close to schools.

13 We'll give you more information, as we mentioned. So I will be in
14 touch with you, me and my colleagues.

15 MR. GANDARILLA: Mr. Chin, one of the things that I am looking
16 for also is that funding to get the research going because if anything, if
17 anything, it has to start at some point, you know, and we need a
18 baseline. And if it's from here forward, then let's move on with it. But
19 that's really one of our concerns. Nothing has been documented;
20 everything is hearsay. Yet, we know that no one will buy that chromium
21 property from that individual because it's contaminated; no one wants
22 to clean it up. We know that Arizona Public Service wanted to give
23 some property over there to some of the nonprofit agencies that belong
24 to us; we didn't take it because we knew it was contaminated.

25 And so it's these kinds of tit-for-tat things that alert us, and the
26 deaths of these individuals and the people that we know there. I think

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it just kind of increases the intensity, and frankly it hurts a lot.

MR. CHIN: You're correct, we need to have documentation or baseline information to document the level of contamination. So either EPA or, as we can put pressure or persuade our state and local agency to do that level of testing and to determine what the levels of contaminations and the potential risks to the communities, yes.

In terms of funding, if you're looking at a public health or a health study, we can talk to ATSDR in terms of doing a specific study on the health matter.

And also, ATSDR also has a memorandum of agreement with the Maricopa County -- I should say some of the local health agencies. So they can act on our behalf too.

MR. GANDARILLA: Thank you. And if you could also include Arizona State University because they've done a lot in that area. I think that if you bring them all together, you can really pull off a good research.

MR. CHIN: Yes. We'll explore that. We have used the university in the past and we will continue to do so. Yes.

MR. GANDARILLA: Okay. And my parting words to all of you is that I am not going to be here tomorrow, I have to return to Phoenix. So does Ethel Lane.

If I had a Christmas wish, it would be to be able to come here and see all of you and realize that there are other folks that have been fighting these issues for the longest. We thought we were doing it on our own, I was totally lost, and I come here and I see all the successes and it only makes me stronger. I want to go back and really deal with

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the issues.

Thank you very much.

MS. SHEPARD: Thank you. Mr. Brought.

PRESENTATION BY MR. ANDREW BROUGHT

UNIVERSITY OF MARYLAND ENVIRONMENTAL LEGAL CLINIC

MR. BROUGHT: I'm not sure if we've saved the best or the worst for last, but I promise to be short.

My name is Andrew Brought. I'm a student attorney with the University of Maryland Environmental Legal Clinic in Baltimore, Maryland. We provide legal representation to a number of clients in Maryland that have problems with environmental issues.

One of our clients is the Cleanup Coalition. The Cleanup Coalition has some concerns regarding fish consumption and the lack of data in the Baltimore Harbor, the Chesapeake Bay, the State of Maryland and the country in general and I'm here tonight to address those concerns.

The Cleanup Coalition is a small, nonprofit group organized to assist communities on issues of environmental pollution and air, waste and water pollution permitting, particularly in the Baltimore Region. The Cleanup Coalition requests research and funding for a thorough study on subsistence fishing, specifically in the Baltimore Harbor and other low income or minority communities.

Due to chlordane, the Maryland Department of the Environment has warned the general public not to eat channel catfish or eel in substantial amounts from the Baltimore Harbor.

But chlordane is not the only chemical component in the Baltimore Harbor. A study in the Harbor found concentrations of lead and

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cadmium in the edible tissues of fish and shellfish, at levels high enough to potentially cause health problems in individuals who make a consistent diet of these organisms.

Additionally, the Chesapeake Bay Program has designated the Baltimore Harbor as a Region of Concern for toxics. There's only two other areas that are considered regions of concern in the Chesapeake Bay; one is that Anacostia River, the other is the Elizabeth River.

A Region of Concern means that chemical contaminants are above thresholds associated with adverse effects found in the water column, the sediment, finfish tissue or shellfish tissue, and that these chemicals appear to be causing toxic effects on living resources.

The Cleanup Coalition has concerns that risk communication efforts about the potential health risks of eating finfish or shellfish from the Harbor may not be effectively working. This concern stems from anecdotal evidence that minority and low income residents in the Baltimore Harbor are consuming finfish and/or shellfish caught from the Patapsco River in excess of the consumption advisories posted on the Maryland Department of the Environment Website.

To date there appears to have been no thorough study of fish consumption by subsistence fishers in the Harbor, nor in any other watershed area in Maryland, such as the Anacostia River watershed. One study was conducted five to seven years ago, as I've been told, and that was the Baltimore Urban Environmental Risk Initiative. However, the results have not been released.

In addition to the ability to effectively communicate risk properly, fish consumption data can play an integral role in developing state water

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quality criteria pursuant to the Clean Water Act Section 304(a).

EPA recently recognized in its revised 2000 Human Health Methodology on November 3rd, located at 65 Federal Register number 214, pages 66444 to 66482 that states and tribes should use local fish consumption studies when determining risk assessments. EPA's revision signifies the importance of fish consumption data in developing water quality criteria.

Lack of such fish consumption rates will prevent adequate protection of human health with an ample margin of safety. Arguably, the lack of concrete fish consumption data led to the failure of a group of indigenous peoples claim that EPA and the Virginia and Maryland Environmental Departments had not relied on scientifically defensible means to reach reasoned judgments regarding fish consumption in the case of Natural Resources Defense Council versus EPA. In this case, the plaintiffs alleged that EPA's 6.5 grams per day -- that's .23 ounces per day -- this fish consumption factor underestimates the various subpopulations in Maryland and Virginia and was therefore not protective.

The court reasoned that because the plaintiffs could proffer no evidence that their subpopulation had consumed more than the 6.5 grams per day that EPA had exercised its discretion appropriately.

Therefore, in recognition of the potential health impact of carcinogens and bio-cumulative toxics, particularly on low income and minority communities which may rely on subsistence fishing to feed families, and the near total void of any current data, the Cleanup Coalition requests that NEJAC seek funding from EPA to initiate a

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complete and thorough investigation of fish and shellfish consumption in the Baltimore Harbor and the surrounding communities of other low income and minority areas in the region, such as the Anacostia River.

My client is not here and so I'm unable to give any response to questions you may have. I look forward to any comments that you may have and we'll certainly relay any questions to the Cleanup Coalition and we'll get a response back to you.

MS. SHEPARD: Thank you. Annabelle.

MS. JARAMILLO: Andrew, are you going to be here tomorrow?

MR. BROUGHT: Yes, I'm planning on attending the Air and Water Subcommittee.

MS. JARAMILLO: Okay. The Air and Water Subcommittee has a Fish Consumption Work Group. Mr. Leonard Robinson who chairs that group is in the back of the room. They'll be meeting in a work session at about 10:00 a.m. tomorrow morning. I think it's in that corner of this room when they break the room up.

MR. BROUGHT: Great.

MS. JARAMILLO: I would encourage you to come and present to the work group some of your concerns, and maybe there we can develop some sort of recommendation from that.

MR. BROUGHT: Fantastic. Thank you.

MS. SHEPARD: Thank you. Rosa.

MS. RAMOS: Am I correct when I understand that the Maryland Department of Environment posed the advisories on the Internet only?

MR. BROUGHT: Well, I can't answer for the Maryland Department of Environment. From what I understand, they do post on the Internet,

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they do post in fishing licenses when you actually purchase a fishing license, and then they've tried posting on the physical location on the rivers, although that has since stopped from what I understand. I actually went to a site where there was a fish advisory, and there was not a sign to be found anywhere warning fishers of the potential harm.

Again, I can't answer for the Maryland Department of Environment about their policy. I do know that they are currently working on a study right now in the Potomac because there is a fish advisory on the Potomac River and they're trying to post signs on the river.

MS. SHEPARD: Luke.

MR. COLE: Mr. Brought, thank you for coming here tonight. What year law student are you?

MR. BROUGHT: I'm a second year student.

MR. COLE: That's the answer that I wanted to hear because I don't know if you know it, but the NEJAC meeting -- is it in May or in December? In December of next year -- one year from today -- is going to be held in Seattle and the focus of that NEJAC meeting, the same way this meeting focused on the interrelation of federal agencies in environmental justice -- the focus of the Seattle NEJAC meeting in the year 2001 is going to be on consumption, fish consumption, subsistence consumption, and those types of issues.

Because you're a second year student what I'd like to do is on behalf of EPA invite you and your client group to be part of the planning committee for that. What we do is we get people who have an interest in the issue into the planning committee -- and that will probably take place starting in about six months -- and then you could be on the

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conference calls and help sketch out, you know, what the actual agenda will be.

Now, I don't have any authority to invite you to do that.

MR. BROUGHT: I don't have any authority to accept on behalf of --

MS. JARAMILLO: Can I enlighten Luke a little bit here? Actually, the Fish Consumption Work Group with the Air and Water Subcommittee has taken the lead on the planning for that meeting. And I should have mentioned that when I asked you to come tomorrow because Leonard is going to be there. They're already developing the program, they're already lining up groups and speakers to be part of that, and we're already on it, Luke. I think it's a very good idea and Andrew will be plugged in.

MR. BROUGHT: Thank you.

MS. SHEPARD: Well, thank you all. Thank you. And thank all of the public, the EPA, and the Council for hanging in.

We start at 9:00 in the committees tomorrow. Please take all of your belongings with you. These rooms will be broken down tonight.

(Whereupon, the meeting adjourned, to reconvene in subcommittee meetings at 9:00 a.m., December 13, 2000.)

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