

EXECUTIVE SUMMARY

INTRODUCTION

This executive summary provides highlights of the tenth meeting of the National Environmental Justice Advisory Council (NEJAC), held December 8 through 10, 1997 at the Regal University Hotel in Durham, North Carolina. The Executive Council of the NEJAC met on December 8 and 10, 1997. Each of the six subcommittees met for a full day on December 9, 1997. In addition, on December 8, 1997, members of the NEJAC participated in a site tour of three communities in the Durham area to learn about environmental issues and concerns related to the communities. The NEJAC also hosted public comment periods on December 8 and 10, 1997. Approximately 245 persons attended the meetings and the public comment sessions.

The NEJAC is a federal advisory committee that was established by charter on September 30, 1993 to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice. Mr. Haywood Turrentine, Laborers' District Council Education and Training Trust Fund (an affiliate of the Laborers International Union of North America), serves as the newly elected chair of the Executive Council. Mr. Robert Knox, Acting Director, EPA Office of Environmental Justice (OEJ), serves as the acting Designated Federal Official (DFO) for the Executive Council. Exhibit ES-1 lists the chair and DFO for the Executive Council, as well as the persons who chair the six subcommittees of the NEJAC and the EPA staff appointed to serve as the DFOs for the subcommittees.

To date, the NEJAC has held ten meetings. OEJ maintains public transcripts and summary reports of the proceedings of the meetings. Those documents are available to the public upon request. The public also can access the executive summaries of reports of previous meetings as well as other NEJAC publications through the Internet at <http://www.ttemi.com/nejac>. Versions of the executive summaries are available in both English and Spanish.

OVERVIEW

Mr. Turrentine opened the meeting of the Executive Council by expressing his gratitude and

Exhibit ES-1

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL CHAIRS AND DESIGNATED FEDERAL OFFICIALS (DFO)

Executive Council:

Mr. Haywood Turrentine, **Chair**
Mr. Robert Knox, **Acting DFO**

Enforcement Subcommittee:

Mr. Arthur Ray, **Chair**
Ms. Sherry Milan, **DFO**

Health and Research Subcommittee:

Ms. Mary English, **Chair**
Ms. Carol Christensen, **co-DFO**
Mr. Lawrence Martin, **co-DFO**

Indigenous Peoples Subcommittee:

Mr. James Hill, **Chair**
Ms. Elizabeth Bell, **DFO**

International Subcommittee:

Mr. Baldemar Velasquez, **Chair**
Ms. Doña Canales, **DFO**

Public Participation and Accountability Subcommittee:

Ms. Rosa Hilda Ramos, **Chair**
Ms. Renee Goins, **DFO**

Waste and Facility Siting Subcommittee:

Mr. Charles Lee, **Chair**
Mr. Kent Benjamin, **DFO**

appreciation to all individuals who volunteer their time to the NEJAC and its activities. He then recognized the efforts of the former chair of the NEJAC and other members of the NEJAC, explaining that, although the current council has many new members, there would be no need to "reinvent" what the previous council had accomplished. Mr. Turrentine expressed his hope that the members of the current council would carry on the hard work and dedication of the members of the earlier bodies.

Mr. Turrentine made special mention of the Enforcement Subcommittee of the NEJAC for its

efforts in planning and coordinating activities for the Environmental Justice Enforcement Roundtable that was held on December 11 through 13, 1997 at North Carolina Central University (NCCU) in Durham, North Carolina. The roundtable meeting provided an opportunity for stakeholders in environmental justice issues to exchange ideas about how communities can play a more active role in enforcement and compliance assurance activities.

Mr. Fred Hansen, Deputy Administrator of EPA, emphasized the continuing commitment of the EPA Administrator to ensure environmental justice. Exhibit ES-2 presents a letter from the EPA Administrator and Mr. Hansen to the members of the NEJAC and the meeting participants. Mr. Hansen stressed the importance of the NEJAC in helping to create a model that other federal agencies can follow in carrying out their environmental justice strategies and President Clinton's commitment to improve race relations. Mr. Hansen identified for the NEJAC issues he believes have high priority for EPA: lead, asthma, and Title VI of the Civil Rights Act of 1964. He emphasized that he and the EPA Administrator also are committed to improving the diversity in the workforce of EPA. Mr. Hansen announced that EPA's draft guidance on Title VI would be distributed to the NEJAC by the end of December 1997. He added that the EPA Administrator has requested that the senior managers for each EPA program office identify additional ways in which the agency can increase its efforts to ensure environmental justice.

Ms. Sylvia Lowrance, Principal Deputy Assistant Administrator, EPA Office of Enforcement and Compliance Assurance (OECA), provided the NEJAC with an update on the agency's environmental justice activities. She stated that EPA is reconvening its Executive Steering Committee on Environmental Justice to ensure that EPA's efforts to respond to concerns raised by the NEJAC are coordinated among EPA offices. She also announced that EPA is developing a grants program in which the agency will provide "seed money" to a small number of states to support the states' own programs related to Title VI. She informed the NEJAC that EPA's Community and University Partnership (CUP) Grant Program will not be funded in 1998.

Mr. John Hankinson, Regional Administrator, EPA Region 4, stated that EPA had made significant

progress in the four years during which he has served as the top official in the region. He stressed the importance of preventing health threats to communities, and engaging in discussions about enforcement and "ways to use existing laws in preventive ways." Mr. Hankinson concluded his remarks by stressing his commitment to the development of partnerships and the conduct of dialogue to address such important issues as environmental enforcement, health risks, and community education.

On December 8, 1997, members of the NEJAC participated in a site tour of several communities near Durham, North Carolina. Exhibit ES-3 presents a photograph of the members of the NEJAC listening to environmental justice concerns of the members of the Shiloh community. The site tour also stopped at the Eufala Street Landfill in Fayetteville, North Carolina to listen to the environmental concerns of members of the community, who wish to be relocated because of the landfill.

The NEJAC hosted public comment periods on December 8 and 10, 1997. More than 36 people participated in the two public comment periods. Mr. Richard Moore, Southwest Network for Environmental and Economic Justice and former chair of the NEJAC, addressed the NEJAC to stress that the environmental justice movement is not driven by a federal advisory committee, but by those "brothers and sisters" to whom the NEJAC listens to during the public comment periods, as well as those the NEJAC meets on the site tours. Issues discussed during the two public comment periods included concerns about the effects of confined animal feeding operations (CAFO) on communities, the identification of environmental justice cases related to indigenous peoples, the siting of polyvinylchloride (PVC) companies in Louisiana, and the protection of farm workers.

The Executive Council also heard presentations by representatives of EPA's Office of Administration and Resource Management (OARM) at Research Triangle Park (RTP); EPA's Office of Children's Health Protection (OCHP); EPA's Office of Air Quality Planning and Standards (OAQPS) at RTP; and the White House Council on Environmental Quality (CEQ).

Exhibit ES-2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 08 1997

OFFICE OF
THE ADMINISTRATOR

Dear Council Members and Meeting Participants,

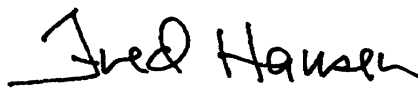
Welcome to the tenth meeting of the National Environmental Justice Advisory Council (NEJAC). We thank Haywood Turrentine, the newly elected Council Chair, for accepting this important position. We are confident that he will continue the excellent leadership demonstrated by former NEJAC Chair Richard Moore. We thank the NEJAC members and community leaders who helped EPA organize this important event, and also Steve Herman, Sylvia Lowrance, John Hankinson, Robert Knox, and other EPA staff for their hard work in planning this meeting.

We are pleased by the Council's progress in advancing the cause of environmental justice. You have increased awareness and understanding of environmental justice issues at EPA and among the general public. And we have many NEJAC successes to be proud of, such as: publication of *The Model Plan for Public Participation*, substantive involvement in the Administration's Brownfields Initiative, and hosting more than 35 public meetings -- including the second Enforcement Roundtable, which will provide opportunities for exchange between EPA and local citizens on environmental enforcement and compliance activities. Through our work with NEJAC, EPA has been better able to ensure that all Americans are provided the information and tools they need to get involved in making their neighborhoods and their families safer and healthier.

NEJAC brings together individuals with a personal commitment to environmental justice. Your involvement in the process of finding solutions and your valuable advice to EPA is critical to the task of building a better world for our children and their children to come. As we approach the fourth anniversary of the President's Executive Order 12898 on Environmental Justice, we should reflect on our many accomplishments and seek new opportunities for change. We look forward to continuing our work together as we take the necessary steps to achieve public health and environmental protection in every community.

Best wishes for a successful meeting,


Carol M. Browner
Administrator


Fred Hansen
Deputy Administrator



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Exhibit ES-3: Members of the NEJAC and other participants listening to the environmental justice concerns of the Shiloh community near Durham, North Carolina.

COMMON THEMES

During the meetings of the Executive Council and the subcommittees, the members of the NEJAC discussed a wide range of issues related to environmental justice. Specific concerns raised include:

- C Improving the integration of environmental justice into the policies and activities of each EPA program office
- C Ensuring that OCHP coordinates activities in consultation with the NEJAC and other federal agencies
- C Improving the progress of EPA in its development of guidance on Title VI, as well as addressing complaints received related to potential violations under Title VI
- C Improving EPA's response to resolutions and issues raised during public comment periods
- C Maintaining EPA's commitment to environmental justice by continuing to fund the CUP grant program
- C Ensuring the early involvement of all stakeholders, particularly affected communities, in decision making
- C Ensuring that the proposed White House meeting on environmental justice includes in the planning process the participation of the NEJAC and other community leaders
- C Clarifying the relationship between environmental justice and Indian country, given the special nature of the sovereign status of tribes

Members of the NEJAC lauded the efforts of Mr. Hansen and the EPA Administrator, noting that much progress had been made in environmental justice; however, several members noted that there continues to be a "big gap" in the area of integrating environmental justice throughout the agency. The NEJAC approved a resolution from the Waste and Facility Siting Subcommittee, in which the NEJAC requests that EPA actively pursue the integration of environmental justice components into the activities of all programs and media offices of the agency, as well as the efforts of other federal agencies.

Members of the NEJAC urged the director of OCHP to coordinate efforts with the NEJAC, other EPA program offices, and other federal agencies, particularly the National Institute of Environmental Health Sciences (NIEHS). The Health and Research Subcommittee discussed at length during its deliberations the protection of children's health and how the subcommittee could assist OCHP in achieving its goals.

Members of the NEJAC expressed concern about the slow progress of the agency to formulate how to use Title VI as an enforcement mechanism. The members expressed particular concern about the slow progress in developing guidance on Title VI and responding to complaints received about potential violations of Title VI. Noting that the number of EPA's legal staff responsible for responding to Title VI complaints had been reduced from four attorneys to two, while EPA's Office of Civil Rights (OCR) had been operating without an appointed director for more than one year, the members expressed concern about EPA's commitment in this area. The members of the NEJAC strongly recommended that EPA appoint a permanent director of OCR who has extensive experience in the civil rights field and that EPA establish "strike teams" to investigate complaints under Title VI. In addition, the Executive Council approved a resolution from the Enforcement Subcommittee in which the NEJAC requests that the agency develop a policy to ensure that claims of violations are addressed in a timely manner.

Members of the NEJAC expressed strong concern that many of the resolutions forwarded to the EPA Administrator do not receive an adequate response from the agency. During the public comment periods, many commenters expressed outrage that they continue to present

their testimony to the NEJAC and EPA still does not respond to their concerns, particularly the case of St. James Parish, Louisiana and to cases involving indigenous peoples.

Members of the NEJAC expressed concern about the suspension in 1998 of funding for the CUP grant program, emphasizing the importance of such grants to communities. The members also expressed concern that the agency would suspend funds during an evaluation process of the program, rather than after the evaluation had been completed. The members of the NEJAC agreed to send a letter to the EPA Administrator requesting that the NEJAC be involved in the evaluation of the grant program and that EPA commit to continuing to fund the program.

Members of the NEJAC continued to emphasize the importance of involving all stakeholders early in the decision-making process. The Executive Council of the NEJAC approved a resolution from the Public Participation and Accountability Subcommittee in which the NEJAC requests that EPA modify its public notice processes to provide early notification to communities of EPA's intention to develop a project and to make accessible to the public not only documents but also share its expertise with communities to help them understand technical issues.

Members of the NEJAC also stressed that the planning process for the proposed White House meeting on environmental justice must be community-based and community-driven. They also recommended that the meeting should be viewed not only as an opportunity to address substantive issues, such as exploring ways to encourage the Interagency Working Group (IWG) on Environmental Justice to take action, but as a new beginning rather than the culmination of events. The members also urged that diverse populations be represented during the planning of the meeting and that the federal agencies should provide an update on the progress on implementing their environmental justice strategies.

Members of the NEJAC also discussed the need to clarify the relationship between environmental justice and Indian country because tribes, unlike other communities, are sovereign nations. The Indigenous Peoples Subcommittee during its deliberations agreed to draft a resolution for the June 1998 meeting of the NEJAC which will

address the relationship of environmental justice and Indian country and the lack of infrastructures within tribes to develop environmental programs.

SUMMARIES OF THE SUBCOMMITTEE MEETINGS

Summarized below are the deliberations of the members during the meetings of the six subcommittees of the NEJAC.

Enforcement Subcommittee

The Enforcement Subcommittee discussed the activities of its work groups and reviewed selected action items and resolutions. The subcommittee also heard comments during a public dialogue period on the environmental justice concerns and the cumulative effects of industries on the communities in St. James Parish, Louisiana.

The status of each work group was reported as follows:

- C The Work Group on the Open-Market Trading of Air Emissions Credits heard a presentation from representatives of EPA's Office of Air and Radiation (OAR), to address what the subcommittee described as the agency's inadequate response to Enforcement Resolution No. 7 about EPA's policy on open-market trading of air emissions credits.
- C The Work Group on the Policy on Supplemental Environmental Projects (SEP) was disestablished because the members of the subcommittee agreed that EPA had incorporated many of the work group's recommendations into its interim revised policy on the use of SEPs in the settlements negotiated by EPA.
- C The Work Group on Worker Protection updated the subcommittee on its activities, noting in particular its work in support of the subcommittee's co-sponsorship of the Environmental Justice Enforcement Roundtable that was held December 11 through 13, 1997 at NCCU in Durham, North Carolina. One of the topics discussed during the roundtable meeting was issues related to the protection of workers from environmental hazards.

In addition, the members of the subcommittee agreed to form a work group to address concerns related to Title VI of the Civil Rights Act of 1964. The primary goal of the work group would be to review EPA's draft guidance on Title VI and submit comments to the Executive Council to be forwarded to the EPA Administrator.

The members of the subcommittee also heard reports on the following issues: the EPA-state performance partnership agreements (PPA), CAFOs, Title VI, activities of the EPA Region 3 Criminal Investigation Division, federal enforcement authorities under the imminent and substantial endangerment clauses contained in specific environmental legislation, and public participation in the Resource Conservation and Recovery Act (RCRA) corrective action program.

Health and Research Subcommittee

The members of the Health and Research Subcommittee discussed the development of administrative procedures that would enable the subcommittee to achieve its goals effectively. The subcommittee also discussed several issues related to the protection of children's health to identify topics that should be the focus of the subcommittee's consideration of this topic. Listed below are a few of the actions to which the members agreed:

- C Identify the mission of OCHP and explore ways in which the office will influence the overall mission of EPA related to environmental health and children.
- C Determine how the subcommittee can assist OCHP in achieving its goals.
- C Determine how EPA and other agencies can coordinate their efforts to address issues that affect children's health.

The subcommittee also heard presentations on the environmental justice activities of EPA's Office of Pollution Prevention and Toxics (OPPT), EPA's chemical indexing system, and transnational research programs, as well as a report from OCHP.

The subcommittee also adopted several significant action items which encourage NIEHS and EPA to coordinate efforts to increase funding to support the work of NIEHS. Efforts are

underway to draft a resolution in which the NEJAC requests that EPA agree that OCHP will work with NIEHS to expand the work done by NIEHS on issues of children's health.

Indigenous Peoples Subcommittee

The deliberations of the Indigenous Peoples Subcommittee focused on a number of environmental justice cases related to indigenous peoples. The members of the subcommittee also reviewed selected action items and resolutions and approved the mission statement for the subcommittee.

The environmental justice cases discussed by the subcommittee were:

- C The opposition of the Mattaponi Indian Tribe to the construction of a water pumping station and reservoir in King William County, Virginia.
- C The opposition of the Navajo community of Crownpoint, New Mexico to the proposed in situ uranium leach mines in two Navajo communities.
- C The concerns of the Spirit Lake Nation, North Dakota about the emergency waiver of an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA) granted by President Clinton to build an outlet to control the flooding of Spirit Lake.
- C The opposition of the Native Coalition for Cultural Restoration of Mount Shasta to the building of a second ski resort on Mount Shasta, California, as well as the prevention of geothermal testing in the area of Medicine Lake Highlands, California.

The subcommittee also heard presentations and reports on community-based environmental protection (CBEP) framework developed by EPA and the Arctic Marine Environmental Education Project of EPA's Office of International Activities (OIA).

International Subcommittee

The deliberations of the International Subcommittee focused on a review of the goals and mission of the subcommittee, and included an update on the formation of the subcommittee's South Africa Working Group.

The subcommittee heard reports on EPA's international programs in South Africa and areas along the border between the United States and Mexico.

Public Participation and Accountability Subcommittee

Much of the deliberations of the Public Participation and Accountability Subcommittee focused on ways to improve public participation in the activities of the NEJAC. Topics discussed included the planning of NEJAC site tours and public comment periods of the NEJAC, development of a public participation process, identification of technical and other resources to assist communities, hosting a meeting of the NEJAC in Puerto Rico, and establishment of requirements applicable at the state level for public participation.

The subcommittee reviewed selected action items from earlier public comment periods of the NEJAC and subcommittee meetings, as well as minutes from an informal conference call held on November 17, 1997. The subcommittee also discussed the need to incorporate revisions into the NEJAC model plan for public participation, planning for the next meeting of the subcommittee, and forming a work group to address issues in Puerto Rico and the Caribbean.

The subcommittee heard presentations on the process and procedures for public participation at the U.S. Nuclear Regulatory Commission (NRC), public participation in the designation of Superfund sites, risk assessments and issues related to public participation, and EPA's framework for CBEP.

Waste and Facility Siting Subcommittee

The Waste and Facility Siting Subcommittee agreed to form several work groups which include:

- C Work Group on Risk Assessment to plan a roundtable meeting to facilitate discussions about community concerns related to cumulative risk; disease clusters; and cultural, economic, and behavioral issues that affect levels of exposure to risk.

- C Work Group on RCRA to address environmental justice issues specific to permitting and siting facilities, particularly waste transfer facilities under RCRA.
- C Work Group on Community Impact Statements (CIS) to continue examining issues related to the use of CISs.

The subcommittee heard presentations on EPA's national Superfund relocation policy; risk assessment and Superfund; the Dutch Boy/International Harvester Site; social siting criteria developed by EPA's Office of Solid Waste (OSW); issues related to Brownfields, CISs, and Superfund sites in Puerto Rico; issues related to waste transfer stations; and the environmental justice action agenda of EPA's Office of Solid Waste and Emergency Response (OSWER).

NEXT MEETING

The next meeting of the NEJAC is tentatively scheduled for May 31 through June 3, 1998 in the San Francisco Bay area, California. Planned activities will include a site tour of the local community and two opportunities for the public to offer comment. Exhibit ES-4 identifies the NEJAC's preferences for the dates and locations of other future meetings.

Exhibit ES-4

FUTURE MEETINGS OF THE NEJAC

- | | | |
|---|---------------|------------------------------------|
| C | June 1998 | San Francisco Bay area, California |
| C | December 1998 | Louisiana |
| C | May 1999 | New York or New Jersey |
| C | December 1999 | Chattanooga, Tennessee |

SUMMARY OF RESOLUTIONS APPROVED

This section summarizes the resolutions discussed by the subcommittees and approved by the Executive Council of the NEJAC.

Resolution from the Enforcement Subcommittee

This section presents a summary of the resolution forwarded by the Enforcement Subcommittee and approved by the Executive Council of the NEJAC.

- C The members discussed a resolution in which the NEJAC requests that EPA develop policy to ensure that claims of violations under Title VI are addressed in a timely manner and tracked publicly.

Resolutions from the Health and Research Subcommittee

This section presents a summary of the resolutions forwarded by the Health and Research Subcommittee and approved by the Executive Council of the NEJAC.

- C The members discussed a resolution in which the NEJAC requests that the EPA Administrator seek to expand funding for community-based research and that the agency document existing cases of community-based research.
- C The members discussed a resolution in which the NEJAC requests that EPA establish partnerships with various federal and tribal agencies to develop funding for research into the effects of mining on the health of Native American workers and communities.

Resolutions from the Indigenous Peoples Subcommittee

This section presents a summary of the resolutions forwarded by the Indigenous Peoples Subcommittee and approved by the Executive Council of the NEJAC.

- C The members discussed a resolution in which the NEJAC urges EPA to advocate within the agency the requirement that a full EIS be conducted for the proposed inlet at Spirit Lake, North Dakota, whether or not required by law, and that the agency advocate for a repeal of the enacted EIS emergency waiver.
- C The members discussed a resolution in which the NEJAC requests that EPA recommend to the U.S. Army Corps of Engineers (USACE) that the EIS developed for the proposed

reservoir near Newport News, Virginia did not adequately include the social, economic, and cultural effects such a project would have on the Mattaponi Indian Tribe and that the USACE conduct a supplemental EIS to include such considerations.

Resolutions from the International Subcommittee

This section presents a summary of the resolutions forwarded by the International Subcommittee and approved by the Executive Council of the NEJAC.

- C The members discussed a resolution in which the NEJAC joins the 50th Anniversary of the United Nations Declaration of Human Rights on December 10, 1997, and calls on the U.S. government to adhere to the letter and spirit of declaration to protect, conserve, and restore the environment, communities, and social, economic, and democratic rights.
- C The members discussed a resolution in which the NEJAC urges OIA, through its South African Environmental Justice Initiative, to highlight the importance of a partnership between the NEJAC and the South African Environmental Justice Network and its affiliated community groups, as well as drawing on the expertise of the U.S. environmental justice communities and their networks.

Resolution from the Public Participation and Accountability Subcommittee

This section presents a summary of the resolution forwarded by the Public Participation and Accountability Subcommittee and approved by the Executive Council of the NEJAC.

- C The members discussed a resolution in which the NEJAC requests that EPA:
 - Modify its public notice processes to provide early notification to communities of EPA's intention to develop a project
 - Prepare public notices to notify and invite the participation of members of affected communities as soon as a proponent informs EPA of its intention to develop a project

- Make accessible to the public not only documents such as letters, reports, and files, but also share its expertise with communities to help them understand technical issues
- Invite representatives of low-income and minority communities to participate in meetings with proponents of projects
- Provide to affected communities the same forum for open discussions that is provided to proponents of projects and encourage the early involvement of the public in EPA's decision-making procedures to ensure that individuals can participate in decisions affecting their communities

Resolutions from the Waste and Facility Siting Subcommittee

This section presents a summary of the resolutions forwarded by the Waste and Facility Siting Subcommittee and approved by the Executive Council of the NEJAC.

- C The members of the subcommittee discussed a resolution in which the NEJAC requests that EPA provide to the subcommittee a status report on actual and potential NPL sites in Puerto Rico. The resolution specifically requests that the report include schedules, timetables, and goals for the expedited cleanup of the NPL sites.
- C The members of the subcommittee discussed a resolution in which the NEJAC requests that EPA actively pursue the integration of environmental justice components into the activities of all program and media offices of the agency and into the efforts of other federal agencies.