

## EXECUTIVE SUMMARY

### INTRODUCTION

Exhibit ES-1

This executive summary provides highlights of the twelfth meeting of the National Environmental Justice Advisory Council (NEJAC), held May 31 through June 3, 1998 at the Marriott City Center Hotel in Oakland, California. The Executive Council of the NEJAC met on May 31, June 1, and June 3, 1998. Each of the six subcommittees met for a full day on June 2, 1998. In addition, on May 31, members of the NEJAC participated in a driving tour of several communities in the Oakland, North Richmond, and Richmond areas to learn about environmental issues and concerns of importance to those communities. The NEJAC also hosted a public comment period on May 31, 1998, as well as two public comment periods on June 1. Approximately 350 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 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 of 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.

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 has access to the executive summaries of reports of previous meetings, as well as other publications of the NEJAC through the World Wide Web at <http://www.ttemi.com/nejac>. The summaries are available in both English and Spanish.

### 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**  
Mr. Daniel Gogal, **Acting DFO**

#### International Subcommittee:

Mr. Baldemar Velasquez, **Chair**  
Ms. Wendy Graham, **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**

Mr. Turrentine opened the meeting of the Executive Council by explaining the significance EPA's interim guidance under Title VI of the Civil Rights Act of 1964 for investigating administrative complaints which challenge permitting decisions. He explained that Title VI states that: "no person in the United States shall, on the ground of race, color, or, national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Mr. Turrentine expressed his hope that EPA will

continue its strong commitment to resolving complaints filed under Title VI and that the agency will consider seriously comments it has received from communities about the interim guidance.

In addition, Mr. Turrentine discussed the establishment by the NEJAC of the Assessment Work Group, explaining that the mission of the work group is to review past, present, and future activities of the NEJAC. He also requested that EPA provide to the members of the NEJAC an annual report on the activities of the agency related to resolutions and action items forwarded to the EPA Administrator by the NEJAC.

Mr. Steven Herman, Assistant Administrator (AA), EPA Office of Enforcement and Compliance Assurance (OECA), noted that the meeting had been "very constructive and useful" for EPA and that staff of EPA would "take home" what they had heard during the meeting. He added that staff of EPA would "be responsive" and that they would attempt to incorporate into their daily activities what they learned during the NEJAC meeting. Mr. Herman emphasized the importance of state and federal agency enforcement efforts and noted that "goodwill and intentions are not enough." Environmental and health burdens should not be borne by communities, he continued, and government agencies and industry must be held accountable for their actions. Mr. Herman mentioned that industry groups have resisted EPA's insistence on accountability, demanding instead minimal levels of accountability. Mr. Herman also said that enforcement efforts also should be vehicles for promoting pollution prevention.

Ms. Sylvia Lowrance, Principal Deputy Assistant Administrator, EPA OECA, provided the members of the NEJAC with an update on steps EPA had taken to strengthen its relationship with the NEJAC since the December 1997 meeting of the NEJAC. Those steps, she said, included:

- C "Reinvigoration of the EPA Environmental Justice Executive Steering Committee to ensure that EPA's efforts to respond to concerns raised by the NEJAC are coordinated among EPA offices."
- C Creation of the Air and Water Subcommittee of the NEJAC to improve communications between the NEJAC and EPA's air and water programs. The subcommittee is to hold its

first meeting during the November 1998 meeting of the NEJAC.

- C Establishment of the Title VI Work Group under EPA's National Advisory Council for Environmental Policy and Technology to advise the EPA Administrator on the enforcement and implementation of Title VI as it is related to permitting decisions.

Addressing the members of the NEJAC, Ms. Felicia Marcus, Regional Administrator, EPA Region 9, provided an overview of the activities related to environmental justice that Region 9 conducts. She then pointed out a number of "challenges" that regional offices of EPA face, such as:

- C Providing assistance in communities in which EPA has not yet begun to work
- C Responding more promptly to letters and making progress on cases related to Title VI
- C Integrating environmental justice into all the region's activities and programs
- C Developing additional tools to better address issues related to public health

Ms. Marcus emphasized the importance of educating the general public on the principles of environmental justice and urged people to "bring their whole selves" to such issues and not to think narrowly within the confines of their respective positions.

On May 31, 1998, members of the NEJAC toured several communities near Oakland, North Richmond, and Richmond, California. The driving tour in the Oakland area focused on the diversity of the area, partnerships and collaborations, successful community campaigns, and the continuing struggles of the communities.

The NEJAC hosted a public comment period on May 31, 1998, as well as two public comment periods on June 1, 1998. More than 60 people participated in the three public comment periods. Issues discussed during the three public comment periods included concerns about the siting of a polyvinyl chloride (PVC) facility in Louisiana; the identification of sacred sites; implementation of EPA's interim guidance under Title VI of the Civil Rights Act of 1964 for investigating complaints

which challenge permitting decisions; EPA health standards related to subsistence fishing; and the protection of farm workers.

The Executive Council also heard presentations by representatives of the Environmental and Natural Resources Division, U.S. Department of Justice (DOJ); the White House Council on Environmental Quality (CEQ); EPA's Office of Air and Radiation (OAR); and EPA's Office of Civil Rights (OCR).

### COMMON THEMES

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

- C Ensuring the implementation of, and the ability of EPA to enforce, EPA's interim guidance under Title VI of the Civil Rights Act of 1964 for investigating administrative complaints which challenge permitting decisions, as well as addressing complaints EPA receives that are related to potential violations under Title VI.
- C Ensuring that EPA participate in meaningful consultation with tribes about issues related to the interim guidance on Title VI.
- C Improving the integration of environmental justice into the policies and activities of each EPA program office, specifically EPA OAR.
- C Ensuring the effectiveness of the NEJAC in carrying out its mission and activities.
- C Allowing members of the subcommittees of the NEJAC to offer testimony during public comment periods of the NEJAC.

The members of the NEJAC discussed EPA's ability to implement and enforce the agency's interim guidance under Title VI for investigating administrative complaints which challenge permitting decisions. The members of the NEJAC also recommended that EPA extend the application of the guidance to other activities of EPA, such as the cleanup of contaminated sites and enforcement of environmental regulations. In addition, the members also urged that EPA invite all affected stakeholders, particularly

representatives of community organizations, state and local governments, and industry, to participate in dialogues about the guidance.

The members also expressed concern that EPA had not participated in meaningful consultation with tribal governments related to the interim guidance on Title VI and recommended that EPA's Title VI Work Group conduct one of its meetings in Indian country.

The members of the NEJAC continued to express concern about EPA's commitment to better integrate environmental justice into its programs and activities, particularly within EPA OAR. Several members of the Executive Council reported that, when developing and implementing air programs, OAR continues to ignore issues related to environmental justice. In addition, the members emphasized that public participation activities must be conducted from the beginning of any decision-making process.

The members of the NEJAC discussed at length ways to improve the effectiveness of the NEJAC in addressing testimony received during public comment periods, tracking action items and resolutions developed by the Executive Council and the subcommittees, and managing the work of the NEJAC. The members noted that a work group, which includes current and former members of the NEJAC, had been established to evaluate the effectiveness of the council. In addition, the members strongly recommended that EPA provide an annual report to the NEJAC that presents information about activities EPA has undertaken in response to resolutions that the NEJAC had forwarded to the EPA Administrator. Mr. Herman agreed that EPA's Environmental Justice Steering Committee would review the resolutions forwarded to the EPA Administrator and ensure that resolutions are forwarded to the appropriate EPA program office. He also agreed to forward to all EPA program offices resolutions related to public participation.

Several members of the NEJAC continue to request that members of the council's subcommittees be allowed to offer testimony during the public comment periods held at each NEJAC meeting. The members stated that, in the past, verbal explanations by staff of EPA have not been satisfactory. They therefore requested that EPA develop a written opinion on the issue. Mr.

Herman agreed to obtain a decision on the matter for the members of the NEJAC.

Teamsters, to serve as the chair of the work group.

### **SUMMARIES OF THE SUBCOMMITTEE MEETINGS**

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

#### **Enforcement Subcommittee**

The Enforcement Subcommittee listened to remarks from Mr. Herman, during which he explained that EPA is accountable to many stakeholders and that federal and state agencies often differ in their definitions of the word "accountability." The members of the subcommittee also discussed the activities of its work groups.

The status of each work group was reported as follows:

- C The Work Group on the Open-Market Trading of Air Emissions Credits had heard a presentation from representatives of OAR that outlined EPA's position on spatial averaging, a process under which state air quality agencies average particulate matter readings over several air quality monitors in a particular region. The subcommittee had reminded the representatives of OAR of the NEJAC's request in which the council urged EPA to revise the agency's air quality standards for particulate matter to ensure that the use of spatial averaging causes no discriminatory effects on low-income communities and communities of color.
- C The Work Group on Title VI of the Civil Rights Act of 1964 had prepared comments on EPA's interim guidance under Title VI of the Civil Rights Act of 1964 for investigating complaints which challenge permitting decisions. The comments had been approved by the Executive Council of NEJAC and forwarded to EPA's OCR for that office's consideration.
- C Members of the subcommittee agreed that the Worker Protection Work Group had lost focus since the resignation of one of its members. The subcommittee appointed Mr. Lamont Byrd, International Brotherhood of

The members of the subcommittee also heard reports on the following issues: the use of alternative dispute resolution related to environmental justice; demographic studies in environmental justice matters related to criminal investigations; EPA's demographic and statistical analysis of the PVC facility, which the Shintech Corporation proposes to construct in St. James Parish, Louisiana; EPA's sector facility indexing project; EPA's compliance and enforcement program related to lead-based paint; and EPA's small business compliance assistance centers.

In addition, the subcommittee agreed to form two work groups to address environmental justice concerns related to citizen suits and community-right-to-know information about chemical emission release. The members also drafted a letter to the EPA Administrator in which the NEJAC requests that EPA provide to the NEJAC a complete list of the agency's federal advisory committees. The letter requests further that the list include information about diversity among members of those committees and the steps EPA takes to ensure that each committee integrates considerations related to environmental justice into its efforts.

#### **Health and Research Subcommittee**

The members of the Health and Research Subcommittee discussed a risk assessment roundtable meeting scheduled for spring 1999 and identified issues that should be discussed at the meeting. Those issues included:

- C Development of a specific definition of risk assessment
- C Consideration of the potential for misunderstandings on the part of the community resulting from a comparison of adverse risks
- C Exploration of the limitations of the standard risk assessment process

Members of the subcommittee also discussed a proposed joint meeting of the subcommittees of the NEJAC and members of EPA's Children's Health Protection Advisory Committee (CHPAC). Members of the subcommittee also agreed that

such a meeting would provide the opportunity for the NEJAC to ensure that the CHPAC includes issues related to environmental justice in its deliberations.

The subcommittee also received presentations on the following issues: the status of EPA's Chemical Right-to-Know Strategy; development of EPA's environmental justice spatial analysis tool, as well as EPA's environmental indicator tool; and EPA's report on "Lead-Based Paint Abatement and Repair and Maintenance Study in Baltimore."

The members of the subcommittee adopted an action item that calls for the drafting of a resolution, for consideration by the Executive Council, in which the NEJAC requests that EPA:

- C Pay particular attention to the ways that communities focus on issues related to the conduct and communication of risk assessments
- C Examine its protocols, methods, and activities related to environmental assessments in light of comments the agency receives from communities and prepare a detailed report on the issue

### **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 discussed the establishment of several work groups to address issues related to environmental justice and sacred sites, the effects of Title VI of the Civil Rights of 1964 on tribes; and the development of guidance for federal and state agencies on meaningful consultation with tribes.

The environmental justice cases discussed by the subcommittee were:

- C The continued opposition of the Mattaponi Indian Tribe to the proposed construction of a water-pumping station and reservoir in King William County, Virginia
- C The continued opposition of the Petroglyphs Monument Protection Coalition to the proposed construction of a commuter highway through the National Petroglyph

Monument, located near Albuquerque, New Mexico

- C The concerns of Arctic Native Village of Fort Yukon about the continuing pollution near the Arctic National Wildlife Refuge, Alaska that threatens the subsistence fishing practices of the people of the village
- C The ongoing request of the Native Coalition for Cultural Restoration of Mount Shasta that Mount Shasta be listed on the National Register of Historic Places, as well as for the continued prevention of geothermal testing in the area of Medicine Lake Highlands, California
- C The concerns of the Native Lands Institute about the continued development and use of geothermal energy in Puna, Hawaii and the effects of such facilities on sacred sites
- C The opposition of the Pajaro Valley Ohlone Indian Council and San Bruno Mountain Watch to residential and commercial development that would affect the San Bruno Mountain Ohlone Shell Mound, located along the western shore of San Francisco Bay

### **International Subcommittee**

The members of the International Subcommittee discussed at length the planning of the proposed International Roundtable on Environmental Justice to address environmental justice issues in areas along the U.S.-Mexico border, as well as other global environmental justice concerns. The members also identified several issues, such as standardization among countries of environmental regulations and the conduct of outreach and public education about international projects.

The subcommittee also received remarks from the Deputy Assistant Administrator of EPA's Office of International Activities (OIA), about various tools the agency uses to integrate principles of environmental justice into its international activities.

The subcommittee received an update on the progress of the subcommittee's South Africa Working Group. The work group had developed a draft report that recommends that EPA consider incorporating community-based experiences into the agency's training programs related to South

Africa and encourages the South Africa Environmental Justice Network, a coalition of individuals and community-based organizations located in South Africa to become more involved with the International Subcommittee.

The subcommittee also received reports on environmental justice issues related to New River, Imperial Valley, California; the Worker Protection Work Group of the Enforcement Subcommittee of the NEJAC; and environmental justice concerns of communities along the U.S.-Mexico border.

### ***Public Participation and Accountability Subcommittee***

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

The subcommittee reviewed selected action items developed in response to issues raised during earlier public comment periods of the NEJAC and subcommittee meetings. The subcommittee also discussed the need for revising the NEJAC Model Plan for Public Participation, planning the next meeting of the subcommittee, and forming a work group to address environmental justice issues in Puerto Rico and the Caribbean.

The subcommittee received presentations on EPA's use of neutral professionals in resolving issues related to environmental justice; EPA's community-based environmental protection program; and EPA's Community Advisory Toolkit.

### ***Waste and Facility Siting Subcommittee***

The members of the Waste and Facility Siting Subcommittee received a report on the progress of the subcommittee's Waste Transfer Station (WTS) Work Group. Members of the subcommittee agreed that the subcommittee should arrange to discuss the adverse effects of WTSs on communities in New York City, New York, with appropriate representatives of that city.

The members of the subcommittee also received an update on the planning of the Risk Assessment Roundtable meeting. Members agreed that it is important to broaden the group of stakeholders that have influence on the risk assessment process, to facilitate discussion, and to create a neutral process that lends credibility to the federal government.

The subcommittee received an update on EPA's Community-Based Environmental Protection (CBEP) program. The subcommittee received a request from the EPA Office of Policy Planning and Evaluation (OPPE) to aid in the effort to identify the needs of various communities and set priorities among them. The members also discussed the training of people involved in the CBEP project as well as concerns that environmental justice had not been incorporated into CBEP. The members also discussed the possibility that the NEJAC might contribute to the process of selecting a CBEP pilot site, agreeing that the council could do so if the subcommittee were to make a formal proposal to that effect.

The subcommittee also received reports and presentations about issues related to the Superfund Program; the status of Superfund reauthorization; the status of EPA's Superfund relocation policy; EPA's plan to enhance the role of states and tribes in the Superfund program; EPA's response to the NEJAC's resolution on Superfund sites in Puerto Rico; and issues related to the Brownfields program, such as the Minority Worker Training Program and the Standard Guide to Brownfields Redevelopment, published by the American Society for Testing and Materials (ASTM).

**NEXT MEETING**

The next meeting of the NEJAC is scheduled for November 8 through 12, 1998 in Baton Rouge, Louisiana. Planned activities will include two opportunities for the public to offer comment. Exhibit ES-2 identifies the NEJAC's preferences for the dates and locations of future meetings.

**Exhibit ES-2**

<b>FUTURE MEETINGS OF THE NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL</b>		
C	November 1998	Baton Rouge, 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 Health and Research Subcommittee***

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

- C NEJAC urges EPA to identify the continued dioxin pollution of the San Francisco Bay as a high-priority pollution problem requiring immediate action, thereby forcing the state to take action to prevent that pollution.

***Resolution from the Indigenous Peoples Subcommittee***

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

- C NEJAC requests that EPA should work closely with the Ohlone people to more fully understand the cultural issues implicated by the Terrabay Project, located near the San Bruno Mountain Ohlone Shell Mound in California, and to ensure that the Ohlone people are involved in all phases of decision making regarding the Project. In order to accomplish this, NEJAC requests that EPA should work with the Interagency Working Group on Environmental Justice, and other appropriate federal agencies, and review the environmental justice concerns raised by the proposed Terrabay Project.