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National Environmental Justice Advisory Council

June 10, 2008

Members Present:

Richard Moore, Chairperson

Chuck Barlow
Sue Briggum
M. Kathryn Brown
William Harper
Jodena N. Henneke
Christian R. Holmes
J. Landgon Marsh
Gregory J. Melanson
Paul Mohai
Shankar Prasad
John Ridgway
John A. Rosenthal
Patricia E. Salkin
Omega Wilson

EPA Members Present:

Charles Lee, Designated Federal Officer
Victoria Robinson, NEJAC National Program Manager

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A F T E R N O O N S E S S I O N

(1:10 p.m.)

Welcome and Introductions*by Charles Lee, Designated Federal Officer*

MR. LEE: Good afternoon. My name is Charles Lee and I am the Director of the Office of Environmental Justice at EPA. And for the time being, I am the Designed Federal Official for the National Environmental Justice Advisory Council, which you are. So it is my duty and my honor to convene this, I think, is the 22nd meeting of the -- something like that -- of the NEJAC.

I want to welcome you to sunny Washington, D.C. I guess we had the weather waiting for you. We are really excited to have this meeting. I wanted to just say a few words, just by way of providing some background and some details about this meeting.

I think we are excited to have this meeting, those of us that work on environmental justice at EPA because we really sense a lot of momentum being built around environmental justice in a very positive way at EPA.

And, I think, throughout the agenda at this meeting, you are going to see a lot of evidence of that. There is one thing I just want to say in terms of kind of trying to capture where we think we are at, and where we think we are going. It

is Granta Nakayama, who is our Assistant Administrator for Enforcement, spoke at the recent State of Environmental Justice in America Conference at Howard University Law School.

And he said that he thought that at EPA, we are moving environmental justice into being a substantive program, with factors that define disproportionate impact program reviews, measures of success, and other things that move us into being a results oriented program.

A gender here, we think the NEJAC is a really important part of that process of moving us in that direction. And the agenda reflects your moving into working with us around very important issues. There are going to be four workgroups that are going to be reporting out, and discussing with you their work and directions forward.

And these are workgroups around goods movement, around green business and environmental justice, around national consistent screening approaches for environmental justice, and the state EJ grant program. These reflect some of the things we are doing to integrate environmental justice at EPA.

So, with that, I will just turn it over to Richard, the Chair of the NEJAC. Richard Moore.

Comments

by Richard Moore, Chairperson

MR. MOORE: Great. Thank you, Charles. I wanted to

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begin my brief comments by, one, welcoming the NEJAC Council. There has been, as you all know as council members, there has been several meetings that have been taking place over the last couple of days, and Charles mentioned those, in terms of some of the working groups that have been meeting.

I also wanted to welcome our visitors from the EPA staff, and others, and other agencies, other U.S. Government and state agencies here in the D.C. area, and so on. And those that have traveled a distance to be with us here during the next couple of days for these meetings.

Council members, as you are aware, within those working groups, there is some Council members, but additionally, when we get the report backs you will see that within the working groups that there is others also that have been asked to sit on those working groups.

So, welcome. I think, as Charles mentioned, if it is 22 meetings of the NEJAC Council, I think I have probably been to 21. I remember one within the last couple of years that I was unable to attend, but I think I have been here for 21 meetings throughout several years.

I wanted to, just to give us very quickly as we do this welcome and introductions, just a couple of updates that, I think, are very, very important. And we'll continue to do some of this as the days go by, interjected into different agenda items within the NEJAC Council meeting.

One is to be congratulated for the State of the Environmental Justice of America, the conference that took place at Howard University recently. I know that many of you were in attendance at that particular conference and many of us that helped to put together different workshops, and panels, and so on.

The other one was I had the honor of being a couple of weeks ago in San Juan, Puerto Rico. I just wanted to congratulate the Office of Environmental Justice over the last couple of years, some of you may be aware that OEJ had approved several years back, Victoria, I think maybe three or four years, that the environment of ADR, Alternative Dispute Resolution and Environmental Laws -- and the training team that has been participating in that, I think, by the end of next year we would have done every region within the EPA.

And that has been quite -- the EJ groups, and we stay in touch, even as of Sunday when I was arriving here at the airport, that there was a woman, Mary Hill, that called me to talk about just the success, and so on, of the workshop. And that was last year, I think.

But also, she talked quite highly of the work that Reggie was doing, and some of the other EJ coordinators and EJ staff within the regions throughout the country to really back-up much of the work that is happening in grassroots communities on environmental justice issues.

And just like others at sometimes, I mean, there is more aggressiveness in the part of some regions in regards to environmental justice, and in some cases there is less aggressiveness. I know that the visit from the Administrator tomorrow, and also that the OEJ staff will attempt, along with all of us, to encourage a more aggressive and proactive direction in terms of environmental justice issues within the regions. And also, within the states.

So, I just wanted to kind of mention those couple of things. I think that we had, Victoria, I think it may be in about 18 organizations two weeks ago that was in that training?

MR. JOHNSON: Actually, I think we had about maybe 22, including the Puerto Rico Special Communities Organization.

MR. MOORE: Okay. So there was 22 organizations that had representatives in this three and a half-day training that I was referring to. I don't want to speak for those groups, but we have been getting e-mails -- and we have been back a week and a half, two weeks -- and getting e-mails from many of those participants in that training talking about how positive they felt about it. And, quite frankly, how much they learned and how much they shared.

I think we learned and shared as much as we gave, and exchanged, and so on. So I want to kind of leave it at

that, but I just want to say that these are very difficult times, and we all realize that.

Many of our cities and many of our states, whether we are on pueblos, or whether we are living on reservations, or communities, or villages, or wherever we are coming from, and that environmental justice as it was however many, many years ago, and grassroots communities still has the same sense of urgency that it has had. And many of our communities, as you all know, that have visited and come from those communities are being impacted quite highly with health disparities, and so on, so that continues to happen.

So, again, ladies and gentlemen, sisters and brothers, it is an honor to be here with you as a member of this NEJAC Council. We are looking forward to the opening and the convening of the NEJAC Council taking care of the business and the work that is necessary to carry out as we participate in this meeting, and also as we go home. So, again, thank you all for your attention, thank you very much for your participation.

And, Charles, I think I will turn it back to you at this point.

MR. LEE: Well, I will just take a moment to introduce the next speaker, who is going to do a special welcoming on behalf of the Office of Enforcement and Compliance Assurance, the Deputy Assistant Administrator, Lynn

Buhl.

Comments

by Lynn Buhl

MS. BUHL: Thank you, Charles and Richard. It is a pleasure to be here. I met a lot of you in Baltimore last fall, so it's nice to see you again. I am sorry Grant couldn't be here today, he has got a 1:30 meeting he couldn't get moved. But, he will be here tomorrow morning, accompanying the Administrator. And then, he is going to stay on as much as he can. He has got a commitment in the afternoon, but he really is interested in hearing what the committee has to say.

And as you all know, he has really empowered the Office of Environmental Justice to begin developing a more robust program. He is a thousand percent behind them. In fact, if I can quote him, it would be a, "let's go, we are ready." And I think he is very pleased, and yet, there is always much, much more to do. So, you will see him tomorrow morning.

And there is quite a bit going on. We have just recently had a meeting of the environmental justice coordinators, and also had a number of people attend the State of EJ in America Conference. Both meetings were very positive and there was a lot of energy in the room. I think a lot of people feel like we have started to develop some momentum and

some things are beginning to happen.

Internally at EPA, and I would be the first to say this, because I work at headquarters, I have had some experience in the regional offices, and I think the regional offices were really out front at the beginning of our efforts to engage in EJ issues. They have tried a number of different projects, and they have enjoyed some excellent successes.

And, I think, it was our challenge at headquarters to try and develop sort of the national program that should be at least, if not directly involved, coordinating and trying to provide direction and leadership. I think we have really made some headway in that respect.

We do have not quite monthly, but probably bi-monthly meetings, of our EJ Executive Steering Committee, which is comprised of the deputy regional administrators, and the deputy assistant administrators at headquarters. That level of interest and involvement just wasn't there before, so I am told.

And it is really sending some good signals down to the staff level, and there is a lot of interest in coordinating, and interacting, and sharing.

The national program managers at headquarters have included EJ priorities in our National Program Guidance for all 10 regions. I know that sounds like bureaucratize, it is. But, it is an important modification to how the agency

functions. We have developed protocols for conducting reviews of our programs to see if we are capturing EJ issues. I think in some cases we are, and in some cases, we aren't. So that is helpful to have that tool.

O EJ is participating in a larger number of rule-making activities, which is a very important opportunity for input. Although, I also want to be quick to say that it is not our goal to have O EJ participate in all rulemakings, our goal is to train the offices who are conducting the rulemakings to be sensitive and knowledgeable about EJ. So, while they may want to consult with O EJ, they can carry the ball pretty darn far without them. Training is very, very important, and we are making some great progress on that step.

We are focusing on trying to measure how we are doing and look for where we can do better. In fact, when we were challenging the different programs to come up with their EJ action plans, we coined a new phrase of robust, results oriented activities that would be, R2OA, and we are really encouraging people to initiate some activities that mean something. That at the end of the day you can see that you have made a difference and it can be measured.

And, frankly, at EPA there is a lot to be gained, certainly, in the budget discussion annually. If you can demonstrate that you have made progress and you can show some measurable results.

So, we are feeling good, we do feel like we have got a lot of momentum going. We could do a better job of communicating a lot of what we have done, so we are working on that as well. We think things are moving along well, we look forward to input from you.

Charles already mentioned the specific issues you guys -- you all -- would like to try and cover, and we are looking forward to hearing your thoughts on EJSEAT, in particular, but also on these other issues. The goods movement, the state EJ grant idea, and EJ green business and sustainability.

So, thank you very much. We do have a lot of attention at EPA and we look forward to a productive meeting.

MR. MOORE: Great. Thank you, Lynn. I just wanted before we begin the next -- actually, the first -- formal panel report back, just a couple of announcements. One, if we could, as you remember the last couple of meetings, if we could push the button on when we are speaking, and then off when --- at one time, it will do a little screech kind of a thing.

So, we also know that we are going to just kind of plow right through this a little bit, and we'll take the necessary breaks. As you all know, we have a long day today and public comment period is this evening starting at 6:30.

I think those were the couple of announcements. We

want to begin with the introductions of the members, and so on. So, John, if you want to start and we will go right around the table and we'll do introductions.

(Member introductions)

MS. ROBINSON: I do want to add that, to reiterate with what Richard said about the microphones. These are wireless microphones so you can move them closer to you. Please make sure that you do, because some of you are soft-spoken, pull the microphone up closer so that the court reporter can actually capture your comments. Thanks.

MR. MOORE: Thank you, Victoria. I am Richard Moore, I am the Director of the Southwest Network for Environmental and Economic Justice, and I come from my home of Albuquerque, New Mexico.

Could we introduce please the staff that will be backing us up. We want to start on the table here. Okay, we can't do anything without the workers, we know that. The workers made it possible for us to be here and so on, so I just wanted to in the beginning of the meeting, as we usually do at the end, is to complement you on a job well-done. And we truly do appreciate your work, it means a lot to all of us.

So, I think, then I am not going to freak anybody out here, including the DFO and ask that introductions take place. You know I have done it before, and I will not make Charles nervous, or Victoria, this morning. Although, I may

do it at some point. But right now, we are going to continue with the first panel report back.

So that will be, as Eileen mentioned, this will be on the Nationally Consistent EJ Screening Approaches Workgroup. Those that will be presenting will be Sue Briggum as a Co-Chair of that workgroup; Eileen Gauna, who is also a Co-Chair; and Mustafa Ali, who is the DFO that has been helping to coordinate the work of this work.

So, if you all are ready, and if I did all the proper introductions, then we are ready to proceed.

Nationally Consistent EJ Screening Approaches

by Eileen Gauna

MS. GAUNA: Thank you, good afternoon. First of all, I would like to briefly talk about what we think our charge is, what we have done thus far, where we hope to go, what are some of our working goals and assumptions at this point. And then, at this point, we would really like some discussion from the full Council in terms of whether there is consistency and understanding in terms of these.

But, before I start, let me introduce the workgroup members. Myself, Eileen Guana, and Sue Briggum, are Co-Chairs; Richard Moore is on our workgroup; Omega Wilson; Paul Mohai; Jodene Henneke; Shankar Prasad; Juliana Maantay; and Russ Lopez. All of these folks have been enormously hardworking and helpful.

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To begin with, our understanding is very basic understanding that the EPA has identified a significant need for a nationally consistent screening approach to identify areas with potential environmental justice concerns. This approach will help the agency better integrate environmental justice into its programs and activities.

So, our working group has been tasked to make recommendations to the NEJAC, what we are calling at this time, a screening approach. Now, this sounds simple, but our working group has in a very short period of time come to realize that this is an extraordinarily complex and nuanced undertaking.

This is the problem with going paperless, okay. To begin for us to try to make some kind of intelligible recommendations to the committee, we began looking at the EPA's current iteration of what is called the EJSEAT, Environmental Justice Strategic Enforcement Assessment Tool, which is, perhaps, the most concentrated and comprehensive thinking on the subject within the agency thus far.

Andrew Schulman from OECA has given us hours of his time to help us understand what the EJSEAT does, the indicators it uses, and very importantly, the specific features of the data and the datasets underlying these particular indicators.

In addition, the workgroup called upon Dr. James

Saad of Occidental College in California who, in collaboration with Manuel Pasteur and Rachel Morello-Froeche, are independently developing another screening approach. Dr. Saad -- who is now going to be part of our working group, by the way -- gave a couple of presentations on their approach.

Looking at the specifics of these two presentations, and there were literally just dozens of important questions that we asked along the way, the working group is moving towards really a much more nuanced understanding of the promise of these approaches, but also of the limitations of approaches as well.

Where we hope to go. At this point, I want to offer a brief summary of the types of issues we have been formulating and discussing thus far. They, basically, fall into two broad categories. The first genre of issues concerns the more technical issues of the EJSEAT. These questions cluster around the indicators and the underlying datasets that are used to determine the value of those indicators.

So these are very, very technical discussions that occur with a workgroup of a very diverse constituency with differing levels of expertise in this area. So, it is a big educational climb for many of us. And we are cheerfully attacking the task. But, it is a big task.

The second set of issues concern the broader policy concerns that arise when contemplating the potential uses of

EJSEAT or similar screening approaches, but also the potential misuses of such a screening approach. So, as we are working our way through a lot of technicalities, there are broader policy questions that are popping up that are really embedded within those technicalities. So, sifting through all of this data has been interesting, but challenging as well.

At the end of the day, we hope that our workgroup can offer some very specific recommendations about how to make these screening approaches work well and identifying potential, unintended consequences, so-to-speak of this screening approach. It is a little premature, we feel, at this point to actually go into the specifics of the types of technical issues we have been discussing thus far.

But, we did come up with a set of working goals that are guiding our efforts at this point. And we really would like some direction from the full Council as to -- particularly, from each of your different stakeholder positions, just your reactions to these goals and our work, I think, would be helpful to us at this time.

I don't know if this is going to be put up on a screen.

(Slide)

These are just, basically, very broad and they are somewhat abstract at this point, principles that we feel should guide us in terms of this approach. And we are hoping

that you can give us some good feedback on this. Like I said, because our discussions are preliminary at this point, our recommendations are preliminary, this is going to feel a little abstract, but we hope that we can get some good feedback from you on it anyway.

The first is ideally a good screening approach would allow for identification of locally impacted areas or communities of concern. Sounds rather simple, but believe me it is not. A screening approach should also be understandable and useful to the public and to policy-makers.

It should be practical, given the limitations of existing national data that is out there. And it should be scientifically validated, using sound methodology, and it should clearly articulate the strengths and limitations of the screening approach. Now, within these features there is, again, a lot of questions that actually cluster around each of these simple bullet points. But, ideally, this is what we would like to work with.

We also think that a good screening approach might also have the potential to identify temporal changes over time. As the screening approaches exist now, they are kind of slice of time approaches, a snapshot to say these areas seem to be relatively more worse off than these areas. But they don't really track changes over time. And we are looking at the potential of these approaches to actually do that.

We are also looking at the potential of these approaches to enable comparisons nationally among areas, among states, among communities, these sorts of comparisons. We are far from that point yet, but we are investigating the possibility that these approaches could do that.

So, from your particular stakeholder positions, right now, it would be helpful to our workgroup just to get your reactions on this.

MR. MOORE: Okay, Council members, before we do that -- Eileen, if you don't mind -- Sue, if you have any additional comments, and Mustafa, if you -- Sue.

MS. BRIGGUM: No, we worked together on this, so I am happy with how Eileen is doing.

MR. MOORE: Good. Thank you, Eileen. Mustafa.

MR. ALI: No, I would just be interested also, like Eileen and Sue, to hear from the stakeholders about the -- I call them principles, but they are not principles, of course -- that we have identified to sort of garner from you your reactions and to see if you feel that we are on the right track. Or, if there are some things that we may have also forgotten that should be added to the list.

MR. MOORE: Council members, we are open for discussion. I think what Eileen has asked us to do was to take a look at -- well, we are not really calling them principles, as was said, but to take a look at this list and

just get the additional input for a few minutes from the Council. John.

MR. RIDGWAY: I was interested in hearing that potentially you are looking at how this could be used to measure changes over time; which, I think, is great. We don't have any measurement tools of that nature. My question is, is that part of the charge or are you biting off more than you can chew on that?

MS. BRIGGUM: Omega, you raised this a number of times. You know, it depends. One of the things we focused on is the fact that you take a snapshot based on the 2000 Census data. And then the question is, if you are going to find out whether or not your intervention is based on the screening tool where you go in and, actually, try and do something helpful at the communities that are identified as priorities, how can you identify whether you have been helpful or not, and how would you do that?

So, one thing we have talked about is what are the data limitations. If you are doing it by census, obviously, you have to wait until another census. If you want to do that adjustment factor, what would the intervals be in which you would want to relook at the data. And then, some complicated things with the model, because depending -- or the approach -- depending on how you do it, you could end up with comparable data year over year. But, if you are always doing it

comparatively, you know, like the top 10 percent, that will be a moving target. And so, what do you lose.

Paul has mentioned this a number of times as a challenge. I don't know, Paul, if you can give a fuller explanation of the issue.

MR. MOHAI: Well, I don't think I can really add too much more really than what has been raised. I think it will be a challenge to measure changes over time, given the current ways that the EJSEAT is put together. But, much of the underlying data used to construct EJSEAT, I think, can be used to measure changes over time. And I think that is something that we will want to give some more thought to.

I see a lot of potential with being able to do that but, obviously, our group hasn't really had enough time to really think that all through.

MR. WILSON: I just wanted to add too that this goes back to what Eileen mentioned earlier, that there are a lot of questions tied to each one of these guidelines, or as we referred to them a moment ago as principles. But just this particular point alone we are talking about what we see now, right. Time, we have to start at some point.

And, of course, that would be the stresses we see now, as well as the health impacts we see now and how we measure those. The other one is what changes do we see in that time, based on corrective action. And the other part of

it is what new or planned stressors may be a part of what we are looking at for a particular community. Because, obviously, as time goes on, population size changes, the mix of the population changes, the age of the population changes.

There is some demographic things in there that change, so how we do that is part of this discussion. And we haven't determined how we do that, but to say we are looking at that, and we should look at that is, I think, part of the thing that we are raising here.

Because if we are talking about environmental justice communities, not just looking at what exists now, but what we look at as how to improve, or how to reduce the stressors and improve the quality of life, and improve the health of the communities that are impacted is -- you know, those become outcome kinds of things that we are looking at. And it would be very difficult to measure them in one snapshot. But, over time.

MS. BRIGGUM: Yes, because it is pretty easy to do outputs because you could use the screen, you could identify kind of the highest priority areas for -- for example, the deployment of enforcement resources. Make sure that enough inspections are being done, make sure that you are really focusing on compliance assurance, and those areas.

And you could track that in terms of success by looking at the number of inspections, or oversight actions

that took place within those communities, but if you want an outcome instead, that is harder because then what you would like to see -- and, obviously, this is really going to take some time, is that, for example, the health statistics improved over a realistic period of time in the communities that received this kind of attention.

So, obviously, that is a real stretch goal and you can expect to do that even in the next decade probably. But, it would certainly be a goal that you might want to target.

MS. GAUNA: If I could just add something really quickly, because I don't want to over bill the work of the workgroup. I have just really come to appreciate how complex this is. And as we are plowing through this in a very detailed way there are a lot of questions popping up in terms of, well, what are we using this approach for, and what could we possibly use it for, and what are its limitations? What should we not use it for?

And, as we are working our way through these questions, I think, it is helpful to approach it with a broad scope. You know, at the end of the day, we may not be able to say, here is a screening approach, or this approach with these modifications would be able to track changes over time. At the end of the day, we may actually come out to the opposite conclusion.

But, our point at this time to you is that we are

leaving ourselves open and flexible to the potential uses of such a tool. But, we can't say at the end of the day that we are going to come up with recommendations which would accomplish this.

MR. MOORE: Okay, I think we had three cards up. Greg, Lang, and Chuck. But, I just wanted to just mention, Greg, as you start there is that when we were identifying this list of characteristics, basically, is really what it was, we went back and forth. And we are trying to identify what we were calling characteristics.

So we know that this is a first cut at it in terms of some of the characteristics that we have come up with, and we will continue to have those discussions. Greg.

MR. MELANSON: I have a question, Eileen, regarding sort of your last comment in terms of the scope, or the limitations of the tool. Clearly, it is really looked at in context to enforcement, but I am wondering if there has been discussion that goes beyond enforcement. Because conceptually the tool and the results of what is produced from the data could go beyond just enforcement to allocation of resources. Whether it is public or private sector resources.

So I am just wondering if you can comment on, again, beyond enforcement or whether you really want to narrow the scope to be enforcement only.

MS. GAUNA: Okay, I am going to go out on a limb

here. I don't understand the charge to be limited to enforcement. I understand the charge to be what is the potential of a national screening approach. And, of course, it is kind of a chicken and an egg problem because you can't say on the onset this is what we want to use the screening approach for and let's figure out how we get there.

But, at the same time, while you along the way to understanding what is possible in the screening approach, it automatically calls into question, well, can we use it for this, can we use it for that, can we use it to allocated resources for enforcement to do all sorts of things in terms of regulatory function.

We feel that that is really not our call, but what we can do is say, given our investigation of this thing called the screening tool, we think that it could be helpful in these areas, but it has got limitations in these areas. And that is the kind of recommendations that we envision coming out with at the end of the day.

MS. BRIGGUM: And just to give you a flavor of some of the things that we talked about, we mentioned positively, obviously, it would be helpful in terms of assuring that enforcement and compliance assurance resources are allocated to these priorities communities of concern. We also talked about the possibility to look at things like available grant programs to make sure that they were being used in a way that

seemed consistent with getting the resources to the people who need the most.

We also have had some cautions too where we have said, but we are very uneasy if we would say, well, okay, here it is, this is the approach. These are the communities and you are not. Because that would mean that the approach would have to be mighty perfect, and we are not really going to try and come up with recommendations that would make it perfect.

So, it is a way to assure that you are getting enough enforcement compliance benefits, but we didn't think of ourselves as trying to come up with this precise definition of an environmental justice community that would say, those that fell without the tool were not truly and just as equally environmental justice communities. So we are really trying to keep that balance as we go on.

MR. MOORE: Lang.

MR. MARSH: First of all, Eileen and Sue, thank you for taking on this very tough work. We appreciate it, it is not easy. I think these look like good principles, and my only question that may be a working question, I am not sure, is about the very first one on communities of concern.

I am sure you have wrestled with this in the technical discussion, but the principle for me ought to be something where the communities of concern are really the people who are truly, or most intensely impacted by what the

problem is that is causing an EJ concern.

And we know that a lot of analytical tools don't get to that fine grain of detail so that people may be very severely impacted, but they are a very small subset of a population. So, I don't know if there is some way to tweak that principle so that at least aspirationally you try to get to that group, even though the tools may not be yet fully available. Or, maybe they are, it is something that I worry about.

MS. GAUNA: Well, you hit the nail on the head in terms of one of our central technical issues that we encountered, which is why we actually put identification of locally impacted areas/communities of concern. Because if the screening approach uses nationally available information, or national databases, we may not be able to get to the resolution necessary to identify specific communities.

It may be that we could only identify broader geographical areas that appear to be relatively more impacted than other areas, or have a cluster of concerns because a variety of factors that suggest vulnerability and a whole range of things. We are still investigating that, and that will be part of our recommendation to say, for example, if we use nationally available databases, this is what we can do.

And it could be supplemented with more specific state databases to give a greater resolution. These are the

kinds of issues that we are talking about as we move along, which is why we did this impacted area/communities of concern. Because we weren't ready yet to say at what level of resolution is this thing possible.

I hope I am answering your question. But if you can find a way to tweak this that will be able to get at that much more precisely, that would be helpful.

MS. BRIGGUM: Yes, because Russ isn't here, but he was very helpful for me in reminding us that our basic tool is census track in terms of the way we start and array the data. But those are based on trying to get 4,000 people in an area and call that a census track. Which, kind of by definition, means that this won't be very sensitive when it comes to rural communities. Certainly, won't work at all for tribal communities.

So, part of what we hope is our goal is to lay out the things that need to be explained very clearly, as well as to think about, well, if this tool works for larger communities, urban areas, do we have any thoughts about how you could supplement it to address other communities. And are there procedures that would make some sense. So, we are right where you are, but thanks for flagging the wording, because we may be off in terms of communicating that.

MR. WILSON: I would like to just add too that we are aware that the databases that we are talking about do not

necessarily identify site-specific concerns, or site-specific areas where stressors are in communities. Because this is something we discussion in some detail that the areas that are in databases, like census tracts, and counties, are there, and are measured, and are regulated by state and federal guidelines that are already in place.

But community geographic boundaries very often cross those in many ways. So, when you look at those tracts and those county lines, very often they may divide or sub-divide. Some communities are within a city, parts of it are out of the city. They have historic passes and, usually, they are measured and identified by local community history and knowledge.

Currently, there isn't a database that does that. But those, very often, are the environmental justice communities we are talking about. So, it is not something we haven't talked about and discussed, but it is one of those kind of things that is a layer in this that we need to get to, and how we address it, and how that support with the advice of the Council and those other people supporting what we are doing, how we address it and how we get to it. Recognizing it is not something that was absent in our discussion.

MS. BRIGGUM: Well, and to give EPA credit, they attempt to do that with a buffer that would, perhaps, try and capture this issue. But we will just have to look at whether

or not that is a sufficient surrogate for appreciating that problem or not.

MR. MOORE: Okay, we had three cards up and I saw them go down. But I am going to call them off anyway just -- Pat, do you want to reintroduce yourself please.

MS. SALKIN: I apologize to Eileen and Sue, and everybody else, for being a little late. Patty Salkin from the Government Law Center at Albany Law School.

MR. MOORE: Great, thank you. Chuck.

MR. BARLOW: Well, Greg really asked the same question I had, but I would just make a statement, and a question too I suppose. As an old enforcement person, it seems to me that when you are looking at a tool like this for help in enforcement screening, you are going to give a greater weight to certain causes of an environmental justice problem than you would otherwise.

It seems to me that if I am sitting in OECA and using this as an enforcement screening tool, then I want to spend my time and resources trying to correct a problem that is within my job description, so-to-speak. And, within my area of jurisdiction. In other words, I want to see, I want to know that this problem is caused by non-compliance, or lax enforcement on the local or state part, or whatever.

Whereas, if the scope is much broader, then I don't really care why there is an EJ problem, I just care that there

is an EJ problem. And I want to look at, are there grants that we can -- you know, are there educational programs, or grant programs, or training programs. You know, and then what is the solution.

So, I guess I just had the same question that Greg -- but that is where my question was coming from as to how the agency may be able to use or not use whatever tool they actually come up with.

MS. GAUNA: The workgroup, for example, when we compared Dr. Sadd and Pasteur and Frosch's approach, which doesn't have enforcement data in it, but strongly relies on land use, more local land use datasets, versus the EJSEAT, which uses compliance data, we could very clearly see that different approaches are better suited for different regulatory functions by the nature of their approach.

So, it is a fine line in terms of walking along and saying, well, okay, because this is part of the approach, it could be suited for this but not for that. And I think the beauty of this workgroup that I have discovered thus far in this relatively short period of time is because we come at it from such diverse perspectives that, for example, Omega can point some things out at the community level, or Richard, that people coming at it from a different perspective may miss.

So, hopefully, along the way, we will be able to say, although this particular approach initiated within the

Office of Enforcement, and it has an enforcement feature to it, there are ways that it may be adapted for other uses. But, we are very mindful of those limitations along the way.

And that is, actually, really helpful to me in terms of the way we communicate. Because we spent a lot of time talking about the features that are in there and that are obvious at the outset for a database, and the other kinds of sources that we might include. Because both sources really -- air emission is heavy and considerably lighter in terms of the other media that might be impacted.

So, the fact that you say if we phrase it in terms of enforcement people are going to expect enforcement to be the answer, you are right, that is going to create a huge problem. Because you will go to the two facilities that have permits and say, oh, there is this huge problem. And, of course, you have nothing to do with it, but you have got to be our solution. That is not helpful. So that is useful.

MR. MOORE: Kathryn.

MS. BROWN: My question was consistent with Lang's. I had a problem with the disconnect between trying to work locally, using national datasets. I guess I hope the group will think about how local datasets could be used to supplement the screening tool.

I assume there is some history from the throws of, or the history of risk-assessment that may be a little

instructive here about when models work and when models don't work and their limitations.

But, I too would like to commend the committee, and the NEJAC, and EPA because we have come a long way from our meeting in Baltimore. We have just come a long, long way just to be able to have this conversation, which we couldn't do then.

MR. MOORE: Patty.

MS. SALKIN: My comment is also similar along Kathryn and Lang's line of thought. My primary interest is making sure that we help to identify and enable what local governments can do to address some of these issues. So, I think I wear two hats because I don't view this as just what Washington can do, what EPA can do, but it is what EPA can provide to enable changes in local official behavior.

So, my thought on the first one, and it may be part of your thought process and the discussions that you have had in the committee meeting, but I guess I am interested in making sure that maybe allowing for identification may be providing indicators that may suggest vulnerable or impacted areas or communities.

And when I think of indicators, I think overlaying the census data with what is the area zoned for. What is in the comprehensive plan of that area, what are the local regulations there. I think that ties in with Kathryn's

comment as well.

MS. BRIGGUM: You know, that is really interesting because Jim Sadd who couldn't be here has an approach that is very much focused on local land use, and that is kind of the fundamental overlay. You do that first. But the problem is, he is in California, so they have got these great land use plots.

And then our question was, is that the case nationally? Well, if we tried to set up a tool that was focused on this -- because what he did was focus very much on residential neighborhoods and locally sensitive uses, hospitals, schools, et cetera, to make sure that you were capturing the most burdened of those communities, since they were most vulnerable and saying, you know, we'll put to the side the workplace exposures.

And that had a lot of appeal, but within the group, we were having trouble coming up with the knowledge of land use planning well enough to know whether that was realistic as a feature across a number of states. And any thought you have would be helpful.

MS. SALKIN: I think that as time marches on, local governments are getting greater access to geographic information systems and putting the data into those systems. There has been a lot of work at the federal level. There is an inter-agency task force on GIS. There is a lot of

information out there on the internet.

I know that we are not where we need to be, but as we are heading in that direction, it is something that we shouldn't overlook. It is a tool that is available out there and it could be a recommendation from this group that EPA advance something in the national arena to ensure that our access to GIS, and that local governments input the data so that we can have this information. So that you can look at where the population is and what the area is zoned for and what it is next to, and what the zoning is next to it.

MR. WILSON: I just wanted to add quickly that including in that, local governments clearly has to be included. Impacted communities. Because very often local governments may not be taking into account all the issues that we are raising at this table. Because if we want to call it education, information, or direction, or guidance, they may not be aware of what we are discussing, and what the focus is here and how to include environmental justice communities that may have been identified as environmental justice communities, or may have not been identified as environmental justice communities.

So, including the community involvement in that process from the bottom line, from the land use planning part, and how the governments use it, and how to implement it is primary in making sure that the environmental justice

communities are included in that process from the very beginning.

MS. GAUNA: Okay, that said, there is a tension here between having a nationally consistent screening approach that would allow comparisons across geographical levels and being able to utilize or mine very specific data within a particular locality that can give you a higher level of resolution.

So, what we are trying to work through in the committee is, okay, for what sorts of things do you need that to rely only upon national datasets to make certain kinds of regulatory decisions, perhaps, at the national level? And, in what areas can you comfortably rely upon more localized land use information? And these are some of the tensions that we are hitting along the way.

MR. MOORE: Charles, do you have a response?

MR. LEE: Yes, one point. We asked the workgroup and the NEJAC to provide advice on what is a nationally consistent approach. And a lot of times we talk about this in terms of just one tool. The complexity of these issues, as exhibited by just what has been said already, may not allow for just one tool.

So, we are not asking for the perfect tool, we are asking for an approach that makes sense, that is cohesive, and coherent. And, that can be applied nationally, can allow us to do any number of things in terms of screening, reporting,

priority setting, et cetera.

So, just keep that in mind. That is why the work plan, the charge, when it gets developed, is going to talk about the idea of an approach, or approaches.

MR. MOORE: John.

MR. RIDGWAY: Thank you. I wanted to comment on the second bullet up there to be understandable and useful by the public and policymakers. I think that is great. Again, that is appropriate. But, in the context of useful by the public implies this is a tool that many other entities, and individuals, and groups beyond EPA may be looking at and using.

It has been my experience at the state level that often the EPA has been kind of cloistered about how they decide where they are going to put their enforcement activities, or other strategies. So, related to the comment we are hearing about here about uniquenesses in different communities, and resources, and tools, and to the GIS point, absolutely, there is a lot of activity there. Although, nationally, there is a lot more going on.

In some cases, it is the locals that have the best GIS data and they may be themselves looking for these kinds of tools. So, my question is how, if at all, are you -- are you looking at this just for how EPA is going to use this, or are you focusing on how communities will use this tool, either in

assessing how EPA is applying it, or how they may go about looking at these strategies? And, as Charles said, maybe multiple tools. I think there are multiple approaches. Any thoughts on that?

MS. BRIGGUM: Yes. I mean, we haven't thought about it in the way you are mentioning, but we have kind of talked around this quite a bit. I mean, we have talked about the fact that there are tools out there with data that is readily accessible to everybody and those with data that have information that is not publically accessible.

Jim Sadd, for example, I think has information that anyone could pull up and they could decide to drop out one of his factors and rerun it and see how it works. With computers, this is great. You can take factors in and take them out and see what the result is.

EPA is different in that they have a compliance function in there, which is to serve the important goal of making sure that communities that haven't had as rigorous an oversight in terms of the federal roll in overseeing environmental regulations, and maybe illuminate the states as well, would be highlighted. So, in your next budget year, for example, you would say, we need to make sure that we have enough staff and resources to do inspections in the following communities.

But that is based on information that is within

their database and not accessible. So, it is possible that they might be able to use this to prioritize in terms of enforcement, but when other people wanted to run the tool, that part would drop out because they have enforcement discretion and we respect that.

We also came up with a limitation on the health factors that is a similar sort of thing where there are only a couple factors that are nationally reported, infant mortality and low-birth rate. But, there is a lot more information that is available on a census track basis, but it is also by federal law confidential.

So, you wouldn't be able to violate individual's confidentiality by disclosing this, but there might be situations in which the government could hold it and do that kind of screening. So we are talking about the nuances of what could be used.

MS. GAUNA: And if I could add briefly to that, I think when we were drafting that particular bullet, at least in my mind, I had kind of a good government notion behind it. That any kind of a screening tool, even if you can't divulge the specifics of the underlying datasets, and databases, at least you can say these are the 20 factors that we considered.

And these five of them have information that, unfortunately, come from confidential sources. And if you have got a beef with that, you can go to your local agency

head and say, you know, I have a problem with that and this is why.

But, to be able to just say, here is a tool, and it comes up with a raw score without saying how you get there, for example, we were talking about a more full disclosure of how you get there than that. I think that was the thought behind that particular point.

MR. RIDGWAY: I will just follow-up in that. I support that it be open to useful considerations beyond EPA's enforcement, or other considerations. I think it is good, in other words, to keep that in there, recognizing that it is hard to know all the different ways it might be used. But I hope it stays broad that way. Thank you.

MR. MOORE: Patty and Lang.

MS. SALKIN: You know, I too would encourage the committee and the Council to stretch the elasticity of this as much as possible. And I guess when I look at national data in the third bullet, the word nationally can be taken in many different ways. Is it national, what is available at the federal level? Or is it, national, what is available across the country?

And I would just hate to be in a situation where we don't identify something as an indicator because it wasn't available at the federal level, but there are one or more states that have incredible data that would really be telling

in terms of identifying impacted areas, but we say we can't consider it because it is state data, it is not federal data.

So, again, if there is a way to figure out -- that is sort of why I like the check-list kind of approach of indicators that, to the extent -- and I know that we want to try to find consistency, but I just don't think we can ignore things that are glaring when the data exists, but it is not at the federal level.

MR. MOORE: Lang.

MR. MARSH: Yes. Patty said the magic word, state. And that was my question. I think that we have talked about federal data and local data, but state governments have large depositories of data too. And, they are also in the compliance business. So, they have a somewhat different twist on the word local, I guess. And I just want to be sure that states are being considered, both in terms of their ability to share and generate data, and also in terms of their co-enforcement capability and what that might mean in terms of use of data, for example.

MS. BRIGGUM: Yes. Andrew, I forget what the database is, but EPA does, in fact, track all of the federally delegated programs, right. Which means that, although they wouldn't be the chief enforcement authority in a delegated RCRA or Clean Air Program, they nevertheless would have all of the state information. Is that right?

MR. : That is correct.

MR. MOORE: Okay, was there any other -- Kathryn?

MS. BROWN: I guess I have heard the word screening, and coming up on what John was saying, given that my background is not in enforcement, in a public health sense, screening means something quite different. And there are some rules of thumb in public health about doing screening.

There is also changing guidelines now about patient's rights to know. So, the idea of screening, there has been great hesitation historically to screen for something that you couldn't do anything about. And you only screened when you had some kind of an intervention or treatment to provide the individual being screened.

And as this continues to play out, now we are looking at genetic testing, and screening for diseases, and so forth, and interpreting those findings for individuals who have had that screening test. It is not one-for-one applicable, but there are some issues, which it sounds like you are grappling with that have relevance here.

So, you may want to rethink the word screening and whether it says everything, or it says more than what you want it to say.

MR. MOORE: Great. Lang, did you have your -- okay, I think we went around now. I just wanted to open it up for a few minutes to the working group members just to see if there

is any other comments. And Mustafa, also, if you have any comments.

MR. ALI: No.

MR. MOORE: I am going to make the round here to get ready to close us off. So, did you have any comments, any other Sue?

MS. BRIGGUM: Just that it is 2:20 and the discussion is supposed to go until 4:00. So, closing it off might be premature unless there is a new topic I am not --

MR. MOORE: What we can do is I will speak until 4:00.

(Laughter)

MR. MOORE: No, I was actually looking at the time. And I think the discussion has been moving along very, very well. I think a lot of the comments that were made by the chairs and so on, you know, also helped us to kind of move along there. So I just want to continue that swing, see where we are at.

Any additional comments on characteristics, or any of that. And then just take it -- Charles, before you go there I just want to see if any of the other working group members have any comments, and then we'll keep on going. Okay, Shankar.

MR. PRASAD: Kathryn brings about a very important point. That probably goes back to EPA to think a little and

help us in the next meeting. In terms of the outcome of the output of this approach that we are looking at, what it is supposed to encompass.

Right now, the EJSEAT is definitely focused, to a large extent, on the needs of the OECA; which is the right thing to do in being generated from that office. And what I can do in my duty and responsibility, as Chuck has said, how to improve my performance in those committees.

But, at the same time, while it is nice to think of adding multiple data layers, locally available datasets, and nationally consistent, you know the complexity and the time it would take. Are we willing to go there that far and wait until that perfect tool, or that part is generated? Or, should we be looking at here is a tool for these specified purposes and here is what its limitations are, as we are talking about is an important aspect?

But, today we also talked a little bit about what that screening approach means. What we were thinking was, at least in my mind, as we discussed yesterday and today morning, was that we will identify to some extent as sort of a broad geographic region -- because the census track, the different states have different areas -- so we will be looking at identifying a census track level. That is the current model that we have with the EJSEAT.

Then people have to look in if that is the concern,

whether that is the state or the regional office will take a further detailed look in that zone as to the next steps using multiple layers and multiple data points. So, that was the kind of the line of thinking we had, as opposed to saying everything that is available in that regional level will be incorporated to the national screen.

So, if other members have some other thoughts on how to expand on that, I think it would be helpful for our group to move to the next point in our discussions.

MS. BRIGGUM: Yes, I agree with that, Shankar, that is very helpful. And part of the tension we were seeing was we could see that if once we used the screen and we identified the priority communities, then inevitably you would have to use stat and local information in order to get a richer appreciation for the concerns.

But, how much do you need for that first screening level in order to make sure that you are actually then drilling down in the right communities? And that was one of the tensions, and we spent a great deal of time looking at the factors as a consequence. Because one of the challenges is that the federal system is based largely on focusing on relatively large permitted facilities.

We thought we had a pretty good approach in terms of air, there are some issues with some factors, but it looked like a lot of the sources of air emissions were captured.

Maybe a little more in Jim Sadd's, but Jim Sadd's then didn't have much else other than air. But, EPA attempted to capture more. And then the question is, how much can be done?

And as we did that, we realized people really don't understand very well what is captured and what isn't. And that if we started recommending that you describe this in detail, then that made us think about, well, maybe we could add these databases.

So, we talked about adding various kinds of facilities beyond hazardous waste facilities and TRI reports, which are kind of the central reporting mechanisms. And what else was out there that you could add in order to feel pretty comfortable that when you got to the community that you wouldn't say, well, here I am. And it is like a top 10 percent priority community on the basis of two sources, but there are 150 here. And what is my authority?

So, that is kind of the way we have been pushing it, trying to be helpful in terms of as many nationally available sources of information on various kinds of facilities so you feel good about setting up the initial sense of priorities, and then appreciating the fact. But, even with that, there will be a number of communities that are, clearly, high environmental justice concerns that won't be captured at all.

MR. MOORE: Charles, and then Kathryn, and then Omega.

MR. LEE: Why don't you let Kathryn go.

MR. MOORE: Kathryn.

MS. BROWN: Richard, I have got a process question, so I am willing to defer until later.

MR. MOORE: Just go ahead.

MS. BROWN: Go ahead. This is a very compelling issue -- issues -- that are being discussed here. And not being a member of the working group, my question is how do I, as a member of the working group, sort of stay up to speed with these discussions?

So, I have to admit that I really don't understand at what point NEJAC, as a whole, signs off on these documents, but there is a whole lot of discussion that is going on and I wouldn't be in a good position to sort of in two weeks time say, oh, yes, what took you all six months, eight months, whatever, to come to terms with. So, internally, how are we going to keep pace with the deliberations you all are having?

MR. LEE: That is a really good question, Kathryn. And I think the intent of this presentation is to help to keep the entire Council in the loop, abreast of the developing thinking in terms of what admittedly is a very complex set of issues. And it would be helpful, and it is important to say that this will be done, hopefully, on an ongoing regular basis.

But, it is also for you to know what are the

important milestones in terms of both what we are asking the workgroup to do, as well as what you are going to be asked as a Council to formally do at the end of the process. And what you should know is subsequent to the discussion in September, there has also been a set of discussions with the EPA regions. There has been a lot of the same issues that are being discussed here are also being discussed with the EPA regions.

So, what OECA decided to do was to engage the regions in the set of tests around the tool itself, in terms of different types of questions, and different types of applications. And those are ongoing. They are supposed to be completed at the end of the third quarter, and then the results will be kind of be able to be shared with the NEJAC by the end of the fiscal year, which will be September.

Okay, and that is an important date to keep in mind, because it would have been -- what we wanted to do, actually, was in the design of those tests, to get your input. But, in terms of timing, the practicalities of it was very, very difficult to do.

So, what we are doing is we are saying is at that point when you have the findings, the workgroup will look at them, the NEJAC as a whole will look at them, and that is actually when we are going to have the charge developed. And that will be done in light of these findings, generally speaking, what is your advice on how EPA should move forward.

And how to do so.

This is all part of the preparation for that. Being that we recognize that this is a pretty complicated set of issues. It is a complicated set of issues not just because of the kind of things that are being raised right now, but because of the larger policy context for this; which, I think, I was going to speak to a little bit later. That was my original point.

But this is the background to this. It is going to be ongoing, it is going to be many parts to this. I think that if you were to say, could this have been done differently, I would say probably. But, I think that what you are seeing is a real attempt to try to align a whole lot of different processes that is going on at the same time. And in that context, get really meaningful advice from you.

MS. BROWN: Charles, I didn't mean to be critical of the process at all. I tried to be really very complimentary of it. It is just as it proceeds, it is going to get meatier and meatier, so how do you bring the rest of us along without us being in on every call, which you don't want, but on the other hand, there have to be those goal posts that you need, decisions that you have made. Just like you have done here.

MR. LEE: No, I don't mean -- the reason I went into all this detail is that you need to understand how this process is going to unfold so you will know when is it that

you are going to be -- when you should plan to be most engaged. Because otherwise, it is just going to go flying by, you know. So that is why I went into a lot of detail around this.

MS. BRIGGUM: Maybe it would help if I would kind of talk about some work products we had in mind. As you can tell, Eileen takes fabulous notes on this, and I write things, and we collaborate together. And our thought is that we will have kind of a summary of the issues and concepts that we then have solicited from the workgroup members. A number of them have raised points that are very sophisticated and complex and have to well phrased. And we have asked them if they will submit comments and bring those in, we'll add that to our outline.

It is more than an outline, our text of kind of the substance of our discussion. And then, we'll go around and make sure everyone feels comfortable this is a really good kind of a characterization of the discussions we have had. And I see no reason why we wouldn't share that with you, because that would really give you a good, I think, pretty meaty summary of what we have been talking about.

With the idea, you know, we have had this great interaction with the people who are working on EJSEAT, so they are hearing what we are saying. They are hearing kind of the policy issues and kind of data opportunity issues that we

flag, while they are going ahead and doing some pilots, and that is raising some issues for them to think about them in September. We will hear the results of the pilots and the regional participation, and then we will go into more detail on the tool itself. If that is helpful.

MS. GAUNA: If I could just add briefly too. You know, right now we are trying to understand EJSEAT in comparison with other screening approaches. But, we hope along the way as our understanding gets better, to really isolate and identify the big ticket technical issues, and the big ticket policy issues. And as we sift through those things, I think that once we get a better sense of those, those would be opportune moments to share with the full Council what we are seeing.

MS. ROBINSON: I just want to add one thing. As the process unfolds, there is that fine line between a public environment and the workgroup doing their work as they progress. Because once they were to have constant communications with the Council, it will all be public information and public interface, and all that stuff.

So, I will be working with Mustafa, and Eileen, and Sue on that process of the timing of how they submit the information to the Council in general.

One of the things that we have to consider, and remember that we have an opportunity to do some of these

conversations over public teleconference calls. And we know we have one scheduled for August, I haven't given a date for that yet, but as we come up and you see the opportunity like we would like to have this discussion, then that would be a perfect place to do it. And we can schedule those much easier than we can scheduling a full blown, face-to-face meeting.

So that is another way we see of having this kind of work done and the sharing of the materials and information down the line. Okay.

MR. MOORE: Omega, I just wanted to make a comment as we go on here. I think it is very important that -- and I think both Sue and Eileen, and other working group members, that we have got a very difficult task to carry out, and I think we realize that. I think you all can see from the commitment of the working group, that the working group has kind of dug in there. We are learning and sharing as we are kind of moving forward in this process.

But also, I think one of the additional challenges that was stated earlier will really be the fact that whatever the circumstances are, that it is included both from rural communities and from urban communities. And we have seen tendencies sometimes that things are very urban oriented, and a lot of our grassroots communities and rural communities are kind of left out of that piece. So, that is what we have been actually been discussing, a piece of that, over the last

couple of days.

I think additionally, it is -- and there is nothing wrong with a little bit of criticism, Kathryn. We didn't really get that word from the comments, process questions that you were asking, but I just want to say that the EPA has not been known for best of its communications with the public, in general. And I think we have been having these discussions with the leadership of OEJ and that we have to see the further opening up of communications from the public standpoint.

I think Victoria spoke to that. We have had some very successful teleconference calls, so we need to be able to use all the mechanisms for input and for coordination and communications. Because also one of the challenges is is that it is not perceived by many of the organizations in the environmental justice movement -- that this one tool, we will say because what we said in the beginning really was is that there needs to be many tools. And that is why as we develop the charge for this working group, it will be much broader than EJSEAT. And we already see the broadness of that.

But that it is not perceived that there is going to be a decision made of what the criteria is for an EJ community but to be defined. And we a lot of times here, when are communications is not as strong as it should be, that the concerns coming from many of the organizations that something is being developed that will make a decision to what is an EJ

community, what is the criteria for an EJ community, and this kind of thing. And that is one of the -- I say that in terms of the communications, because I think that is a real additional piece that consistently needs to be out there.

We went through what some things are, and what some things are not, even in regards to the EJSEAT. So, we need to be very, very clear as we open up our communications about what this is and what it isn't so that we don't add additional confusion to many times a very confused circumstances or situations as it is.

So, I just wanted to just add those couple of points and to say as I turn it over to Omega, and then we have John, and Patty, I just wanted to move for closing comments when we make this next round. So, Omega.

MR. WILSON: I think my comments are -- or, I hope my comments help tie some of this together. Moving it beyond just a question of --- is. Right now, we are dealing with a policy discussion and how to move it to the next level. But, of course, from a community point-of-view is at what point in time? And I am not answering it, I am just posing it as something that we have talked about and we are not answering the question -- or I am not answering the question, this is something that Charles, certainly, can respond to -- is how we move the policy discussion, and policy modification, or policy integration, or whatever we want to call it, to community

implementation from the environmental justice community side.

Because, clearly, those people who are listening here, and those people who have access, or as the word goes down to communities, of course, the question is going to be, at what time are we growing this discussion at other federal agency levels, growing this discussion at regional levels, growing this discussion at state and local government levels, to implement change at the community level.

Clearly, a lot of the information we are sharing here, it is kind of like a chicken/egg type thing. We are hatching some eggs now and, of course, community people are saying, when are we going to be served.

I am not saying I have the answer and, of course, that is not something that we are doing at this point, but I think we need to bear witness -- it is a part of the process we have to put on the table without totally knowing an answer about how it is going to be addressed for the questions John raised earlier, the question Greg raised earlier, and Lang, and Patty, also as well as Kathryn, about where this information goes.

And, clearly, community groups are going to know because that is why we are here. Environmental justice community groups, that is what is driving our being here in the first place. Those community groups want to know at what point in time will all those government layers in between

them, and where we are right now, receive the training, knowledge, coaching, back and forth discussion involving them to address compliance, enforcement, and improvement, and corrective action.

And that is a big question. I don't know whether any of us have the wagons or sacks in this room to carry all that. So I am going to throw that ball back to Charles to let him respond to this. And guide us on that. Because it is a pretty big question, and it is not something out of realms of what we are talking about, but it is not a part of what we are charged with at this particular point.

MR. MOORE: Charles.

MR. LEE: Yes, this includes a lot of the things I wanted to make. I just want to say that the process of kind of laying out for the NEJAC what is this whole thing, or what is this discussion all about is not an easy one. You know, and I think that you have to put this into a larger context. We have not yet really fully communicated that, I would say.

I totally agree with Richard that EPA has not done a very good job communicating what it has been doing in all different kinds of ways, both negative and positive. Because a lot of what EPA has done in terms of very positive things, have very positive impacts, on areas of environmental justice concerns are not known. And the reason why that is important is if you don't know it, you can't replicate it.

So, this EJSEAT tool came around and like I told the workgroup, it was originally -- the idea came is we need to tell a national story about what EPA is doing, and be able to have a tool to help provide a basis for doing priority setting in terms of allocation of resources to address areas with environmental justice issues. That is the core reason, right.

And, I think, part of this, as this was moving along in 2002 and 2003, this whole issue of screening identification definition all came around. So, when you got the EJSEAT tool, all these questions are there in various permutations. So, it is really not -- this goes to that question that Kathryn raised about, well, is it that we are asking you around a screening tool, or screening approach. Well, it is probably bigger than that. It is probably bigger than that.

I mean, that is just like the first step in terms of trying to get our hands around this. But it is really bigger than that. It is something that does screening, something that does consistent reporting, and something that does priority setting, and most importantly, for the purposes of allocation to resources to certain areas.

So, if you were to ask me what are we trying to do in terms of the Office of Environmental Justice, and the Environmental Justice Program at EPA, is to influence the allocation of resources. That is what integration of environmental justice is all about to us.

We want all these programs to actually begin to think in that way, and we want to be able to have some way by which we can measure it, by which it can be transparent, and, therefore, accountable.

So, when Lynn talked just a little bit before about incorporating environmental justice into the national program guidances -- that means the guidances of the media programs like the Office of Water, the Office of Air, the Office of Solid Waste, the big media programs -- that is really important. Because it begins to get that into that planning process.

When there was environmental justice priorities, and then the directive by Administrator Johnson in 2005 to have targets around these in the EPA Strategic Plan, that is really important. And that is important because it has to do with planning and budgets. When it comes down to it, commitments are only real if you are going to have resources devoted to something.

So, what we are trying to do is figure out a system by which we can measure this. We can direct this, and measure this, and report on it so that we can do more of this, so that we can be directed to do more of it.

So, you know, there was an interesting discussion that is going in OECA, and this has to do with this -- the question came about as a result of some of the recent

developments over the last year around OECA's enforcement actions and settlements. Because, I think, last year was a record year in terms of amount of penalties levied, the amounts of investments in terms of pollution reduction, or prevention, on equipment. And in terms of pounds of pollution reduced. And, I think, this year it is expected to be even more.

So, within all that, the question comes up, which is, so what are the EJ benefits of that? And we are trying to capture that. Because if we can capture the EJ benefits of all that work that is going on, then we can say we can push the agency to do more of it. So this is the background for this, and this is the background for the issue.

The discussions of approaches and tools, like EJSEAT, the vision of that, is to have some way to make this - - to environmental justice at EPA something that is results oriented and measurable. And, having influence on the resource allocation process at EPA.

That is the bigger vision. You know, we are going to say, what is one of the major goals of the Office of Environmental Justice is to help facilitate a process for incorporating environmental justice into that decision-making process on the level of planning and budgeting.

And, obviously, environmental justice to us is getting the resources to areas that need it the most. Purely

and simply. This one way to try to do that.

So, in the context of that, we know that we don't have anything -- you are never going to get to, or virtually never -- I mean, I don't know if you can ever say never, right -- but it is not going to be perfect. It is going to have all kinds of shortcomings. And the question then is, it would be really helpful if you provide advice to us on how to move forward. You know, because there is going to be choices to be made.

And assuming that what I just laid out is a goal that is supportable, then a lot of hard choices have to be made in terms of then what do you do. And also, creative thinking. Because what distresses me about this discussion is that it is either one thing or nothing. Because when we say a nationally consistent approach, we are not talking about one tool, or nothing, we are talking about maybe a combination of approaches that begins to get to a need for national consistent kind of measures. And then, local nuances and complexities. And done in a way that promotes certain types of behavior.

Now, there is nothing that prevents anybody from talking about it in any combination. So, those are the kind of things I -- the other question is, how do we get ensured that there is public input into the development process, and also --- with all different stakeholders? Because every

stakeholder on something like this is going to be affected. And that is a really important thing.

I just wanted to offer another perspective on this, which I think is very important. Recently, for us at EPA -- and you are going to hear Grant talk about this -- is that we have come up with -- we have been confronting this question for ever so long, which has to do with what are disproportionate impacts. This comes up in the permitting process, in the rule-making context.

Because the way to describe this would be, I think, most people at EPA want to address disproportionate impacts, they want to address environmental justice, but the rule writer says, okay, I want to address disproportionate impacts, what do they look like? And we never had an answer.

So we came up with a set of factors that begin to have helped. And I am not going to go into what they are, but one of the things we are going to do is we have engaged, and started to develop, work with Office of Research and Development in the Office of Children's Health around pulling together -- and, probably, a lot of other offices -- around pulling together a major symposium in the fall of 2009 to really kind of bring together and look at all the data, the analytical --- and data, the state-of-the-art, if you will, with respect to all the factors as far as how they impact minority, low-income populations.

I think what we are going to find is that within every factor there is going to be a robust set of information, a robust set of analytical ---, and that we are not going to be able to say, okay, let's create an algorithm out of this. We are going to have to go to a higher level of thinking, which is to be more understanding of what the problem is, and then bring the right kind of data and analysis to it.

So, I think that is one way to go. My sense is that this discussion around nationally consistent approaches, EJSEAT, others, and this other discussion around disproportionate impact factors and the science behind that are going to come together.

And the sooner they come together, I think, the better. And, I think, they will make each other allow for a much more creating thinking about how to move forward.

MR. MOORE: Okay, thank you, Charles. Let's see, we had two more people, John and then Patty.

MR. RIDGWAY: Thanks. I think context is important here as this process evolves -- and this surely was a charged topic when we first had the presentation last fall. The context being -- and, Charles, you hit on this a little bit -- I am assuming by no means that this is going to be the decision factor as to whether a community is an EJ community or not.

And, I think, it is important to remind everybody,

particularly, in the audience and elsewhere, that I learned a long time ago never to tell a community what their community definition is, and whether or not it is an EJ community.

There is a very important role there that I hope this will support and recognize, along with helping EPA go through its own national standards and considerations. But, I think, that context can't be overstated, if I am correct. And if I am not, you can address that.

Another point I want to make is I have a tendency to jump ahead, assuming we will go through this process collectively. Again, to Charles' point and others, in terms of allocating resources -- and, again, the priorities -- often, those come right down to the states in terms of enforcement and compliance.

We receive money from the federal agency to as delegated authorities or -- authorized or delegated -- to carry this out. So, I expect we will be seeing some comments from EPA at the state level to say, well, here are some areas that through these tools we think need attention.

Now, what are you states going to do to help address these? What are you going to do to help in the review of county growth management issues or discussions? Or how are you going to look at enforcement at the state level, or at the local level?

That kind of comprehensive consideration, I think,

is part of this. And, again, correct me if I am wrong, but by no means is this only going to apply to EPA and their direct resources and their staff. But what we at the states and at the local level need to look at and, hopefully, plan and coordinate around as well. I think that is a context that is also important.

And to wrap that up, in the Performance Partnership Agreements, I am assuming too that those are the actual contracts where the states work with EPA to decide where resources are going to go, what kind of measures we are going to be held accountable to, and what EPA is also going to do. It is a cooperative agreement in that regard, but it is important for that context, I think, to be part of this conversation so that everybody knows this is not just about what EPA is going to be doing, but how they are going to look to the states, and how they are going to see the states look to their local counterparts, as well as the communities to collectively look at these issues.

MR. MOORE: Thank you, John. Patty.

MS. SALKIN: Maybe one way to reconcile, I get Charles' message that we need a consistent indicator for now to base policy and decisions on today. But, wearing my hat as a researcher, I still am curious about getting other information that would be useful for the future, for tomorrow.

So, maybe something that the committee could

consider as you are going through, and as committee members raise certain kinds of issues or datasets that would be important, but maybe they are not available nationally today or centralize the federal level today, maybe we could sort of parking lot those issues, but record them someplace. So that either as an appendix to the report, or some creative way to work it in, that we sort of come up with a document that can be implemented today, but there is more work to be done tomorrow.

Because, I think, that EPA could use that to go to NIH and to go to other places and say, NEJAC said it would be really good if we could get this data. And it is not too hard to collect, when you think about it, and start those other inter-agency dialogues so that we could get that information in the future.

So I try to look for multiple bi-products of one work product. From one mission.

MR. LEE: I mean, one of the things is -- the question is, I think, really important. It might not be one that is easily answered in the immediate sense, is that one about, perhaps, the characteristic of a good tool or approach allows you to look at thing temporally. Because what we want to look at is progress. Whether or not we make progress.

You know, I think, there is a measure that -- I have talked with Grant a lot about this. I mean, what we want to

be able to show is whether or not we have made progress. I think that is what we should be held accountable for. If there is one thing that we are here to do is to make progress, right, and we need to be able to show it.

And whether or not we are able to show it is going to have a -- is going to say a lot about whether or not we are going to be able to secure more resources for us to do more of this. So, that is a big question within all these approaches, tools. Some thought to that would be really great.

MR. MOORE: Thank you, Charles. Sue.

MS. BRIGGUM: Yes, I was just thinking, kind of philosophically, after Charles' introduction that kind of took us back. And I was thinking, it has been a real long road together, a lot of us. And sometimes you start with like a simple concept and then the content follows along.

Because when you think when we started, I mean, the idea the NEJAC itself was like, what would the point of that be? And everyone came and they gave us all kinds of issues, and a number of governmental employees attended that meeting, and they were extremely hostile to the whole gathering.

But, in that time, you have seen like this total 180 where you have really robust participation by a number of governmental entities. It is not just EPA, but Interior, DOE, DOT. There are portions that are really serious and have built their programs.

So you kind of like started with these conversations and when we had the NEJAC meetings, how would you follow-up? And you needed kind of a simple structure to go with that. So you said, well, who can do it out in the regions? And then you saw a real staffing up, resources started following because it was embarrassing to have these meetings and people tell terrible stories. And is anybody going to respond and be helpful?

And you saw the flow of resources, I think, to some extent, to kind of build that structure. So, I see this as an other opportunity because if we have a structure, however rough it is, but it is the idea that we have got all of this so far, none of it goes away, but in addition, we need some way to respond to people who say, but your enforcement program ignores environmental justice. Some way to do that.

And then, I would think once that is out there, the states would say, you know, that is really interesting. I can do them one better, I have a better database. And then they would start building on it. You would also find things like the EJ analysis in the regulatory process have notoriously been awful. It is always two sentences. I don't know, every facility has to come up with two parts per million so how could there be disparate impact. End of story. Which, of course, solves nothing.

Well, this would be good because you will look at

this kind of approach and you will say, well, I will have to actually look at these prioritized communities. If it looks like there is a disparate impact, maybe we need to look further. So, I think, there will be a lot of content, which is why even though we have our limitations as a group -- and it is a hard process to do something so complicated, it seems well worth doing just for that momentum.

MR. MOORE: Eileen, closing comments.

MS. GAUNA: Wish us luck.

(Laughter)

MS. GAUNA: Also too, I mean, Patty, you have stressed it several times, and I think the workgroup is very mindful of this idea because of that tension of needing a nationally consistent approach, but also figuring out as we go along ways to make it user-friendly and complimentary with other approaches that can provide a better, a higher resolution with more specific datasets.

And we are definitely thinking along those lines, not necessarily of coming up with one screen approach that will zoom in with great resolution to all these communities, but an approach that could say, well, if you add these things onto it, this is what you get. But, if you need something on a more nationally level, a courser screen that omits this might be more appropriate. So we are looking at those issues as we go along.

MR. MOORE: Thank you, Eileen. Mustafa, closing comments.

MR. ALI: It is time.

(Laughter)

MR. MOORE: All right, great discussion. I wanted to just move us maybe into -- since we have been moving along on the agenda, a 15 minute break. I ask the Council members to please be back in 15 minutes so that we can proceed with the agenda, and also maybe we will have a real dinner if we get back on time. Maybe we will actually break and be able to use the time over the dinner to sit down.

You all know that sometimes we have been carrying our little bags back or boxes, or whatever. Before we break, I just wanted to bring to the Council's attention, and to our friends that have joined us here, that there is a brother that is very important to us in the environmental justice movement. Many of you know brother Quentin Pair from the Department of Justice that took ill several weeks ago.

I had the opportunity yesterday to visit with Quentin for a few minutes and I just wanted to let people know, and Marva and other, I think, have been great in terms of the e-mails, keeping people up on how Quentin has been doing. I did have the opportunity yesterday to visit with him for a few minutes and he sends his best to the Council, and sends his best to everyone that is present in this meeting

today.

Quentin is doing very, very well. I noticed yesterday that he was as stubborn and as obnoxious -- that is my brother, I can talk like that about him -- that we know our friend to be. But please, if we could keep Quentin in our prayers and send best wishes from all of us.

Thank you very much, very good session. And we will be back in 15 minutes. Thank you all.

(Whereupon, a brief recess was taken)

MR. MOORE: If we can, we are going to reconvene the meeting back to order. If someone can just help out there in the hallway, just give people a little bit of a word. I think that we have got quorum. I think, if I am correct, Victoria.

MS. ROBINSON: Yes, we do.

MR. MOORE: So, again, I just wanted to as we begin to re-energize the meeting and to get us back on track with the agenda. I hope that everyone had the opportunity to speak this morning in that session. I think that we did very well in terms of the comments. I know that the working group will take -- not only the working group, but the EPA, and OEJ, and others, will take under consideration some of the Council members made.

And as was mentioned, as we move to the next agenda item, this is a bit of a challenging moment, a challenging time. So, I know during the break, and at least having the

opportunity myself to speak with some people, there was some very good comments that were made, and we would highly encourage those of you that are participating in this meeting to continue to make your comments; not only around the agenda item this morning on the consistent EJ screening approaches, but many of the other issues that are coming up.

So, getting ourselves back in line with the agenda, I think the next agenda item was an update on the EPA Environmental Justice Achievement Awards. What I will say is we have done that -- our friend that has been guiding us through this process has joined us again. It is great to have you here, but there has been about seven or eight of us, I guess, Charles, that has been on the stakeholder group, made up of business and industry. There are several others of us that have been on the stakeholders panel around the achievement awards.

So, Charles, I don't know how we are going to proceed with this. I think if you are going to give us an update, if you would please, go ahead.

EPA Environmental Justice Achievement Awards Update

by Charles Lee, Designated Federal Officer

MR. LEE: Thank you, Richard. One thing before I forget, and we should do this later before we close for the day, and also in the morning, I have been told by the Administrator's office that the Administrator will be here at

10:00 tomorrow. To have everyone in their seats ready for him when he gets here, and that he will be here for 22 minutes, so that is all you have him for.

And that for the people in the audience, I would just encourage everybody to get here promptly at 9:00. We want to make sure that as many of you who want to hear him be there as possible.

So, I guess we will just go over this again to make sure we are all prepped for this. This is a status report around the EJ Achievement Awards. Also, I wanted to float by you and get your feedback on a concept for next year's how we want to pose this next year.

So, before I start, like Richard said, I wanted to recognize Richard and Sue Briggum, who are members of the Stakeholder Review Panel, and also Tim Fields, who is with Tetra-Tech, and he is the contractor who is staffing this.

I know that Richard stole my thunder, but I told Tim that -- Time wanted to have thunderous applause, so I just want to make sure everybody should give Tim a round of thunderous applause.

(Applause)

MR. FIELDS: Thank you very much.

MR. LEE: It is important that we give you the status report, because originally we had intended for the 2008 EJ Stakeholder Awards to be presented at this NEJAC meeting.

And the reason that it is not taking place is the because of the fact that the Administrator is coming to make a pretty important statement and the fact that there will be a memo that he has signed around environmental justice that he wants to talk about. So this kind of made us shift our plans.

The status of the EJ Achievement Awards -- and they are still under review, so we are not going to talk about any details -- but the status is that the EJ Achievement Award Review Panel did meet back in July. They have provided EPA with its recommendations around groups, organizations in the six stakeholder categories.

And those are community-based organizations; academia; business and industry; tribal indigenous groups; state and local government; and non-government/environmental organizations. I think that is it.

And our plans are to have these ready for presentation sometime in the fall. It is likely, even though we haven't made that decision completely yet, but our thinking is that that be done at the NEJAC meeting in the fall. Being that this a recommendation of the NEJAC, many of these awards are a recommendation of the NEJAC, and that this is one of the few forums in which there is a truly multi-stakeholder kind of grouping of people. So that is appropriate at that point to do that. So, having said that, I just wanted to make sure all of you knew about where we are with respect to those awards.

I wanted to float by you an idea for how we want to proceed. And we really want your feedback and, perhaps, even a small group of you kind of work with us to think through what the shape of this would be.

The fact that we have individual stakeholder awards, which was the recommendation of the NEJAC that EPA present excellence in environmental justice achievements awards in each individual stakeholder categories, does not come without a certain amount of sensitivities and difficulties as far as selection, as well as at some point in terms of presentation.

And that comes down to the fact that certain stakeholder categories, such as business and industry and state and local government, will always -- or, most likely will always -- have somebody who is at odds with something that they do.

And this is an issue that is a very difficult one to work with because, certainly, we really need to and we want to use this as a mechanism, or an instrument, for identifying best practices and promoting positive behavior. If you make it such that everybody -- it has to be totally perfect, there is no way that you are going to be able to -- if you make the standards so high that it has to be unreachable, then you really can't then. You are not really serving the purposes of what this program is trying to accomplish.

On the other hand, you know, it goes without saying

that if a group gets a national award, there is a forum for somebody who has a grievance or a case that they want to make to use that as a platform. And that, actually, then becomes something that can really turn a positive into a negative thing.

So we have been trying to work through this. So, in the process of talking about these issues, if occurred to us that, perhaps, we should rethink the way that this awards program is being structured. Rather than making it an individual stakeholder category awards, we make it a multi-stakeholder partnership award.

That, in essence, instead of individuals, or individual organizations being nominated or recommended by virtue of their individual organizations, is that it will be a grouping of organizations from different groups like community groups and a business, or a state government and a community group, or whatever combination.

And one of the things that that would do is to, obviously, really exemplify or embody one of the things that we are trying to -- a value we are trying to promote through these, which is collaboration and partnerships to address and solve issues in communities.

Another thing that would do it would make the award for an intrinsic partnership, which is very clearly defined and bracketed so that there is no question about what the

recognition is for. And so other issues which may or may not be important, or whatever, doesn't confuse the issue. It allows us to make a clear statement and a much more straightforward push towards achieving what our goals are.

MR. PRASAD: Can I interject? Are you suggesting partnership as a separate category, or are you having difficulty in filling a specific category? You are giving us, but I think I want a little more clarity in terms of is it the difficulty in getting something done in a particular category that you are proposing a partnership? Or, is it the partnership that you want to introduce as the new category?

MR. LEE: I didn't hear you. I mean, I am not sure what the question was.

MS. BRIGGUM: I think his question is whether we are going to add to the existing categories, a new one called partnerships, or are we going to substitute for the single entity awards to partnerships?

MR. LEE: It will be the latter. We would no longer have -- the idea, the proposal to you is that we will no longer have individual stakeholder category awards. But that there will be a number of awards. How many? To be determined. That are being submitted, or nominated, that are the basis of which are partnerships in their multi-stakeholder partnerships around a set of criteria that we get to determine.

So that is the idea, and that is the idea we wanted to float by you.

MR. PRASAD: And the reason is the competition, or the lack of competition?

MR. LEE: It has nothing to do with competition. It has to do with the issues that arise when you are trying to recognize certain types of organizations whereby there is always going to be some other issues in terms of either some kind of actions, or some kind of communities which may have some kind of grievance with the organization.

MR. PRASAD: Right, but that is the reason we always have a group of individuals who are considered about that part of it and make that kind of distinction. Whenever we select an awarded in a category, there will always be somebody who probably would not agree with that kind of a definition, or agree with that person, or that entity.

But that is the reason you have gone down the path of having a scoring system and some way of referencing that. And people having that multiple stakeholder group to make that kind of a judgment in terms of the value for that.

So, to put that as a substitution, and having gone so much thought into that why those categories were selected, I think, we would -- I mean, I think you want to give us a little more elaborate on the difficulties and the reasoning for this addition of modification.

MR. LEE: Well, the idea is out there and it is up for you to discuss.

MR. MOORE: See, I think just to remind the Council that this particular resolution in terms of the awards came, I think, a couple years ago, two years ago, from the NEJAC Council. And this is just there are several Council members that were apart of that NEJAC then. I think it was Shankar, Sue, maybe myself, we have Jode. So, in our discussions, drawing that subcommittee that we put together in order to do that -- I think, Eileen was on that during that time too.

Then we passed formally a resolution that awards achievement awards would be given to business and industry, community groups, tribal entities. There was a whole set of things.

But, I think one of the things that became clear for us during that time was that there was some work that we really needed to do in terms of taking a little step deeper and looking at, and tracking, and consulting with, quite frankly, the regions, and this kind of thing around the EJ awards.

So we took a first swing at it, we developed some additional criteria, and so on, and then we moved it to the next level. Because if you remember the first, I think it was, RFP that went out for business and industry. And we had some discussion, and for those to remind you, quite frankly, I

didn't feel very positive about that.

If you remember, I am just saying, not because -- if it would have been community, I would have said the same thing that I said in that meeting during that time. I think when the resolution was passed, that there was a set of awards and I just didn't feel at that point that it was to our benefit to just give one sector within those awards the award.

So, we took that information back, we had some discussions, and so on, and then it was decided then, based on a whole new set of criteria that we developed coming from our experiences, and so on, that the awards would be given in five or six -- I think Charles laid that out -- five or six different categories. Six or seven, or whatever.

So that stakeholder's group then met, we convened several things, several activities, and recommendations were made. And we had got, quite frankly, I think the Council should be aware, I can't remember, Victoria, the exact -- or, Charles, the exact number, but we received quite a few nominations for the awards. Quite a few of them.

MR. LEE: Over 60.

MR. MOORE: Yes, it was over 60 nominations that came in for those awards. So, as a stakeholder group we met, we did all that, we made some of our recommendations and so on. But, I think, partially from a learning experience, and I think one of them is through the EJ Small Grants, through the

CARE Grants, through the Collaborative Problem-Solving Grants, through a lot of things, what we have seen was that there was another element there under partnerships, or collaborations, that we felt that we were really missing. Missing an opportunity on.

Some of you as Council members, and then others here, know that there is some pretty vibrant collaborations going out there between EJ groups and states; EJ Groups and business and industry; academics and community groups. I mean, just back and forth.

So, one of the things that we talked about then was is this something, the next go around -- we are not talking about this go around, Charles.

MR. LEE: No, 2009.

MR. MOORE: 2009, could this be an interesting addition to the RFPs in 2009, particularly, encouraging groups at all levels, sectors at all levels, around this partnership collaboration piece. Because there is a lot to be -- like I say, without repeating it, there is a lot of extremely high-level of successes of different sectors coming together.

So, that is where I think in combinations -- and, Tim, correct me I am wrong too -- in our different discussions we said, can we add just one more element to it, which is really looking at partnerships and collaborations. So we have had several discussions around that, we approached Charles and

the leadership of OEJ, we got involved in some discussions and so on, and that is why it is coming back.

I don't think it is coming back in the sense totally of a recommendation from the Advisory Council -- Charles, if I am wrong -- it is coming back in the form of information sharing to the Council in the hopes that the Council would endorse that concept for 2009. Shankar.

MS. BRIGGUM: I think one of the problems is is that this was really just a matter of lousy craftsmanship initially when we did the initial RFP. Because as you remember, when we started out with this recommendation, the whole point was that we were trying to stimulate beyond compliance partnerships.

Okay. And we wanted to do it for each group. And some how in the RFP we got the each group, but we didn't get the partnership component. So, then when we looked at the applications, in all candor, there is just like a mess. Because everybody had a different view of what it was they should provide.

So some people did a wonderful job and had all kinds of references and partnerships, and other people had them, but they didn't realize they were supposed to say it. And you thought, well, we should find out if there was a partnership because that was kind of the point to begin with.

And it just made it very, very difficult to look at all the applications and to feel that you had very fully and

fairly appreciated the achievement because you didn't set it up in a way that people were supposed to do what the whole point of this was to begin was. Which was you are supposed to go beyond compliance and have partnerships that are productive and enhance environmental justice.

So, I can't pretend I was the one who thought of that, but when Charles mentioned this as a refinement for the next year, I realized that was what was missing and that would be the structure. And the structure would drive the applications then because you would immediately say, oh, I can't go in as a business applicant unless I have a community.

And the one that I have impacted who is saying, yes, what they are saying is true, the way they dealt with the community is innovative and worthy of recognition. And the same thing would be the case with the state, you would have the state coming in with the community.

And it just seemed to be a way to structure the application process to get to what the point had been to begin with, which isn't that someone says, oh, well, I am going to do this and this is award worthy of EJ and I don't need to talk to everybody about it because I know best. The whole point was to get this process going.

MR. PRASAD: So is it for this year that you are looking in each category to be a partnership?

MR. LEE: No, next year.

MR. PRASAD: I mean next round of whatever.

MR. LEE: This year is it --

MR. PRASAD: So one year the focus could be -- every year could be changing that way. Is that an option? Or is that also on the table as well? Whether this kind of a partnership is how you want to construct the future of these awards, or this partnership is the combination is you want to consider for the '09 release. For '10, could it be something else? I am just throwing out, is it the cumulative impact in relation to the EJ or is it --

MR. LEE: It could be around -- I think the key thing is that the specific substance of what the group would be awarded for may be around something like cumulative impacts or a particular issue in terms of any given community. But the nature of the awards will be for a collaboration around different stakeholder groups.

And I think the key to this, the key to understand this, and what we have learned from this is that it isn't that simple to try to build up a -- we are trying to make sure that the sensitivities are involved. When it comes to environmental justice that we are devising a process that builds on -- that avoids some of the negative ones, and builds on the positive ones.

So, if you were not to do that, then you put a lot of people, including members of the stakeholder panel in a

very untenable situation. And the way to avoid that would be to go this route, which is to recognize a ready -- the award would be for some existing partnership effort that may include all six stakeholder groups, or it may include two or three of them, or whatever. We haven't thought that out, but the idea here is to go to make a shift towards that direction.

MR. MOORE: Was that helpful, Shankar?

MR. PRASAD: It is certainly helpful, let me digest it a little more.

MR. MOORE: Great. Thank you. Did I see anyone else? Patty, did I see you there? Kathryn. Patty, I thought I saw your card up. Patty, and then Kathryn, and Omega.

MS. SALKIN: I just wanted to say I think it is a good idea, it is consistent with the philosophy that the Council has been talking about, and I am comfortable knowing that we are going to make the awards this year based on the call for nominations that was given.

And, I think, it is good that we can say we learned from the experience and that we listen to the committee, and listen to what you saw that was missing and how we could articulate what we might have hoped for a little bit better the next time. So I think it is entirely appropriate.

MR. MOORE: Kathryn.

MS. BROWN: I agree with Patty. Question. Does the award go to all members of that collaboration, or if it were

cooperation between industry and the community, industry gets it in the industry category, or it would go to all segments of that collaboration?

MR. LEE: Well, we haven't thought that far out yet, but the answer probably would be to everyone in that collaboration. I mean, it would be that group. And I will say this, one of the big issues that we have been trying to figure out, we have been thinking about as we are learning from the process of doing this, is how to communicate a set of values.

I mean, ultimately, what these awards are important for is communicating values. So, for example, how you do that is embodied in the way you do these awards. The very nature of these awards. So, you know, for example, the question has come up whether or not there should be more award per stakeholder category. And that is an interesting question because it turned out that there are a lot of really good ones in any number of categories.

And, certainly, among community groups, if you were to just do one, basically, the value you are communicating is competition. And what we are trying to say is that we need to have everyone involved in this in order to solve this kind of problem. So, that is why we didn't go that route, or we are not going to go that route.

The question for the panel isn't so much which is

the best, but what is it that makes for a meaningful award. What is the standard of excellence that makes for a meaningful award?

So, a lot of what we are talking about is not just -- it may seem trivial to say we do it this way or that way, but we are also trying to do it in such a way as to embody the -- communicating a message that has real value to it.

MR. MOORE: Omega.

MR. WILSON: I just want to kind of bounce back a few weeks ago to the Environmental Justice in America Conference at Howard University that one of our members, John Rosenthal, did such a fantastic job of helping facilitate and make work. And one of the things that was discussed there I heard many, many times in workshops and in the hallway, a lot of EJ groups were celebrating just the fact that they were able to get partners to the table.

From a community point-of-view, based on the size of industry, sometimes you are dealing with a magnitude, the problem you are dealing with with local governments or state governments, just getting them to the table to create equity -- at least at the table, it may not be financial, or leverage, or political, or otherwise, it is a huge accomplishment when some of these communities have been addressing issues for -- I would say years, but I am saying decades. People have been addressing these issues for decades.

I don't want to complicate the beauty pageant, but sometimes we all recognize that they were more than one temptation, and there were more than one set of temptations. So, in order to make it palatable when they presented the awards, they made more than one award. So it wasn't a fight or conflict on the stage.

But that is not my point. My point is that, I think, the process sometimes is awarded, and I think that is positive in collaboration and developing partnerships, and getting them to the table is a powerful part of what we are talking about. Because that is a huge goal and a huge compliment for a lot of us, speaking from the community side.

But also, moving to the implementation side and recognizing measurable outcomes that improve the EJ community in the partnership should also be a part of that. So I am not sure whether we can identify developing and maintaining, or developing and substantially developing an operative partnership as an incentive for developing partnerships between communities and between industry that have been butting heads, or running from each other, or chasing the -- or running away from the solution, or whatever the case may be in that community.

And then at one point recognize that now that partnership has moved to another stage and they are, actually, actively corrected or addressed those issues on the ground.

That may create an opportunity to encourage an incentive for developing those partnerships in the first place. Because a conflict resolution sometimes may be the incentive for the initiative of recognition of the partnership, but the conflict resolution does not produce the outcome.

So, the process is the conflict resolution. Encouraging that so we can sit down at the table, and maybe an award, to recognize that. And then the implementation of, actually, corrective action with this partnership or partners in that partnership can be something that might be considered down the road for that same original core group of partners at that same location.

MR. LEE: Well, my response to that would be that I wanted to -- and we don't have to do it now, but I wanted to open up, or pose a question of whether or not any number of you may wish to work with us in shaping the criteria for the nominations for the 2009 awards. And, certainly, I think we would agree that measurable results on the ground has got to be one of the major criteria.

I mean, from our point-of-view, what we have been saying for the last year is that what is the point of all this? What is the point of fair treatment and meaningful involvement if it doesn't -- unless it gets to be measurable results in impacted communities. Why do you want to have a collaboration if it is not to really solve some problems? So

that is the point.

I do think though that -- speaking of building off of an earlier point you made, Omega, that this is a -- what we are trying to do is to find a vehicle that can promote positive behavior. And what you said about the difficulties, or the challenges of community organizations to get business and industry into a partnership with them, if this sends the message and provides an incentive for that to happen, I think then that that is a really positive thing.

Particularly, if we are doing it in such a way as to avoid some of the other kind of issues that come up when you have these kinds of collaboration. And let's be real clear, we are not operating in this in terms of a zero sum game of everybody without a lot of -- what is that that Grant says about environmental justice? It is very combustible, right? Without all that going on.

So, trying to do this in such a way as to really be able to promote positive behavior in a way that avoids some of the negative kind of difficulties with respect to managing relationships as far as getting different groups together is what we are trying to accomplish. That is the point of us saying, maybe we should go this way.

MR. MOORE: Thank you, Charles. Kathryn and then Patty.

MS. BROWN: I would like to follow-up with Omega,

because I think he makes really powerful points. And maybe the category shouldn't be the different constituencies, but maybe the category should be sort of growth and collaborations; and collaborations at birth, and middle-age collaborations; and then those senior high-impact collaborations. So it recognizes at the ground communities that have been at odds with industry for decades, and the fact that they have come to the table really is award worthy.

Your PR would have to be so damn good at the beginning for that trickle-down effect to happen for that to change behaviors in a community that Omega is talking about. So, I guess I would say maybe think about changing the categories, and maybe there is a way to recognize sort of the different life, or the different ages of collaborations.

MR. MOORE: Patty.

MS. SALKIN: I am intrigued with the number of nominations that were received for this year. And, Charles, with your comment that it is too bad there is only one in each category because in some categories, there were multiple worthy potential honorees.

And, again, in thinking about what we can do with 60 nominations that were received, if we only have five or six awards, and you have got 30 outstanding nominations, maybe for the next time around when we do the request for nominations, a couple of things, we might have honorable mention. Where they

don't get the award at the meeting, but that there is some way to provide some recognition and the method to the madness there is in holding people up as roll models because we want others to emulate, and we want to provide the ideas to other people.

I view these nominations as kind of case studies that could be captured on the EPA website or in some publication. And if we put in the call for nominations, that any of the nominations sort of become the property of EPA and reserve the right to tell the story or publish information from the nomination packet.

Again, I think you are collecting information, I hate for it to just go in a file some place. If it is good and we should tell the story, we should figure out a way to get that information out beyond just the awards for the small number of people we can recognize each year.

MR. LEE: I apologize if I didn't make myself clear. We decided not to do just one. We decided to do a number. As yet undetermined. Because, you know, exactly what you said, Patty.

And the question then there becomes an even more difficult one, actually. Is then you might want to recognize all 60, at which point is a meaningless award, right. So what is that cut-off, that threshold that makes it for a meaningful award and promotes the kind of behavior? And, actually, makes

it something that sends a message about what is the standard of excellence that these awards should represent.

MS. SALKIN: So even if you are recognizing because you can't, and we can't recognize everybody, but if there is some really good ideas, and really good collaborations, or really good actions that are taking place, we should still be able to capture those and tell the story so that other people can follow that model, even if it didn't rise the level of getting the recognition that year because there were lots of deserving enterprises.

MR. MOORE: Chuck.

MR. BARLOW: Charles, I think that you started out by explaining that one reason that you believe this was a good idea was because if you give an award to certain industry members, there is going to be some vocal and often justified backlash or opposition because any industry member can do good things maybe in one state and not so good things in another state.

So, the way I see this, and one reason I think that this is a good idea, is that you are providing a check and a balance in a way between -- if it is an industry member or it is a state, or a community group, whatever the collaboration is, they are saying as a group, as I see it, that we have done something good here. We have created a good model here for this partnership, for this collaboration.

So I agree with all of that and, I think, it is a good idea. I do want to say I have been fortunate to work on just about every side of the environmental table that there is, and I want to say that I have been in some truly shocking meetings and events with the NGO side of the table where that check and balance needs to work both ways. There are some NGOs in this world that should never, ever get an award for anything. Just like there are some industries in this world that should never, ever get an award for anything.

So, we just need to make sure that, yes, that is exactly true, but that check and balance needs to work both ways. And it will, as I think, the way that you have laid it out.

MR. MOORE: Lang.

MR. MARSH: (Microphone not turned on)

MR. MOORE: Okay. Any others? Sue.

MS. BRIGGUM: Yes. Chuck, you raise a good issue. I guess one question is, is there kind of a core partnership that you would need to have? Would it be okay to have a partnership that was just NGO and state, for example, but excluded community and business? Or, is there a sense that there ought to be at least some diversity of views in terms of the partnerships? What is a partner? Is it the natural allies who go together against somebody else? Or, would it have to be people who didn't come to the issue with the same

perspective, manage to find success nevertheless?

MR. BARLOW: My thought about that would be that, I think, the quality of the project, and the quality of the application that you get could determine that. I mean, I think that there are a lot of different combinations. That is all I am saying. I think there are a lot of different combinations that might be worthy of an award. I can't really see a business-to-business collaboration fitting what we are talking about this award here. Maybe an NGO-to-NGO, if they are very different types though. I don't know.

MS. BRIGGUM: But that is just two entities in the same category.

MR. BARLOW: Yes. It is just that when you say -- some of our terms are so broad, is all I am saying. I mean, when you say state, you pretty much know what a state government is, but I guess I am just talking off the top of my head. I could possibly see some collaborations that were somewhat broader than others. I don't know, it probably would be safer if you laid down guidelines for what we mean by partnership, what we mean by collaboration, if that is the route we are going to go.

MR. MOORE: Greg.

MR. MELANSON: My thought on that topic is that if, as part of the application process, the partnership should be defined as a partnership that resulted in benefits to the

community. So, again, you are looking for achievements, on the ground achievements.

So it could involve two stakeholders that those take orders are not the community, but the community benefitted by that partnership. That that might be a way to sort of focus on something that is real and tangible that, again, even though the community might not be part of that partnership, they benefitted.

MS. BRIGGUM: Yes, but then wouldn't you worry that like your company, my company, and the offerer get together and we have an additional offer that season. And you say, well, this is an EJ award because it is culture enrichment, or whatever. I am just wondering if the spirit of this is benefit to the community, whether or not it makes sense to say -- and you should always have the community's response, because if it is the benefit for the community, they have to speak for themselves rather than your characterizing it for them. Since it wouldn't take that much to tell people, you know, you are going to have to talk to the community and they are going to have to express their support.

MR. MELANSON: Or the validity of the nomination is supported by endorsement by the community.

MR. MOORE: Shankar.

MR. PRASAD: Thanks for clarifying. Now I get it. I support the shift part of it, of the partnership. But, I

still think community must always be partner. We recognizing environmental justice awards, which is focused on community. It could --- partners, but the community must be like an NGO or industry, or something else. But, it should always be the community must be a part of it.

Then the question comes, in order to -- if you initiated this, probably in a few years time, is the time we can think of how to introduce the other issue of tangible benefits to the community. I think that is a next step, but one could add that, would get extra points, or something that if you want to include it in the first round, but that is another way to do it is that if you have established a partnership which is endorse by all the three groups, and also if it brings a benefit that is quantifiable, or validated, or whatever that might be, that might get actually a higher status of it.

MR. MOORE: John.

MS. BRIGGUM: Oh, I am sorry, just a response. Tim, you will know better, but there is at least implied tangible benefit to the community in the current criteria because the group would say, so what was better. Just talking was not considered enough, there had to be an actual benefit. So we might be able to accelerate that, Shankar, rather than wait.

MR. MOORE: Thank you, Sue. John.

MR. ROSENTHAL: My issue with the benefit would be

who would, actually, define the benefit. And if the community doesn't define it as a benefit, then it wouldn't necessarily be a benefit for the community.

The other issue with the partnership is can a person, or can an entity be absolutely disqualified for receiving an award, as was suggested a few minutes ago. And with these multi-national corporations we have now, and if somebody is doing some great stuff in Wilmington, North Carolina, but if they are doing something that is not so great in South Africa or Nigeria, would it be appropriate for us to honor them for what they are doing in Wilmington? And would that be sort of sanctioning the activities that they are doing somewhere else?

Or, even if it is not them, if it is their subsidiary? Or, if it is somebody that they are in partnership with? When we start looking at partnerships, I think you -- we have a whole lot of sensitivities to take a look at. And another issue is if EPA is litigating against somebody, or one of their subsidiaries, would that disqualify them from being considered?

MR. MOORE: Okay, let me just regroup here right quick. Patty.

MS. SALKIN: I guess I want to follow-up on John's comment because that is where my thought process was going at this point. Something for the community to consider, the

stakeholder group to consider for the next time around, because I don't know how detailed it was this time, are we looking at the nominations based upon the paper that was submitted and that is it?

Or, does the committee have an obligation to do some due diligence beyond what was just provided and is somebody engaging in, and should they engage in, background checks? And finding out if there are other voices in the community that were not heard because the nomination was submitted by those that were happy, but not by those that have another story to tell? That makes this very overwhelming if we have to go down that path. Which I am not suggesting we should or shouldn't, it is just a consideration.

MR. LEE: The current process has built into it a check-in with the community, check-in with the regions, and also screens, just generally pro forma in terms of enforcement and compliance records, and health and safety records.

MS. SALKIN: (Microphone not turned on)

MR. LEE: Exactly.

MR. HARPER: I think I would agree with what Patty said. Then that sort of gets us back to where we were before, one of the reasons why we didn't want to just give the awards out was because -- whether it was a business entity or what they wrote their own recommendation -- but it is like anything else, if you don't go back and check the credentials with the

community, you may not be able to vet it very well, but you are probably always going to have some folks in the community who aren't going to be very happy, as well as some folks in the community that may be very happy. So then how do you make a decision between the two, and how do you decide who is right or who is wrong?

MR. MOORE: Okay, now I think we have got all that great discussion. Jode. I am sorry, Jode, I was going to call on you anyway. I knew you were kind of quiet down there in that corner.

MS. HENNEKE: I wore myself out this morning, Richard. Texas has, and I am sure a number of the other states have as well, different kinds of environmental awards that they distribute. And in our state, and mainly around partnerships, there are some individual company awards, but it is a lot of partnerships as well.

Though lessons learned the hard way, we got much better at vetting those choices, those selected candidates before they were announced. And we even got to the point of doing just a shotgun effort out to other state agencies as well so that we didn't wind up selecting a candidate that was in big trouble with the department of transportation, or something was happening at the attorney general's office that out agency didn't know about. That kind of thing.

And I say that just -- we might want to think about

doing something like that. There are always limits to how far you can go in your carefulness, but at the same time, it only takes once to get bitten that you learn to be a whole lot more careful. So, certainly, at least I think we should do something with like DOJ.

MR. MOORE: Omega.

MR. WILSON: I just want to add this quick, quick point about the awards as far as collaboration is concerned. This is something we haven't, I don't think, discussed here, is the different kinds of collaboration. And sometimes those collaborations are people, or the partners -- any maybe you might not want to call them partners -- we can define them that way here for the sake of conversation -- are not all in love with each other, they are not singing Kum Bi Ya yet, even though you may be getting progress done.

But one of the collaborative themes here that I think is important for communities is recognizing the collaboration where we can bring partners, or entities, government business with community, that may have been adversarial in the past on the same stage. On the same page.

I mean, I think that is a powerful level of recognition that now we are publically recognizing we have a problem and we are working on it together. And, of course, there are going to be disparities if one partner is a government agency or industry, people on the industry side are

going to not totally fall in love with that, and people on the community side are not going to totally fall in love with that community agency, or organization, or individual presenting themselves publically.

But, I think, that is a part of the growth process and recognizing that so that when we are presenting environmental justice issues wherever they may be, or partnership issues wherever they may be, that we actually see those warm and friendly partnerships, or cordial if they are not -- whatever -- civil, can we get down to civil, on the same place at the same time that I can travel here with my mayor. We might not sit beside each other at that time, we will grow to sit beside each other on the same plane -- if not on the same plane, we come at this juncture to present and discuss the issues of what we have done locally at this venue together.

I think that is the outcome of making a partnership grow in a functional way. And they may not always start that way, but something in the award process -- and I am kind of adding the paragraph back to what we were talking about before, and what Kathryn mentioned, the growth of the partnership and where it goes, and how it creates an ongoing measurement of the improvement, I think, is a powerful thing.

Because a lot of what we have talked about, even though we have talked about how long it takes to address, or

get a partner in a functional way, takes decades. But we have just had somebody who was a contractor look at our environmental justice issue and say publically that, based on what he has seen and looked at over the last two years, it would take 40 years to address.

And where the money is going to come from, he doesn't know. Who is going to be involved in those partnerships, he doesn't know. Where the resources are going to come from, we don't know. But, to have that kind of agent that the city hired to speak to the community and the local government about how big the issue is, creates the opportunity to look at it from a stage and growth-by-growth process.

And, re-enforcing the incentive part, and the growth and development part, that you have got to get something done, and then you have got to get something else done, and something else done, communities just don't get healed all of a sudden and the growth process has to be there.

I don't think there is anything wrong with recognizing that, or involving that, or evolving this recognition process the same way communities and relationships grow with industry, and government, and community.

MR. MOORE: Okay, I think we made the rounds on that. I think there has been a lot of good suggestions, recommendations, and so on. I think we are about ready to break, if I am correct. I think we went through the day's

agenda. John, before we break, just had a couple of closing comments.

MR. RIDGWAY: Just logistically, can you summarize what is going to happen with these awards given, or not given out, at this mean? What are the next steps, or when are they going to be given out this first round?

MR. LEE: Like I said, in terms of the 2008 awards, they are in the process of being reviewed. And sometime in the fall, they will be ready for announcement. It is expected that we will use the NEJAC meeting in the fall as the venue for the presentation. So that is the 2008 awards.

With respect to this conversation, I guess Victoria will get in touch with all of you regarding anyone that has an interest in just kind of working with us in terms of shaping what the criteria will look like for next year. I mean, what we are really trying to do is really transform this award nomination process into one that has real meaning.

I mean, a lot of people use the word RFP with respect to the application. Well, that is because it is shaped like an RFP, but it is not a request for proposal. It is a request for a nomination for an award that has certain values and behaviors that you want to promote. Not a clinical exercise of doing a grant proposal.

So we are trying to think this through and this is part of the process of thinking it through.

MR. MOORE: All right, thank you, Charles. I think it is about 4:25, if I am correct. We are going to reconvene back at 6:30 for the public comment period. I think we have got several people that have signed up.

MS. ROBINSON: We have about two or three people, yes.

MR. MOORE: So, I would encourage the Council to please be back at 6:30 so we can proceed with public comment. I just wanted to, as we finish up this particular session, thank everyone that has been here all day, and with us, and so on. And encourage you to come back tomorrow for tomorrow's agenda.

Just to review that right quick, you see in your packets that we will reconvene back here in the morning at 9:00 a.m. and we have got a pretty tight agenda for the rest of the day tomorrow. I think it will be a little bit probably more difficult tomorrow than it was today in terms of keeping in tune with our agenda times. Although, we do want to be finished by 5:00.

And the last comments that were made, I wanted to -- and this is very dangerous when you do this, and I understand that -- but in the name of partnerships and collaborations, there is a person that joined us in a new capacity. I know many of you here know Arthur Ray and have known Arthur for many, many years, employees here at the U.S. Environmental

Protection Agency, and many of our colleagues, and so on, that are working in the region.

And Art has dedicated a good percentage of his life to working both for the government, for the EPA, working for business and industry, and many different functions as the Deputy Secretary for the Environment for the State of Maryland. And Art, it is great to have you back joining us in your new capacity with the District Department of the Environment, Office of Enforcement and Environmental Justice.

So, environmental justice continues to be live and well within the district department and it is great to have you back with us, Art, in this capacity you are in. So, we continue to look forward to working together.

So, I just wanted to close this session with that and have a very good evening. For those of you that will be rejoining us, we will convene back at 6:30. Thank you very much.

(Whereupon, at 4:30 p.m. the meeting was adjourned to reconvene at 6:30 p.m.)

Public Comment Session

(6:46 p.m.)

MR. MOORE: We are going to reconvene this public comment section -- well, not reconvene, we are actually starting the public comment session.

I wanted to thank everyone for being on time, that was great. And for those of you that joined us again this evening, welcome. So we are going to go right into public comment.

I think many of you have been, I know, in terms of the Council, have been through the public comment sessions before. And what we will do, I think we have two people -- well, one signed up. Two.

MS. ROBINSON: We have two signed up, one actually in person, and the other one left a statement that I will go ahead and read.

MR. MOORE: Okay. So, we know, generally, what is happening here. I mean, public comment is a very, very important time for the Council to hear comments, basically, from our participants in regards to some of the issues that they are going to testify. We have got five minutes, and Victoria is going to help me out with the cards. Just ask that everyone be intentional, and deliberate, and disciplined so that we can get through this process, and at the same time,

hear the very important information that the individuals are going to share with us.

So, I think we will go with Michael first, Lythcott. And Michael, if you would join us here at the table. Welcome, it has been a little while, so it is great to see you again. Please, introduce yourself, the organization you are representing, the issue that you are testifying about, and we will proceed from there, Michael.

Comments

by Michael Lythcott

MR. LYTHCOTT: Thank you. My name is Michael Lythcott. I am a Senior Associate with E Squared, a consulting firm in Charlottesville, Virginia. I thought that I would take a little time just to brief the NEJAC on a new contract that EPA has that our company won in terms of its relationship to environmental justice.

As many of you may know, EPA had a former program called TASK, which organized several university consortia to provide technical assistance to communities that were on the fence line of Superfund, Brownfields, and some other sites. The program wasn't working well, EPA redesigned the program. Part of the problem with the program was what they called fit between the technical experts that were coming, and the communities that they were supposed to be serving.

So, into this contract, EPA built some very strong

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language about cultural competence and fit with the community in terms of being able to relate technical data to a community, but understand it within the cultural context of that community.

One of the things that we did is we did a strong reach out to technical experts across the country from Indian Land, among the Hispanic community, African-American community, Asian-American community. We built the database now of technical experts, and when the technical experts go on to get into our database, they not only are able to upload their resumes and their qualifications, but they also have a chance to answer specific questions about cultural competence.

What communities have you worked in, what has your experience been, what is your cultural fluency. Right now, we are in the first year of the contract and we have about five or six programs going. We are expecting a lot more. I think a couple of them in Region 9, we are dealing with Hispanic communities. We are expecting our technical directions to come in as the contract progresses and we are initially getting very, very favorable results.

I think often technical experts don't look at how one community might view either a contaminant or a proposed solution, or a proposed end-use for the remediated land in terms of the impact on the community in terms of their, I would say, their cultural lifestyle. So I just wanted to

brief the NEJAC and let you know that that program is up and running.

We are in our first year. The procedure for the program is that communities would contact their regional EPA. We offer assistance in the areas of just information assistance, translating technical documents into a language that most people can hear, community education workshops, it might be health education, it might be exposure pathways.

We are empowered to bring in technical experts, whatever technical expertise we do not have in-house, we through the contract can bring in other technical experts to serve the needs of the communities.

One of the things that E Squared is committed to, if we find a situation where we are working with the technical expert and through our continuous improvement process find out that they are not relating well to the community, we have in place workshops that help the technical experts. If they don't come in with the cultural competence, we have workshops in place to help them incorporate that dimension into the technical work that they do.

We also are responsible for doing the Superfund Job Training Initiative, which is very similar to the program which are currently funded out of NIEHS, variously called Minority Brownfields Workers Training Programs, or Brownfields Training Worker Programs. Also, help communities working with

a lot of community advisory groups, the CAGs, design a technical assistance plan.

So, another words, if here is this potential resource that EPA is offering to the community, a lot of communities don't know how to take advantage of it. So, they built into the contract a technical direction where we can actually go in and help the communities understand what they can get out of the TASK Program.

I thought you wanted to know that. I thought you would also be pleased to know that the impact that the Office of Environmental Justice and, obviously, NEJAC is having on policy and new program development in EPA. You may have already been briefed about this program, and if you have, I apologize. But I did want to take the time to let you know.

If you have any questions in the last few seconds, I would be happy to answer them.

MR. MOORE: We are going to open it up for questions, but I just had a question right quick, Michael. So, this is a Region 9 --

MR. LYTHCOTT: No, it is all over the country.

MR. MOORE: So it is all over the country.

MR. LYTHCOTT: Yes. I am the work assignment manager for Region 1, 2, 3 and 4, and we have work assignment managers that cover each of the various regions. So, instead of their being consortia all around the country, they let one

national contract, and E Squared is the prime contractor.

MR. MOORE: Okay, so in reality, it covers every region, even folks in Arizona, Colorado, all throughout the country can ask for this assistance.

MR. LYTHCOTT: Absolutely.

MR. MOORE: Great. Thank you. Shankar.

MR. PRASAD: Thank you very much for coming to the NEJAC and let us know about this program. We really appreciate that. Technical help is one of the major things that the communities need. I am happy that you are going there.

Can you tell me a little more about what is your duration of the contract and the type of expertise E Squared has in-house, or is it something that you subcontract again to bring the experts, in terms of the mechanics of how these things would work?

MR. LYTHCOTT: Well, the mechanics of what happens is that the community speaks with the regional task WAM in the regional EPA office. They then together develop what is called a Technical Directive. So the Technical Directive then comes to E Squared, we look in-house to see whether or not we have the technical expertise and the right fit for a person to go and deliver technical assistance to that community.

If not, then we go into our database of technical experts. So, there really is -- the contract specs spell out

a range and type of technical assistance that they will provide, and there are certain things we can't do. Like, for example, we can't do original research, but we can certainly evaluate original research that was presented to the community and give them an outside opinion of what has happened.

Although we are an EPA contractor, the language of the contract, as well as the information, is such that we are allowed to be as independent as possible. A lot of what the communities are looking for is an outside opinion. An outside expert to give an opinion. And then that is what the purpose of the contract is.

MR. PRASAD: And the duration of the contract?

MR. LYTHCOTT: It is a five-year contract. We are beginning our second year. We have under utilized -- because it is a brand new program, and it had to get integrated into the regions, we slightly under utilized the first years' allocations, but that will be pushed forward into the second year.

MR. PRASAD: Should it always have an EPA --- angle in the technical assistance, or can people who have an issue with the local regulation, or the delegated authority of the EPA state acting on an issue on behalf of EPA? Can they still approach you?

MR. LYTHCOTT: The communities do not approach us directly initially. If they do, we will speak with them

briefly and refer them to the regional person with whom -- technically, until we get a directive from the region or from Washington to burn hours, if you will, engaging with the community, that we try to keep that to an absolute minimum.

And we don't like to make any promises about what we can do until we actually see what the language in the technical directive is going to be, because some issues could be sensitive and it could be worded differently.

MR. PRASAD: Thank you.

MR. LYTHCOTT: You are welcome.

MR. MOORE: John.

MR. RIDGWAY: Michael, it is good to see you.

Thanks for the information. Twice you said, well, these people are to contact the region. Who at the region? Is it the EJ person, is it dependent on the nature of the contract is about? Who do they go to at the regions when they are looking for your services?

MR. LYTHCOTT: Right now, if I look at the regional structures for TOSC, there are a slight mix. The TOSC Program left. Some of the regional staff who were managing the TOSC Program are no longer with the region. So, some of the regions are now looking at how they want to -- with the mix of their community involvement public affairs people, along with the EJ people, or one group versus the other.

So, I would say in each of the nine regions, we have

almost got a different configuration all together. In the regions that are heavily burdened, their CIC people who are already heavily burdened. Some of the WAM responsibilities are being managed out of Washington. So that we are in the first year of a contract that is brand new to the regions, so headquarters, as I understand it, is now in the process of helping each of the regions develop the infrastructure to get the contract rolling on the ground.

MR. RIDGWAY: (Microphone not turned on)

MR. LYTHCOTT: Community involvement coordinators. They are, in some regions, they come out of the public affairs division, in some regions they come out of the department of community involvement. Usually, there is a CIC attached to each remedial team and their job in each CERCLA and RCRA site is to help bridge whatever gaps might exist between the EPA staffs and the communities that they are serving.

MR. MOORE: Chuck.

MR. BARLOW: Is this program tied only to CERCLA Program, or CERCLA sites, or is it broader than that? CERCLA, RCRA, any other remediation sites?

MR. LYTHCOTT: Interesting that you would ask. That discussion is going on right now. I know for sure it is MPL CERCLA sites, it may also be RCRA sites, but it depends on the kind of technical assistance they ask for. Under the TAB Program, it can also be applied to Brownfields sites but,

again, each type of site comes with its own unique characteristics. And since it is new, and we haven't worked all the bugs out -- but I can tell you that that discussion is going on right now.

MR. MOORE: Sue.

MS. BRIGGUM: Hey Michael. It would be helpful to learn a little bit more about the other people that work with you. We know you, and all of the work you have done. And it speaks exceedingly well to EJ that they hired you. You will appreciate where I am coming from, when I have heard so many times the concerns that consultants get these kinds of positions, and people who have worked long and hard in the field and have a lot of EJ technical expertise don't have the opportunity to have these EPA contracts, which they think that they are well qualified for.

So, it would be helpful to just hear your reaction. You have heard this many times before, and in terms of the sorts of people that do the work.

MR. LYTHCOTT: Yes, the folks -- we, actually, have people all around the country, but the main office is in Charlottesville. I am, actually, working for them as a part-time employee. When the RFP came out, apparently, they got their heads together and they read the RFP and they looked at where they were lacking. They contacted me and asked me would I help them develop the proposal.

So, I had a significant opportunity to influence -- I wrote several sections of the proposal myself. I have also since that time done two trainings with the E Squared staff around the issues of community involvement and the interface of technical expertise and culture.

I believe they currently have a land reuse contract with EPA. And I wish I knew more about the rest of the corporation. We are having our summer meeting in a couple of weeks in Charlottesville, and I will know more then. I think you know me, and I would not subscribe to, or put my reputation at risk for the kind of window dressing that we have all seen all too often.

I got to tell you, they are treating me very well, that they considered me to be, I guess, some kind of a guru for them in the field of environmental justice and they are willing to learn. They understand where the world is going, and E Squared, certainly, wants to be an important part of that.

MR. MOORE: Omega.

MR. WILSON: Good to see you Michael.

MR. LYTHCOTT: Thank you, brother.

MR. WILSON: Amen. I just want to ask a couple questions relative to the communities you are dealing with. And where you are taking them. At what point are you taking them. Are you involving, are you working with communities, or

just creating a structure? Or are you helping them create a structure, or do they have to be 501(c)(3)?

How organized might they be in your participation -- formal participation? And if they are not at where you think they could be, or should be, to move them through the process you are dealing with, what do you do with them? Or, what kind of recommendations do you make? Is that a part of your template?

MR. LYTHCOTT: Yes. Really, it is an interesting question because it sort of varies in all of the projects. I will give you a couple of examples. The BoRit Superfund site is an asbestos site in Ambler, Pennsylvania. It has a community advisory group, there are three municipalities involved. Everybody has a different idea of what they want the land to be used for afterwards.

There is an African-American community involved that lives right on the fence-line of the Superfund site that has not had as much of a voice as it might like to have had. So, we came in there without any recommendation about what they should do, and also since they are a young CAG, we came in and did what is called a needs assessment.

What we found there is that the first thing that that CAG needs is some more expertise in facilitation and group process. Because they do not have an external facilitator any more and the dynamics in the CAG are such that

they are going to need some real good help and wisdom to stay together. And while we can't be the facilitator, we can provide workshops on facilitation.

We then made a recommendation of the kinds of -- and I think there were probably eight different community organizations as a part of the CAG -- the kind of things that they have to do in order to value and honor the voices of all the different stakeholder sets at the table.

We don't make a selection of who we are going to work with, and we don't recommend to EPA who we think they need to work with. The communities themselves -- and I am sure that headquarters and, perhaps, the regions also, have some criteria.

Let me say this, I think that in a program in its first year, everybody wants to see it be a success. So, if I look at my work in Region 1, which is at the Raymark Superfund site in Stratford, Connecticut, they are very cautiously sort of giving us little bite-size pieces of work to do for the City of Stratford and the health director of Stratford before they do a second round of removals at the asbestos site there.

Because they want to make sure that, first of all, we are a new entity to them, that we are delivering what we say we can deliver, that we are spending funds responsibly, and that we can access the level of technical assistance that they have offered to the community.

So, in many cases, in some cases, we are told, well, as soon as we get this technical directive done, there may be five coming right after it, but we just want to see how it shakes out here. I don't know if that answers your question.

I am not sure whether or not people have to be a 501(c)(3). In Ambler, our client is a CAG, Community Advisory Group. In Stratford, it is the City of Stratford, Connecticut. In Saratoga Springs, New York, it is the Hudson River Superfund site, PCB CAG. General Electric proposed a Phase II delineation report of where they want to dredge. And when you looked at their plan next to what was required in the ROD, GE somehow was saying that they were going to be able to pull out more PCBs with less dredging.

The CAG was very skeptical. We then reviewed the report and made some judgments about the soundness of the science there and, basically, told the CAG that, in fact, this was sound science what they were doing.

So it really varies and, I think, if you are interested in that, I can certainly get back to you with more detailed information, and I am certain the EPA would also do that as well. As I say, it is brand new, it is right out of the box, but I wanted you guys to know about it. Thank you.

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

(No response)

MR. MOORE: Well, thank you very much, Michael. It is great seeing you again. Keep up the good work.

MR. LYTHCOTT: It is great to see you guys too. Thank you and good luck.

MR. MOORE: We have got, I think, one more person, Victoria. Before we do that, I just wanted to mention something. Some thoughts have been crossing my mind. We have got an excellent, excellent Council members' group of employees. EPA employees, EJ coordinators from the different regions, and so on.

I mean, people that really joined the agency because they believe in the mission statement of the Environmental Protection Agency. And they are committed, very highly committed to many of the communities throughout the country.

So I wanted to compliment you all for just a terrific -- I have had the honor, you could say, throughout these years of pretty much traveling to every region within the structures of the U.S. EPA. And I just wanted to take this moment to compliment you, and to congratulate you on the terrific, terrific work that all of you are doing, and how important that means, not only to this advisory council, but to the many grassroots groups that you folks have been working with throughout these years.

So I just wanted to give an applause, if we can, to the terrific work of our staff from the U.S. EPA.

(Applause)

MR. MOORE: Now you know that we have also -- it is very, very dangerous to do this. You know, the southwestern part of the United States where I come from, Albuquerque, New Mexico, actually, within the organization I work with covers three regional offices within the southwest. Region 6, based in Dallas, Texas; Region 8, based in Denver, Colorado; and Region 9, based in San Francisco, California.

The network, the states that our network works in is Colorado, New Mexico, Arizona, Nevada, Texas, California, and all the northern border states in the country of Mexico. So, those are the three states, when we break down -- those are the three regions, when we break down our structure within those states. And we have had a very good working relationship, both with the leadership of those regions and, in particular, with the staff, the Office of Environmental Justice staff, the team members, and so on.

So I did want to introduce, if I can. One of our Deputy Administrators will be joining us tomorrow from Region 9. But, I wanted to introduce Shirley Augerson, who heads the team out of Region 6. And, again, congratulate you, Shirley, and the EJ team for a terrific job.

(Applause)

MR. MOORE: So I don't want to get beat up in the hallway, okay? Because I know a lot of you. We just came out

of Region 2 in doing some work, so we know a lot of you and the work that you are doing.

So our next speaker will be Wynetta(sic) Fisher.

Excuse me.

MS. ROBINSON: Wynecta.

MR. MOORE: Wynecta, sorry my sister. Wynecta Fisher from the City of New Orleans, the Office of Environmental Affairs. Welcome to this NEJAC Council meeting.

Comments

by Wynecta Fisher

MS. FISHER: Thank you. First, I would like to apologize for the handwritten notes, I actually had my bag confiscated when I was at the airport because I actually brought some of the product that I am referring to and it had my notes in there. So I wrote this on the Metro.

But, actually, I know when it comes to EJ issues in the EJ community, the focus has always been on the plant, the big bad corporation, what the plant has done. But I believe there is a sleeping giant, and it is called environmental consumerism. It is not being monitored really, I don't think, by anyone. It is something that people look at, use everyday, but it is not anything that we have put a warning label to. And I will explain a little bit of that.

So I only have two concerns. My first one is products. There is a lot of products in urban discount chain

stores. If you go into any urban area, you will find these discount chain stores.

The first thing you will notice is when you walk -- she is shaking her head, Ms. Robinson -- the first thing you will notice is when you walk into the clothing section, there is a very distinct chemical smell coming from the clothing. You can wash it several times, but that chemical smell is still there. I don't know what it is, I am not a scientist, however, I am asking that somebody look into this because people are buying the clothing in droves; especially, for children. Because we don't know what this impact is, it is not being monitored because, as I said, we are focusing on the companies, the big plants, and the things that they left behind.

The other thing that I wanted to bring was, actually, some bubble bath products. It was really frightening because on the back of the bubble bath product it said, prolonged use will have negative health effects and possibly a urinary tract infection. So then I went to other stores to look on the back of their bubble bath products and it didn't have that.

And what concerned me is that prolonged means different things to different people. Prolonged to a working mother of four, that catches six buses and finally has some quiet time could be an hour. Prolonged to somebody else can

be five minutes. So I think that somehow, some way, we need to begin to demand that people use time, minutes, seconds, hours, instead of the word prolonged, because that is subjective.

And if you look at the very bottom, one other thing I have, which is really the concern of mine is thrift stores. A lot of people believe in thrift stores as a way of recycling. So, instead of me disposing of a recalled toy properly, you know, I'll take it to the thrift store. And then the thrift store will take care of it. Well, the person at the thrift store might not know and then that product is being bought, cleaned up, given to someone more than likely in an EJ community.

So, somehow, someday, we have got to be able to monitor that. I am just calling this environmental consumerism. There probably is some kind of name out there that you guys have and I am just not aware of it.

If you look on the sheet of paper, I am asking that the EJ experts and scientists really look into that clothing and somehow find out what exactly is in it and what are the levels of concentration in chemicals. And request that manufacturers begin to use time instead of subjective words.

Also, the second thing is green. I don't like the word green because green is a color. But everything is green now, and the green labels are fixed to everything. The

interesting thing is that when you talk to most people, the interest of green is that I am doing something good, but also that I can mix things together.

One thing that some people realize is that you can't put ammonia with Lysol. But, if it is green, I can mix it. Probably not. But because that green label is there, people automatically assume that it is safe. So I think we have to somehow remove the word green, or somehow educate the population.

I had two articles with me from Scotts. Scotts has recalled some of their fertilizer. And it was placed in the newspaper, but we are in the electronic age, how many people read the newspaper? And if I am a consumer, and I purchase this product, I am not going to go on Scotts website to see if it has been recalled. And somehow, someday, I am just hoping that you guys can do something about this.

And then finally, there is really no regulation of the green industry. Anything can be green. What frightens me the most is the CFL light bulbs. We all know CFL light bulbs contain mercury, but they are being marketed as use a lightbulb, you save energy. Not just saving energy, but you are going to save money. So the EJ community is hearing money.

My concern is that if the bulb is broken, and I have had some of those calls come into my office, you explain to

people how they should have cleaned it up, to them, a hot dog is a hot dog. A lightbulb is a lightbulb. I put it in, it gives me light. This actually reduces my utility bill. I clean it up the same way I clean up the other one.

But, unfortunately, there is no clean up program to clean up the inside of someone's home if that contamination spreads. And we don't know because to most people, it is just a lightbulb and I broke it.

Interesting enough, I actually contacted one of the manufacturers and I said, hey, you know, do you think maybe just as a goodwill, this is just a suggestion, maybe you guys could put some type of big lettering that says, contains mercury, should be cleaned up in a certain way? And they are like, well, it is written on the package. But once again, to most consumers, a hot dog is a hot dog, a lightbulb is a lightbulb. I put it in, it gives me light.

So, that is really all I have to say. I just think it would be nice if you guys could begin to look at that, because there is so much environmental justice that I think is going to happen with this green industry because no one is defining it.

MR. MOORE: Great. Thank you. You know, one of the interesting things, because it has been conferences, there has been different activities throughout the last several years, really looking at green goods, you can say, green jobs, and

that kind of thing. You know, I have been involved in a series of conference calls over the last several months because there really hasn't been, or if it has been, it hasn't been published that much, a definition on really what a green job is, actually.

And how does the environmental justice movement define green jobs, and this kind of thing. So there is a lot of activity. I know that we have a working group now that is going to be taking up some of these issues, and be reporting back tomorrow. So, Council members, any comments or questions? Omega.

MR. WILSON: Yes. Very, very glad to see you here.

MS. FISHER: Thank you.

MR. WILSON: I am sorry your information got confiscated, but I think you are doing a pretty good job without it.

I wanted to ask a question relative to service industries. You may have thought about this already, but most of the things you talked about so far are finished products. And, of course, we know that there are some people who are allergic to the chemicals that are used to dry clean clothes, and I happen to be one of them.

And, of course, people have services done in their homes, if they are new homes or refurbished homes, or repaired homes, the painting process, the exposure that may be there in

the construction process that children should not have access to is something that a lot of people aren't aware of.

The building product, whether it is chemically treated wood that becomes a sawdust, or gypsum that may become a powder that becomes a hazard. And those are related to the service industry where you are hiring somebody to actually come in and do something for you, whether it is from scratch, or a repair, or a retrofit, or something of that sort. I didn't know whether or not that is a part of what you are talking about, or is that something you are considering or not.

MS. FISHER: Actually, I didn't put it down here, but as I said, I was trying to write this on the train. That is a small component of it. And my one concern was I cannot find any research. There are a couple of different organizations who do not have an EJ component that now have building standards. And the building standards focus on conservation mostly.

For example, it is better to use a bamboo floor than a wood floor, you get more points. And that is because a bamboo tree grows faster, but are there any negative health impacts? I don't know. I haven't seen any research. I don't know. I don't know if anyone is asking the question.

So, what you are talking about, that was also something I had put down because we are -- are we really

trading something equal, something better? I don't know, I can't find that information. And I am also concerned that we have these new standards out there by different organizations, but I don't know that there is really someone from the EJ community that is a part of these standards. That has actually been a part of developing the standards.

MR. WILSON: Okay. Okay.

MS. FISHER: You know, you have got a lot of green building home standards out there, if you just Google search them there are tons of them.

MR. WILSON: Well, just as a quick follow-up, and I raise the question because in the case of New Orleans, and Katrina, and the rebuilding, and the restoration, and all the kinds of things that are going into New Orleans, not old stock, because a lot of the housing and things that were there were historic, and some of them were decades old. So you are bringing in a lot of new materials.

And it very well could be a very good litmus test or a model for building supplies and other kinds of things that are consumer -- on a small scale and large scale. I am not trying to put a burden on you, I am just raising the question, because New Orleans has an opportunity, with some partners, of course, to look at some things that some other major cities may not want to, or may not need to look at because of what has happened to New Orleans.

MS. FISHER: Right. And we would need some partners.

MR. WILSON: The FEMA trailers, and that is a new product, but the hazard is there. And a lot of other new things may not necessarily be healthy. That is the reason I raise that question, based on what New Orleans is going through, and is expected to go through for decades. There will be a lot of new things, a lot of new fixes that are chemical, that are synthetic, that are treatments, that are insecticides, or exterminations for insects, pests, animals, other kinds of things in communities that are overgrown that are going to be, hopefully, cleaned up at some point.

You know, how do you extract these things from the community and make them livable again without actually harming the people who are going to be living there.

MS. FISHER: I am sorry to interrupt you, I apologize for that. But the one problem that we are having, and it is somewhat of a double-edge sword, because this really would be a great opportunity to find that out. But because a lot of our citizens have just been surveyed and tested, and tested and surveyed again, and some of them are a little tired. They want it done.

But what is frightening is that because now a lot of them are in a financial pinch, they are sometimes looking at substandard products. And they just came out of that FEMA

trailer, and they are willing to purchase pressed wood because they need a table to eat off of.

So, I don't know what the answer is, and that is why I am here, I am looking for some suggestions, some solutions. I am definitely looking for some partners. Anything, I am all ears and open eyes. I just wanted you guys to know about these concerns. Thank you for your comments.

MR. MOORE: Could you please reintroduce yourself and say where you are from for the record. I don't think we got it on the record.

MS. FISHER: Oh, I am sorry. My name is Wynecta Fisher, I am the Director of the Mayor's Office of Environmental Affairs, which is now part of the Office of Recovery and Development Administration, City of New Orleans.

MR. MOORE: Great, thank you. John.

MR. RIDGWAY: Boy, I can relate to what you are talking about. I think it crosses all income and geographic areas around the world, as well as in the U.S.

I would like to just add to what we have heard, that I think it is a national issue and there is one program I know of that is going on, though I don't know the details, called Design for the Environment. It is an EPA project where they have been looking at some manufacturing activities to provide a label that goes on the products that come out of these particular manufacturers that is just that.

It is kind of like a sticker like EnergyStar kind of thing. Where the concept is that people aren't expected to know all the details of the ingredients, but there is a sense that there is an assurance that it has been designed in an environmentally improved way as a safer alternative.

And in our State of Washington, we are also looking at doing this regarding toxic toys. We just passed the first bill in the country, particularly, regarding lead and other things. Already manufacturers have been flown in from Mattel and Hasbro and other places trying to shut us down from doing this, saying we need to have a national standard. If each state comes up with their own rules, it will never fly. They will do everything they can to stop it. Of course, this is not a surprise message, we expect this.

But I would agree that to the extent that NEJAC may want to make recommendations to EPA to support this kind of research, keeping in mind that there are some 80,000 chemicals out there, and then you can multiply the number of products, many which are made outside the country that we have absolutely no control over, no labeling requirements. It is a big problem.

I am like you, I don't know what the solutions are, but I think the more that we can look for opportunities to consolidate these kinds of concerns and come up with some national efforts, either in labeling, or labeling just

education about what to look for. There are key words in some label, but I also think it is -- my first question was going to be, well, is this just an EJ issue or is it broader?

And I would say the answer is yes to both. It does impact the people with lower purchasing capabilities because they are going to go for these cheaper products that often come out of foreign countries.

MS. FISHER: And that was the first thing that concerned me was there was a big push in the New Orleans area to -- it's called the Louisiana Two-Step, and they are saying exercise more and eat five servings of fruits and vegetables. So, in some of the urban retail chain stores, they will have a little five servings of fruits and vegetables. They just don't sell fresh fruit.

Well, when I looked at a lot of the fruit, it is inspected and approved by countries that are not the U.S. They are Latin American countries, they are other countries, and I am just wondering do they have the standards as we have. But, in that person's mind, it is in the store, the store is a reputable store, so it should be okay for me to consume.

My concern is that people are thinking that they are doing this and they are helping themselves, and we don't know that they are. We don't know that they are harming themselves. They could possibly be harming themselves.

MR. RIDGWAY: That is right.

MS. FISHER: So, although it is not a plant that is sitting on their fence, it is coming in their house everyday.

MR. RIDGWAY: That is it, thank you.

MR. MOORE: Sue.

MS. BRIGGUM: Thank you. I think you have given us something to think about for like the next couple of years, if not more, because it is really timely with -- I am not on, but I read the charge for the kind of green business initiative. And that was kind of focused on, I thought, the importance of working within the existing system and making sure that you are incentivizing being beyond compliance.

But, you raise a really important point with regard to do we have to stop for a minute and think about the current regulatory system as a NEJAC. And, in terms of not everything can be beyond compliance without regulatory controls.

You mention LEED, which is the building certification, which is a terrific program, but I don't think there has been any EJ input or review. So what you are suggesting just strikes me as something that a lot of people will really mull over and is extremely significant. So thank you.

MS. FISHER: Thank you.

MS. BRIGGUM: I certainly learned a lot from your perspective. Thank you.

MS. FISHER: Thank you.

MR. MOORE: Thank you. Shankar.

MR. PRASAD: Ms. Fisher, thank you. You really bring an important issue to the limelight by bringing it and raising it here. We know now the economy is moving towards the globalization. And if you look at what we have seen in terms of the growth of differential industry, as we were talking a little earlier today, we are seeing, except for the service industry growth, and in the name of green economy, and green jobs, and so on, it is becoming almost -- sorry to use the word, sexy word. You hear -- I get at least a minimum of two e-mails a week about these kind of conferences.

But, at the same time, we know that we are not able to bring in that -- are we taking that precautionary approach while we are talking about these issues. Because the standards that we apply for a product produced here, or a facility manufacturing this in the U.S. is not the same stringency that is being pursued in all over the world, or at least in some parts of the world.

So, in one way, while green jobs --- economy or the globalization could be viewed in that context, it is also a question that brings about are we exporting the EJ concerns from this country to somewhere else?

MS. FISHER: We are. Actually, our environmental consultant is a -- or, is at one time, was a Chinese citizen. And we were talking about all the automobiles that they got

out of New Orleans. And he says, do you wonder where they went? And I said, what do you mean? Well, there is a huge company out of San Francisco that purchases them at a decent price, we are in a capitalistic society, kind of --- business. And then they ship them off to another country.

So, America does not want to be the country that then goes to another country and pushes our bad things on another country that hasn't had an opportunity to develop as we have. So you are right.

MR. PRASAD: And the consumerism issue that you bring about is a two-way street. I think it is very important for us, both as members of the public, and as an agency, or as NGOs, or --- the organization to get ourselves better educated. I think it is time for EPA and all the agencies to start looking at what this really means to the health part of it.

And California is one place that I also want to tell you is where we have a consumer product regulations. In terms of the toxics and --- organic compounds. So there is something there to think about, is that something that EPA should be looking at and embracing it in terms of what -- not only in terms of the products produced here, but also in terms of importing of the products and who regulates them, and how to go about that issue.

Another thing that is also happening is the whole

issue of the green chemistry, which is also a major program in which European Union has taken a view, if one is developing a new product, that if one is developing an expansion, is there a better, greener way to do things. And a similar program is being looked at in California in the Department of Toxic Substance Control to see how we can think of translating that precautionary principle, or precautionary approach into the regulatory paradigm.

So these are some of the things that are happening, but it is really nice of you to recognize this major issue and bring it to the forefront. Thank you.

MS. FISHER: Thank you, Shankar. Patty.

MS. SALKIN: I too want to thank you for bringing these issues to the Council. I have a few comments on the green building supplies. You know, this is a significant opportunity and an issue for governments, because Federal Governments, State Governments, and Local Governments have been passing the Executive Orders, by and large, saying that we are a green city. And what does that mean? It means that when the city purchases cleaning chemicals and supplies, it is going to have that green symbol on it.

I will take a city for example, the city is purchasing these products to put in city-owned buildings which, by and large, also include public housing. So, I think, there is a significant risk, public health risk, in

that regard if we don't know what are in those chemicals. I am not a scientist, I don't know, but you have raised that concern for me.

Also, from the land use community, there is a lot of discussion and research going on right now about green audits of comprehensive plans and zoning ordinances. But, the whole discussion on these green audits have focused on what you can do and the plans to reduce the carbon footprint. And I think that we need to expand that dialogue to include within the green audits environmental justice.

So, we need to start to get that out there. And your presentation raised my awareness on that and we are, actually, doing a short article for a presentation in August and I am going to make sure that that is now included.

In the first item in the written sheet that you provided raises a lot of concerns and, I think, flags a need for additional research. We have done a lot of work from the land use side on formula retail, and what it looks like, and what it does to character of community, and so forth.

But, I am very concerned about the issue that you bring to light that you think that in the urban formula retail stores -- and I will call them that because they are chain stores around the country that the products are not just deeply discounted because there is a better purchasing power in quantity from the companies, but that the quality of the

products is significantly less and that these stores are just located in predominantly lower-income communities.

And that the same products -- I would be curious if the stores have them in suburban communities if they are the same store, or an affiliate store. I don't know who would do that research, but I think that that is -- it would be evidence and something that would be important to know.

MS. FISHER: Thank you. And one other thing that I didn't put on my sheet as I scribbled it on the Metro is if someone from the EJ could also -- the NEJAC Council -- could also look at and follow these carbon trading bills that are happening. Because you can sell your carbon credits, so if company A is more of a polluter and they can sell it -- I mean, is company A located in an EJ community? Do they kind of get the pass? I don't know, I just think that is something that we are going to have to start watching. And it goes back to the whole consumerism piece.

MR. MOORE: Lang.

MR. MARSH: Yes, again, thank you for your testimony. It is really quite provocative and raises a lot of issues, some of which are much broader than EJ alone, but are very important for EJ.

I guess a couple of thoughts that it provokes in me is one thing we might want to look at, and I agree with Sue that there is a long agenda here that we might take up for

several years. But that it might be useful for us to look at some of the issues you have raised in the light of the precautionary principle which is, basically, take a good look before you leap, and don't do things that you don't know the full consequences are if you have another alternative, especially.

So, one application of that is the use of fairly new developing science called, Life-Cycle Assessment. And if we were to look at some of the issues that you have raised in that -- using that principle and that tool, we might find that, in fact, there are some significant EJ issues that have been overlooked in the process of product development, importing products from outside the U.S., both food and non-food products, and some of these other issues you have raised.

So, I don't know the answer and whether these tools are really the full relevance of them, but it occurs to me that we ought to at least ask the question in the light of that precautionary principle and Life-Cycle Assessment, are there some things we could recommend about future regulation in order to avoid some of the impacts that you have talked about.

MS. FISHER: Thank you.

MR. MOORE: Jode.

MS. HENNEKE: Thank you, Ms. Fisher. You raise some very interesting points. And as a minor way of introduction

for me, I work for a large state government and live in an urban area, but go home on the weekend to a community of about 15,000 people. And I am telling you guys, it ain't just an urban issue.

These kinds of stores with that chain phenomena, there are four in a town of 15,000 that I go home to on a weekend. It is an economy issue, it is not an urban issue. It is where you have immigrant communities, it is where you have communities with lower pay checks behind them to spend on the weekend, that is where those stores are. And they are all over the country, and they are expanding.

As another side comment, as does happen often with public comment that comes to us here at the NEJAC, often times it is issues that have overlapping jurisdictional kinds of things. In one of my other former lifetimes ago, I worked in regulatory food safety, and a lot of the issues that you were bringing up are under the regulatory control, in some states, under the Department of Agriculture, and in some states, it is under what was historically referred to as health departments. Federally, it is under Food and Drug. It is also under the Department of Agriculture.

But my suggestion is that you all with EPA work with those inter-governmental environmental justice workgroups -- I think is the name of it -- that these are the kind of issues that you may want to just say, this came up to us in NEJAC,

you should be aware, kind of thing.

But, I also encourage you -- I know the City of New Orleans has a big food safety component there. If you have not already raised those issues with them, especially, as it relates to your labeling concerns with your food products, that you also address it to them, as well as to the State of Louisiana.

MS. FISHER: Okay. Thank you.

MS. SALKIN: And, again, thank you for bringing it up.

MS. FISHER: Thank you.

MR. MOORE: Omega.

MR. WILSON: Just a quick dove-tail to what Jode has just mentioned. We are talking about product that is available for mass market purpose. And, of course, there is a lot of damage that has been done, and pollutions have been created as a result of that over a great deal of land. And I don't know how much, or what is the frequency of people having a homegrown gardens, or community gardens, and things of that sort.

And, of course, there is a story on the front-page of The Washington Post, I think, today about salmonella and tomatoes. So, a lot of the contamination with food may very well come from people creating a resource that maybe they hadn't used before as far as growing their own product. And

because an issue of land contamination with all kinds of things at this point, you know, may not be something that people are thinking about.

I don't know how USDA is involved in this process, or the Department of Agriculture is involved in this process, but the educational tool on the ground level for communities who re-establish their homes with gardening and other kinds of things without realizing there are some things that they may expose themselves to. Just in contact with the soil, if it is nothing more than flowering, or whatever the case may be, or general horticulture, as well as consuming food products, may raise some question about harm.

One of the specific things about the salmonella that people may or may not be aware of is -- in the article, it stated that not only are those levels of contaminations available, or carried on the outside of the food product, but it is also some of those pathogens are absorbed directly into the plant, into the food product itself.

So, no matter how much you wash it, you can't get it off and it has to be cooked a certain way to reduce the contamination. I am not sure that is USDA, what agencies, but that sounds like a pretty extensive thing for people who are going to try to rectify issues and do things on their own, that they may not be able to leverage the resources to have contractors and other kinds of things do some of the work they

need to do to that land to get back in them.

So, a precautionary kind of thing, check-list, or whatever, that may be useful to prevent some health consequences that none of us might right now be aware of.

MS. FISHER: Thank you.

MR. MOORE: Chris. Do you want to introduce yourself? We missed introductions this morning. If you could introduce yourself and then ask the question, and then we'll go back to Jode.

MR. HOLMES: I am Chris Holmes and I used to work at EPA at one time. I have been in business, and I have been involved in credits, mostly NO_x and SO_x credits. But, I think, your point about carbon credits, and all credits, is a really good point. Because if someone is buying the credits on a large scale, and that is a large industry, then they are doing it for a reason. They are either banking them because they anticipate a problem, or they have got a problem and, therefore, someone is going to be breathing in the emissions from that facility. Because they are using credits, basically, in lieu of control equipment.

On the other hand, someone selling the credits, the issue is did they really reduce the extent which they said they reduced in order to be able to generate the credits? It is a very sophisticated area, it deals with financial derivatives, it is really complicated, and really important.

And it is a good harbinger of either good things or bad things to come.

So, I just wanted to commend you for being attentive to that. It is very complicated, and very important.

MS. FISHER: Thank you. And I hope that you will help the EJ community find a solution to its -- I know there is, like you said, it is very complicated. I have had people explain it to me and it is still confusing. But, I just really want to make sure that people are no longer affected by those things.

MR. HOLMES: And I think you are right, educating community's directive is something that has to be done, and it has to be scaled down so that people can comprehend it. And people have a right to understand what this is about. There is billions of dollars potentially that is going to move around, all trading something which at the end of the day someone is breathing in more as a result of the process.

MS. FISHER: Thank you.

MR. MOORE: Appreciate those comments, Chris. Jode.

MS. HENNEKE: Not to belabor a point, but what the heck, I have been known to once or twice. But going to Omega's comment about the tomatoes, which does kind of go back to your concern about the products that come into our daily lives that we don't necessarily think about. In this particular issue -- and I, actually, do have some intimate

knowledge on this one because my roommate is a regulatory with the State of Texas as it relates to food and drug -- but in this particular outbreak, the trace-backs have gone back to -- and I am talking about tomatoes -- have gone back to processors that are across the border in Mexico.

And many of us as individual consumers would be absolutely amazed to realize how much of our food products that have a U.S. label on them are actually processed outside of this country, both north and south. And more traditionally, overseas.

And, Omega, you are absolutely right, there is evidence that there has been osmotic transfer of the organism inside the fruit of the tomato itself, much like we learned several years ago that salmonella can be transferred from the ovary of the hen to the egg prior to the shell being laid down.

So, I say all of that to say, it is not going to be simple, and it is not going to be easy, and we will go through this. What the ultimate answer will be, none of us really knows. But the tomato situation has illustrated to a lot of what I would consider more mainland U.S.A. on where their actual food products may be coming from; especially, as it relates to fruit and traditional produce that they have not necessarily considered before.

MR. MOORE: All right, I think we have made those

rounds. We want to thank you very much for your testimony. And I don't know if you had any last comments. Chuck, actually, is chairing the workgroup that will be reporting back tomorrow, so I don't know if you had any closing recommendations.

MS. FISHER: I will just repurchase those products and I am going to send them to Ms. Robinson.

MR. MOORE: Great.

MS. FISHER: And you guys can look at them.

MR. MOORE: Great. Thank you very much.

MS. FISHER: Thank you.

(Applause)

MR. MOORE: You know, as we close this session this evening, I was just being reminded that there is an incredible amount of work to do, and we all know that. But I was remembering, actually, many of the agricultural workers, you know, DDT, and the United States has banned, it was one of the terrific chemicals that caused much health defects for many of our sisters and brothers that worked in the fields that picked the tomatoes and the vegetables, and lettuce, and grapes, and much of what we were, and still continue to eat in this country.

And although DDT was banned, and I know the comments that were made around the tomatoes or otherwise, there is no disrespect to the workers of Mexico, but although DDT was

banned in the U.S., you know it is manufactured in this country and happens to be in an African-American, Le Ocean community, Latino community, in Richmond, California where a lot of that DDT, although it is banned, is manufactured and sent since its ban sent to other countries outside of the U.S., including Mexico.

So, as one finger works with the other finger, and the circles continue to go around and this kind of thing, I think it is very important that we know that within the environmental justice movement, it is not only local issues in regards to what is happening in our communities and how are communities are being impacted, but also it is how the workers are being exposed inside the facilities. The health and safety conditions in many cases that those workers are working under, tremendous pressures, and in many cases the lack of health and safety that many of the workers in this country are imposed upon and exposed to.

So, our movement, as you all know, has not been just the local struggle, it has never been about take it out of our community and put it in somebody else's community, wherever that may be. And it is not about taking outside of our community and putting it any place in the world, whether it be any place in the region, any place nationally, or any place in the world.

We have got a lot of work to do together. This

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NEJAC has been committed and will continue to be committed. And I believe the leadership of the Office of Environmental Justice and the other leaders with inside the EPA that we will hear from tomorrow is committed to do the best to our ability to make the kinds of recommendations to the EPA that are necessary. In many cases, to come to solutions and so on, to many of the problems that we are being impacted by.

So, with that said, I would like to again thank Michael and our sister for the public comment. You all for being present here in this session this evening. And I would also like to in closing compliment Terry Williams. As I mentioned this morning, I don't think -- maybe Terry was there. Terry Wesley, I am sorry.

But Terry, you know, we just came back from the Caribbean office and the Caribbean office, actually, works under Region 2 -- or works with Region 2, whatever the right structural language is -- but we had the opportunity, many of us that were part of that training, to engage with EJ grassroots groups throughout the island of Puerto Rico, from the deep mountains and from the urban cities, and so on.

And I have to say with Terry that it was very obvious that the work that Terry and the staff at Region 2, the environmental justice staff there and others, for communities to compliment means a lot. I think it means a lot to me because really -- and it means a lot to them because we

know the kind of not just 8:00 to 5:00 and the relationship building, and all this, that it takes to do that. So I wanted to compliment you, Terry, and the staff there in Region 2 for a terrific job.

And I was mentioning to Victoria and Charles, still as of yesterday, even though our own office in Albuquerque, we are receiving e-mails back from the groups in Puerto Rico, compliments the EJ staff, and complimenting the training team that participated. So, congratulations my brother, keep up the good work. Give our greetings to the staff in Region 2.

So with all that said, it is over for the day. But, before we do that -- I know, I know, I know, I know -- I am not pushing it, I know Charles wanted to speak before we close down. And Charles wants to give us a little bit of a reminder again of some of the orientation for tomorrow. Charles, if you could also when you are doing this remind us again of what the schedule is tomorrow, we would appreciate it.

MR. LEE: Okay, tomorrow morning the Administrator will come and he is scheduled to be here at 10:00. Granta will be accompanying him and introducing him. After which there will be a dialogue with a number of EPA senior managers. They are Lynn Buhl, who you met this morning, and then Laura Yoshii from Region 9. Laura is going to be -- Region 9 is going to be starting in October the lead region for environmental justice, so she is the Deputy Regional

Administrator for Region 9, and the lead region DRA.

There will be Russ Wright from Region 4; Rob Brenner from the Office of Air; and Jim Jones from Office of Pesticides -- I am not going to get it right tonight -- OPPTS, Prevention, Pesticides, and Toxic Substances. So, there is going to be a dialogue with you. We asked them not to give PowerPoints, but to be a real dialogue about what they see as some of the real key successes in terms of their integration of environmental justice, and challenges moving forward.

So we will ask that we begin promptly at 9:00. We did expect Don Welsh, who was the Region 3 Administrator to be here, but his schedule has something that pre-empted him from being here. We are going to start with a review of the day, and we have a little bit of the time to play with.

But, I would really ask that everyone, including those in the audience, be here at 9:00. We do want to be in place when the Administrator comes. Those were my express instructions from the Administrator's Office. So, that is the reminder, and that is the update for tomorrow.

MR. MOORE: Thank you very much, have a very good evening.

(Whereupon, at 7:49 p.m. the meeting was adjourned to reconvene at 9:00 a.m.)