

**SUMMARY OF THE PUBLIC MEETING  
OF THE  
NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL**

**July 27 through 29, 2010  
Washington, D.C.**

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Chair**

*A Federal Advisory Committee of the U.S. Environmental Protection Agency  
[www.epa.gov/environmentaljustice/nejac/](http://www.epa.gov/environmentaljustice/nejac/)*

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## PREFACE

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee that was established by charter on September 30, 1993, to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice. To date, NEJAC has held 35 public meetings:

1. Washington, D.C., May 20, 1994
2. Albuquerque, New Mexico, August 3 through 5, 1994
3. Herndon, Virginia, October 25 through 27, 1994
4. Atlanta, Georgia, January 17 and 18, 1995
5. Arlington, Virginia, July 25 and 26, 1995
6. Washington, D.C., December 12 through 14, 1995
7. Detroit, Michigan, May 29 through 31, 1996
8. Baltimore, Maryland, December 10 through 12, 1996
9. Wabeno, Wisconsin, May 13 through 15, 1997
10. Durham, North Carolina, December 8 through 10, 1997
11. Arlington, Virginia, February 23 through 24, 1998 (Special Business Meeting)
12. Oakland, California, May 31 through June 2, 1998
13. Baton Rouge, Louisiana, December 7 through 10, 1998
14. Arlington, Virginia, November 30 through December 2, 1999
15. Atlanta, Georgia, May 23 through 26, 2000
16. Arlington, Virginia, December 11 through 14, 2000
17. Washington, D.C., August 8 through 10, 2001 (Special Business Meeting)
18. Seattle, Washington, December 3 through 6, 2001
19. Baltimore, Maryland, December 9 through 12, 2002
20. New Orleans, Louisiana, April 13 through 16, 2004
21. Washington, D.C., January 5 and 6, 2006 (Special Business Meeting)
22. Washington, D.C., June 20 through 22, 2006
23. Washington, D.C., February 6-7, 2007
24. Teleconference, August 23, 2007
25. Baltimore, Maryland, September 18 -- 20, 2007
26. Teleconference, November 20, 2007
27. Washington, D.C., June 10 through 12, 2008
28. Teleconference, September 11, 2008
29. Atlanta, Georgia, October 21 through 23, 2008
30. Arlington, Virginia, July 21 through 23, 2009
31. Teleconference, September 24, 2009
32. New Orleans, Louisiana, January 27 through 29, 2010
33. Teleconference, April 28, 2010
34. Teleconference, June 15, 2010
35. Washington, D.C., July 27 through 29, 2010

In addition, NEJAC, in collaboration with EPA, has held other special meetings including the following:

- Public Dialogues on Urban Revitalization and Brownfields: Envisioning Healthy and Sustainable Communities, held in Boston, Massachusetts; Philadelphia, Pennsylvania; Detroit, Michigan; Oakland, California; and Atlanta, Georgia; summer 1995
- Relocation Roundtable held in Pensacola, Florida, May 2 through 4, 1996
- Environmental Justice Enforcement and Compliance Assurance Roundtable, held in San Antonio, Texas; October 17 through 19, 1996
- Environmental Justice Enforcement Roundtable, held in Durham, North Carolina; December 11 through 13, 1997
- International Roundtable on Environmental Justice on the U.S.-Mexico Border, held in San Diego, California; August 19 through 21, 1999

As a federal advisory committee, NEJAC is governed by the Federal Advisory Committee Act (FACA). Enacted on October 6, 1972, FACA provisions include the following requirements:

- Members must be selected and appointed by EPA.
- Members must attend and participate fully in meetings.
- Meetings must be open to the public, except as specified by the EPA Administrator.
- All meetings must be announced in the Federal Register.
- Public participation must be allowed at all public meetings.
- Materials distributed during meetings must be made available to the public.
- Meeting minutes must be kept and made available to the public.
- A designated federal officer (DFO) must be present at all meetings.
- The Committee must provide independent advice that is not influenced by special interest groups.

EPA's Office of Environmental Justice (OEJ) maintains transcripts and summary reports of all NEJAC meetings, which are available on the NEJAC Website at [www.epa.gov/environmentaljustice/nejac](http://www.epa.gov/environmentaljustice/nejac). Copies of materials distributed during NEJAC meetings are also available to the public upon request. Comments or questions can be directed to OEJ via e-mail at [environmental-justice-epa@epa.gov](mailto:environmental-justice-epa@epa.gov).

**SUMMARY OF THE PUBLIC MEETING  
OF THE NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL  
July 27 through 29, 2010  
Washington, D.C.**

**INTRODUCTION**

The Executive Council (Council) of the National Environmental Justice Advisory Council (NEJAC) convened for a three-day meeting from July 27 through 29, 2010, in Washington, D.C. It was the 28<sup>th</sup> in-person meeting of the NEJAC. This document summarizes U.S. Environmental Protection Agency (EPA or the Agency) and other federal agency presentations to the Council, discussions among Council members, and community concerns expressed during the public comment period on July 27, 2010.

The NEJAC is a federal advisory committee that was established by charter on September 30, 1993, to provide independent advice, consultation, and recommendations to the EPA Administrator on matters related to environmental justice. The NEJAC is governed by the provisions of the October 6, 1972, Federal Advisory Committee Act (FACA). The Council is comprised of 25 members, 10 of whom were officially installed during this NEJAC meeting. The members of the NEJAC represent academia, business and industry, community-based organizations, non-governmental and environmental groups, state and local governments, tribal governments, and indigenous organizations. One EPA staff member serves as the Designated Federal Officer (DFO) for the NEJAC. Exhibit 1 lists the members of the Executive Council who were in attendance, as well as those who were unable to attend the meeting.

This summary contains two chapters. Chapter 1, Executive Council Discussions, summarizes the deliberations of the Council as well as presentations to the NEJAC. It includes the following sections:

- Welcome and Opening Remarks
- Plan EJ 2014
- Charge on Incorporating Environmental Justice into Permitting
- Interim Guidance on Environmental Justice in Rulemaking
- Regulating Air Emissions of Power Plants
- Facilitating Intergenerational Engagement
- Federal Agency Activities to Advance Environmental Justice
- Dialogue with White House Council on Environmental Quality
- EPA's Response to NEJAC Recommendations (on Goods Movement, Environmental Justice Screening Approaches, and School Air Toxics Monitoring)
- Update on EPA Activities Related to the Gulf of Mexico Oil Spill
- Water Issues (including the Urban Waters Initiative and Encouraging Voluntary Testing for Lead in School Drinking Water)
- Closing Dialogue

Chapter 2, Public Comment Period, provides a synopsis of the concerns voiced by members of the public during the comment period.

**Exhibit 1**

**Members of the NEJAC Executive Council**

**Members in Attendance**

- Ms. Victoria Robinson, NEJAC DFO, EPA OEJ
1. Ms. Elizabeth Yeampierre, NEJAC Chair, UPROSE, Inc.
  2. Mr. John Ridgway, NEJAC Vice-Chair, Washington State Department of Ecology
  3. Mr. Chuck Barlow, Entergy Corporation
  4. Ms. Teri E. Blanton, Kentuckians for the Commonwealth
  5. Ms. Sue Briggum, Waste Management, Inc.
  6. Ms. Jolene Catron, Wind River Alliance
  7. Ms. Wynecta Fisher, Collaborative Solutions Group, E2 Inc.
  8. Ms. Stephanie Hall, Valero Energy Corporation
  9. Ms. Jodena Henneke, The Shaw Environmental & Infrastructure Group
  10. Ms. Savonala "Savi" Horne, Land Loss Prevention Project
  11. Mr. Hilton Kelley, Community In-Power and Development Association
  12. Mr. J. Langdon Marsh, National Policy Consensus Center, Portland State University
  13. Ms. Margaret May, Ivanhoe Neighborhood Council
  14. Ms. Vernice Miller-Travis, Maryland State Commission on Environmental Justice and Sustainable Communities
  15. Dr. Paul Mohai, University of Michigan
  16. Father Vien T. Nguyen, Mary Queen of Viet Nam Community Development Corporation
  17. Ms. Edith Pestana, Connecticut Department of Environmental Protection
  18. Dr. Shankar Prasad, Coalition for Clean Air
  19. Ms. Nia Robinson, Environmental Justice and Climate Change Initiative
  20. Ms. Patricia Salkin, Albany Law School
  21. Mr. Nicholas Targ, American Bar Association
  22. Ms. Kimberly Wasserman, Little Village Environmental Justice Organization

**Members Not in Attendance**

23. Mr. Don Aragon, Wind River Environmental Quality Commission
24. Mr. Peter Captain, Sr., Yukon River Intertribal Watershed Council
25. Dr. M. Kathryn "Katie" Brown, University of Cincinnati College of Medicine

In addition, three appendixes are included. Appendix A lists the NEJAC Members and shows their affiliations by stakeholder category, Appendix B provides a list of meeting attendees, and Appendix C contains written public comments provided to the NEJAC.

## CHAPTER 1. EXECUTIVE COUNCIL DISCUSSIONS

### 1.1 Welcome and Opening Remarks

Opening remarks were provided by EPA Office of Environmental Justice (OEJ) staff, the NEJAC Chair, and EPA senior officials who were in attendance.

Ms. Victoria Robinson, NEJAC Designated Federal Officer (DFO), EPA OEJ, welcomed the members of NEJAC and the audience, and acknowledged EPA senior level staff and representatives of other federal agencies. She commented that the NEJAC “has been deemed one of the, if not the, hardest working federal advisory committee(s).” She reviewed the meeting agenda and provided brief instructions on signing up for the public comment period. Ms. Robinson also acknowledged the presence of a court reporter and two note takers who would produce a verbatim transcript and summary of the meeting, respectively; and noted that the meeting was also being audio recorded for Podcasts that would be posted on EPA’s NEJAC Website ([www.epa.gov/environmentaljustice/nejac/](http://www.epa.gov/environmentaljustice/nejac/)).

Ms. Elizabeth Yeampierre, NEJAC Chair and Executive Director of UPROSE, Inc., welcomed everyone on behalf of the NEJAC. She recognized the addition of 10 new Council members. She noted that it was an “exciting time” for the NEJAC, referring to the historical and unprecedented amount of participation and engagement from EPA senior officials, including Assistant Administrators and Regional Administrators. She asked her fellow Council members in attendance to introduce themselves (see Exhibit 1).

Mr. Charles Lee, Director, EPA OEJ, referred to his welcoming remarks at the NEJAC member orientation held on July 26. He reiterated his appreciation for the members’ time for serving on the NEJAC. He noted that while OEJ managed the NEJAC, steps were being taken to have the Council serve the entire Agency. He asserted that integrating environmental justice was an Agency-wide effort, adding that “This is really a new day and there are a lot of exciting opportunities to come.”

“This is really a new day and there are a lot of exciting opportunities to come.”  
– Mr. Charles Lee, Director, EPA Office of Environmental Justice

The NEJAC also heard from EPA senior officials including Mr. Malcolm Jackson, Assistant Administrator, EPA Office of Environmental Information (OEI); Mr. Peter Silva, Assistant Administrator, EPA Office of Water (OW); Mr. Lisa Garcia, Senior Policy Advisor to the EPA Administrator for Environmental Justice; and Ms. Cynthia Giles, EPA Office of Enforcement and Compliance Assurance (OECA).

Ms. Yeampierre introduced Mr. Malcolm Jackson as the newly appointed Assistant Administrator of OEI. She noted his expertise in Information Technology (IT) strategy, large-scale enterprise resource planning, establishing performance metrics, and business process re-engineering. She said that Mr. Jackson was a Board member of the Children’s Literacy Initiative in Philadelphia and Chair of the Jackson State University National Alumni Association membership committee. Ms. Yeampierre pointed out that Mr. Jackson holds a B.S. from Jackson State University and an M.B.A. from Northwestern University.

Mr. Jackson expressed his “tremendous passion” for environmental justice and understanding of challenges facing underrepresented communities in Chicago and New Orleans, based on his time living in those cities. He recognized OEI’s role in managing information and committed to ensuring that EPA provides the NEJAC with information necessary for its decision-making, in an accessible and understandable format.

Ms. Yeampierre introduced Mr. Peter Silva, who has served as Assistant Administrator for OW since July 27, 2009. She noted that he has over 32 years of public sector experience in the water and wastewater fields, with extensive knowledge of U.S.-Mexico border issues.

Mr. Silva noted his long history in environmental justice and mentioned his six years of experience on the California Water Resources Control Board, during which he worked with EPA Region 9 on environmental justice issues in farm worker communities. Mr. Silva reaffirmed EPA Administrator Lisa Jackson's commitment to environmental justice, noting OW's joint initiatives with OECA to ensure that environmental justice is being incorporated into rulemaking and permitting. He welcomed the new NEJAC members and expressed his eagerness to work with the Council.

Ms. Garcia congratulated Ms. Yeampierre and Mr. John Ridgway, Manager of the Information Management and Communications Section at Washington State Department of Ecology, on their roles as NEJAC Chair and Vice Chair, respectively; and extended her welcome to the new NEJAC members. She noted that the NEJAC provides "tremendous leadership, dedication, and expertise" on environmental justice-related discussions at EPA and, she added, hopefully to other federal agencies as well.

Ms. Garcia referred to the seven priorities that Administrator Jackson issued for EPA earlier in 2010, noting that one of them was to "expand the conversation on environmentalism and work for environmental justice." As part of the Agency's efforts to "weave environmental justice into the fabric at EPA," she articulated several themes for EPA's discussions with the NEJAC during the public meeting:

1. **Interim Guidance on Considering Environmental Justice During the Development of an Action**, an interim guidance on incorporating environmental justice into the rulemaking process (released on July 26, 2010; available online at [www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html](http://www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html)).
2. **Plan EJ 2014**, an agency-wide plan to integrate environmental justice into all EPA programs (released on July 27, 2010; available online at [www.epa.gov/environmentaljustice/resources/policy/plan-ej-2014.html](http://www.epa.gov/environmentaljustice/resources/policy/plan-ej-2014.html)).
3. **Draft Fiscal Year (FY) 2011-2015 Strategic Plan**, which details EPA's long-term vision, goals, and objectives; and the Agency's plans to achieve them (see Exhibit 2; released on July 18, 2010; available online at [www.epa.gov/cfo/plan/plan.htm](http://www.epa.gov/cfo/plan/plan.htm)).
4. **Interagency Activities**, in recognition of the importance of partnerships between EPA and other agencies to address environmental justice issues.

Ms. Garcia noted that Plan EJ 2014 was named in recognition of the 20<sup>th</sup> Anniversary of President Bill Clinton's issuance of Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (signed on February 11, 1994; available online at [www.epa.gov/fedrgstr/eo/eo12898.htm](http://www.epa.gov/fedrgstr/eo/eo12898.htm)). She also acknowledged that the theme of interagency activities was included in response to the Council's requests for dialogue with other federal agency representatives.

Ms. Giles congratulated Ms. Yeampierre for her post as NEJAC Chair and welcomed the new Council members. Noting that she served as the Agency's National Program Manager for Environmental Justice, she stated that EPA had been paying attention to the advice and suggestions from the NEJAC and was taking action to "make environmental justice a reality on the ground." Ms. Giles referred to the Council as "the Administrator's advisory committee" and committed to convey the members' input to her. She acknowledged that while progress had been made, more progress was needed to achieve environmental justice.

## 1.2 Plan EJ 2014

Mr. Lee acknowledged that many people had worked on Plan EJ 2014, but noted that Ms. Garcia and Ms. Giles were the "driving force" behind it. He introduced the two presenters, stating that Ms. Garcia would provide an overview of how Plan EJ 2014 was conceived; and Ms. Giles would review the specific parts of the Plan.

### Exhibit 2 Draft FY 2011-2015 EPA Strategic Plan

Five strategic goals:

1. Taking Action on Climate Change and Improving Air Quality
2. Protecting America's Waters
3. Cleaning Up Our Communities
4. Ensuring the Safety of Chemicals and Preventing Pollution
5. Enforcing Environmental Laws

Five strategic measures:

1. Expanding the Conversation on Environmentalism
2. Working for Environmental Justice and Children's Health
3. Advancing Science, Research, and Technological Innovation
4. Strengthening State, Tribal, and International Partnerships
5. Strengthening EPA's Workforce and Capabilities

Ms. Garcia explained that Plan EJ 2014 was still in draft form. She described it as a road map for the Agency to “integrate environmental justice into the fabric of EPA.” She said that the cross-agency focus areas presented in the Plan represented a compilation of the many issues EPA had heard during listening sessions and round table discussions with the public; and barriers identified by EPA staff in program and regional offices. She recognized that EPA needed to work closely with communities to develop tools to build community capacity and ensure staff understanding of environmental justice issues.

Ms. Giles introduced the structure of Plan EJ 2014, pointing out EPA’s endeavor to focus on issues that “cut across all programs,” develop tools, and implement program initiatives. She elaborated on progress achieved in the five cross-agency focus areas:

1. **Rulemaking** – EPA has issued interim process guidance for considering the impacts of rulemaking on environmental justice. The Agency expects to issue a more technical rulemaking guidance in about a year.
2. **Permitting** – EPA has issued a charge to the NEJAC to provide advice on incorporating environmental justice into the permitting process.
3. **Compliance** – EPA is tackling the problem of non-compliant facilities by (a) selecting enforcement and compliance issues to focus on, based on input received during the September 24, 2009, NEJAC public teleconference meeting on National Enforcement and Compliance Priorities; (b) focusing on the disproportionate impacts of non-compliance in environmental justice communities; and (c) remedying incidences of non-compliance.
4. **Community-based action** – EPA is taking action through its grants programs and marshalling resources to support communities, and supporting communities to “take charge of their own destiny.”
5. **Administration-wide action** – EPA responded to the NEJAC’s calls for other federal agencies to be represented at the meeting.

Ms. Giles stated that, in developing these five focus areas, the Agency recognized the need to address scientific, legal, and data issues. She acknowledged that many have tried to design their own tools, which was commendable; but she also stressed the need to consolidate various methodologies into a common platform to facilitate discussions and resource sharing.

Ms. Giles posed the following discussion questions to the NEJAC:

- Are the five Cross-Agency Focus Areas outlined above the correct ones?
- What are some ways EPA can strengthen specific actions within the five Cross-Agency Focus Areas?
- How would NEJAC prioritize the five Cross-Agency Focus Areas?

She stated that, upon receiving and addressing the Council’s input, the Agency would develop a detailed work plan, including a list of deliverables, milestones, and accountability measures.

Following the joint presentation by Ms. Garcia and Ms. Giles, NEJAC members described Plan EJ 2014 as “commendable,” “meaningful,” and “the most comprehensive view [they had] seen of how the Agency plans to incorporate environmental justice throughout.” They engaged in a discussion that included the following issues:

**Additional Cross-Agency Focus Areas.** Ms. Yeampierre (and others) urged for EPA to focus on climate change, climate adaptation, and community resilience as an additional focus area in its Plan EJ 2014. She stated that climate change is an environmental justice priority. Ms. Garcia acknowledged that those issues have been discussed extensively at the Agency. She referred to Administrator Jackson’s commitment to climate justice and cited EPA’s plan to look more closely at cumulative impacts related to climate change. Ms. Giles added that Plan EJ 2014 was an evolving plan and acknowledged that climate issues were a priority for the EPA, the U.S., and the world.

Ms. Savonala “Savi” Horne, Executive Direction, Land Loss Prevention Project, echoed Ms. Yeampierre’s recommendation to add climate justice as an additional cross-agency focus area in Plan EJ 2014. She added that this issue would allow EPA to engage in more interagency coordination.

Mr. J. Langdon Marsh, Fellow, National Policy Consensus Center at Portland State University, recommended that EPA incorporate an expanded research agenda into its Plan EJ 2014. Specifically, he urged for research into environmental justice issues with intergenerational impacts, such as the persistence of toxic chemicals and the “life cycle impacts” of facilities and products. He asserted that EPA’s Office of Research and Development (ORD) had the capacity for this.

Ms. Sue Briggum, Vice President, Waste Management, Inc., recommended that EPA incorporate a plan for avoiding “environmental justice problems of the future” (for example, by examining statutory exemptions).

Mr. Nicholas Targ, co-Chair, Environmental Justice Caucus, American Bar Association, recommended that EPA add the Sustainability Communities Initiative as a focus area (for example, Smart Growth-related issues; see Exhibit 3). He also suggested that the fourth focus area, Community-based Action, be expanded to include additional stakeholders, such as business and industry.

Ms. Jodena Henneke, Director of Coastal Programs, The Shaw Environmental & Infrastructure Group, expressed her opinion that EPA had picked the correct five cross-agency focus areas. She commented that climate change and the other focus areas issues suggested by others were not under the exclusive control of EPA. She recommended keeping the list of focus areas smaller but more widely applicable.

**Interagency Coordination and Stakeholder Involvement.** Ms. Yeampierre commented that, just as communities do not live and breathe in silos, environmental justice not only involves EPA but other agencies such as the White House Office of Management and Budget (OMB), U.S. Department of Labor (DOL), and U.S. Department of Transportation (DOT).

Ms. Jolene Catron, Executive Director, Wind River Alliance, asked how EPA was ensuring the meaningful involvement of tribal communities. She added that not many non-governmental organizations (NGOs) or community-based organizations (CBOs) existed in Indian Country in general. Ms. Garcia stated that the Agency was working with Ms. Michelle DePass, Assistant Administrator, Office of International and Tribal Affairs, to make sure that input from tribal stakeholders is incorporated into Plan EJ 2014.

Ms. Briggum noted that, from a business perspective, she saw opportunities to reduce pollution burdens “on the ground” while keeping jobs and not impairing economic vitality. She encouraged EPA to involve business and industry stakeholders in its outreach efforts.

Mr. Chuck Barlow, Assistant General Counsel, Entergy Corporation, urged EPA to “connect the dots” between environmental justice, climate change, and business initiatives “on boardroom levels.”

Mr. Marsh urged EPA to increase the involvement of states, EPA program offices, and EPA regional offices in the Agency’s Plan EJ 2014. He referred to Performance Partnership

**Exhibit 3**  
**Principles of Smart Growth**

- Create range of housing opportunities and choices
- Create walkable neighborhoods
- Encourage community and stakeholder collaboration
- Foster distinctive, attractive communities with a strong sense of place
- Make development decisions predictable, fair, and cost effective
- Mix land uses
- Preserve open space, farmland, natural beauty, and critical environmental areas
- Provide a variety of transportation choices
- Strengthen and direct development toward existing communities
- Take advantage of compact building design

(Source: [www.smartgrowth.org/](http://www.smartgrowth.org/))

**Exhibit 4**  
**Performance Partnership Agreements**

One of the main ways that EPA and individual states implement the principles of performance partnerships locally is by negotiating Performance Partnership Agreements. These agreements set out jointly developed priorities and protection strategies and describe how EPA and the state will work together to address priority needs.

(Source:

Agreements (see Exhibit 4) and state grant programs as tools to incorporate greater involvement and build capacity among states. He also recommended that EPA incorporate into its Plan EJ 2014 the role of the National Environmental Policy Act (NEPA) in raising environmental justice issues for consideration by other agencies.

Mr. Hilton Kelley, Director, Community In-Power and Development Association in Port Arthur, Texas, suggested that EPA facilitate “pulling industry together”, specifically, “those that get the message,” to partner with other businesses that do not yet understand environmental justice issues. He also urged EPA to more closely examine the effects of the Texas Flexible Air Permit Program on communities.

Ms. Wynecta Fisher, Work Assignment Manager, Collaborative Solutions Group, E2 Inc., requested that EPA set stricter levels in its air permitting process, especially in areas where cumulative risk may be a concern; provide technical assistance, via its regional offices, to local governments that are facing economic challenges in implementing state environmental regulations; and educate local planners about “responsible zoning.”

Dr. Shankar Prasad, Executive Fellow, Coalition for Clean Air, acknowledged the support of Ms. Giles and OEJ in advancing the recommendations of the NEJAC’s former Cumulative Risks/Cumulative Impacts Work Group. He pointed out that he was involved in the Work Group roughly seven years ago. He noted the wording of the following two questions listed in the document, *Incorporating Environmental Justice Concerns into Permits Under Federal Environmental Laws, Draft Charge*:

- Question #1: What types of EPA-issued permits should we focus on now, to work on incorporating environmental justice concerns into EPA’s permits?
- Question #2: What types of permits issued pursuant to federal environmental laws, whether they are federal, state, or tribal permits, are best suited for exploring and addressing the complex issue of cumulative impacts from exposure to multiple sources and existing conditions that are critical to the effective consideration of environmental justice in permitting?

He recommended that EPA develop a detailed work plan to support its goal of program offices “incorporating” and “considering” environmental justice concerns in permitting. Ms. Giles acknowledged that rulemaking processes in federal government are based on choices, and that while EPA has the authority to oversee federal environmental permitting, the authority of other levels of government are also relevant, as reflected in the wording. She added that permitting decisions are “not unilateral choices of the federal government.”

Mr. Targ asked whether EPA’s Plan EJ 2014 was linked to the Government Performance and Results Act of 1993, noting the challenge of ensuring follow-through from all regions and program offices. He pointed out the importance of integrating environmental justice and new environmental justice grant opportunities within the “existing environmental justice infrastructure” at the Agency. Mr. Targ also asked about the role of Title VI of the Civil Rights Act of 1964 in Plan EJ 2014. Ms. Garcia responded that Plan EJ 2014, the Agency’s FY 2011-2015 Strategic Plan, and the environmental justice grant funding process were being “streamlined” instead of being revamped. She committed to providing more details to the NEJAC on how Title VI is a priority for EPA Administrator Lisa Jackson. Mr. Lee added that there was a “tight nexus” between Plan EJ 2014 and the Strategic Plan.

Ms. Patricia Salkin, Associate Dean and Director, Government Law Center, Albany Law School, urged that EPA revisit Executive Order 12898 to examine the prescribed coordination between EPA and other federal agencies such as U.S. Department of Housing and Urban Development (HUD) and the White House Council on Environmental Quality (CEQ).

Mr. Ridgway requested that EPA provide specifics on its plans to hold regional offices accountable in implementing Plan EJ 2014. He noted that regional air authorities, for example, could sometimes be “roadblocks.”

Ms. Nia Robinson, Director, Environmental Justice and Climate Change Initiative, urged EPA to work closely with black, Latino, and tribal colleges and institutions, and involve young people in its planning. She described a “strong groundswell” in these institutions on the environmental and research front. She added that many of these institutions are located in environmental justice communities. Ms. Garcia expressed a desire to learn more about this resource, noting that Administrator Jackson was interested in working more with students in minority and tribal-serving institutions through internships. She described these young people as the “wave of the future.”

Father Vien Nguyen, Pastor, Mary Queen of Viet Nam Community Development Corporation, urged for more “teeth” in EPA mandates, explaining that when local communities have approached EPA regional offices for help on environmental issues, they were told to follow up with states, who in turn have given delegated authority to local governments, who in turn do not have resources to address their concerns.

Ms. Fisher noted opportunities for EPA to link climate change with disaster preparedness activities such as cleanup of asbestos- and lead-contaminated housing materials after a storm. She also encouraged EPA to reach out to business and industry groups, and recommended that Ms. Giles share EPA’s Plan EJ 2014 with business and industry stakeholders at the upcoming Corporate Responsibility Summit in New York in November 2010.

**Next Steps.** Ms. Victoria Robinson requested that NEJAC members contact her if interested in participating in a Council work group to draft a letter to the EPA Administrator on the Agency’s Plan EJ 2014. Mr. Lee committed to providing more background to the work group on how Plan EJ 2014 will fit into the overall activities at EPA. He thanked Ms. Garcia and Ms. Giles for their efforts and said the deadline for public comments was October 1, 2010.

### 1.3 Charge on Incorporating Environmental Justice into Permitting

Mr. Scott Fulton, EPA General Counsel, introduced the Agency’s charge to the NEJAC on ways to incorporate environmental justice into the permitting process. He noted that permitting – one of the five cross-agency focus areas that Ms. Giles had described earlier – served as the principal platform for enforcement and compliance activities. He commented that considering environmental justice in the permitting process is “not straight forward” and pointed out that while EPA has the authority to take environmental justice considerations into account, the means by which this is done “remains murky.” He stated that EPA needs guidance and advice in this regard, and reviewed the Agency’s draft charge to the NEJAC on *Incorporating Environmental Justice Concerns into Permits Under Federal Environmental Laws* (July 27, 2010).

Mr. Fulton presented some background information. Specifically, he reviewed the importance of environmental permits; prior NEJAC advice and EPA actions related to permitting; and the role of state and local governments, as well as other federal agencies and tribal governments, in issuing and enforcing permits. As stated in EPA’s charge to the NEJAC, Mr. Fulton reiterated that EPA’s goals are “to improve the government’s ability to take environmental justice concerns into consideration in environmental permitting processes, whether permits are issued by EPA, other federal agencies, states, or tribal governments.”

Mr. Fulton summarized the opportunities and challenges associated with integrating environmental justice into the Agency’s permitting programs and recognized that some programs may pose more challenges than others. He noted that one of the most important opportunities to reduce pollution in overburdened communities is determining “how to consider and address cumulative impacts” in cases where communities are faced with pollution from a variety of sources.

Mr. Fulton stated that the Agency was approaching the issue of cumulative impacts from two simultaneous fronts, encapsulated in the following two charge questions posed to the NEJAC:

1. What types of EPA-issued permits should the Agency focus on now, to work on incorporating environmental justice concerns?
2. What types of permits issued pursuant to federal environmental laws – whether they are federal, state, or tribal permits – are best suited for exploring and addressing the complex issue of cumulative impacts from exposure to multiple sources?

Finally, Mr. Fulton turned his attention to the time frame for NEJAC response, explaining that EPA was asking for input from the NEJAC within 60 to 90 days from the issuance of the charge on July 27, 2010.

In response to questions from members, Mr. Fulton clarified “types of EPA-issued permits” by asking the NEJAC to identify “classes of permits that run across lots of programs,” such as technology-based permits; and also permits in a particular program area that may lend themselves to a “focused look and experimentation” on incorporating

environmental justice. He also clarified “best suited” permits in the second charge question as those that are amenable to allowing “learning by doing.” He expressed the Agency’s desire to identify “some low-hanging...fruit” that would produce achievable success and then build on those successes.

Mr. Barlow expressed the need to better understand the types of “EPA-issued permits,” noting that of the eight states in which his company operates permits, only one of those states did not have delegated permitting authority. He also noted that several states have permitting processes that involve multiple media and asked whether it would be easier to address cumulative impacts under those processes. Mr. Fulton confirmed that most federal permitting programs were delegated to the states, except for a few exceptions such as the regulation of pesticides. In response to Mr. Barlow’s question about multimedia permits, Mr. Fulton stated that breaking out of the “media stovepipe” was an appealing approach to address cumulative impacts but noted the added challenge in environmental justice communities where multiple facilities operated. He stated that the question would be whether the approach would be sufficiently holistic to examine more than the multimedia impacts of one facility but also the broader activities affecting the community.

Ms. Vernice Miller-Travis, Vice Chair, Maryland State Commission on Environmental Justice and Sustainable Communities, noted the “10-year lapse in conversation with the Agency” on the issue of permitting and expressed her appreciation that EPA had now “stepped up...in huge way.” She asked how the Agency expected to influence local land use, noting that joint activities by EPA Office of Solid Waste and Emergency Response (OSWER) and the NEJAC’s former Waste and Facility Siting Subcommittee often received “pushback” from local governments. Mr. Fulton acknowledged this as an area of significant challenge. He recognized the need to “address the root of the problem and not simply treat symptoms;” have broader dialogue with states to look at intersections between local land use planning and permitting processes; and foster constructive relationships with local governments. He committed to identifying local governments that have successfully involved communities in decisions related to local land use planning and permitting, and glean “best practices” that can be shared broadly.

Dr. Prasad acknowledged the challenge of this “monumental task.” He urged EPA to consider cumulative-impacted areas and multiple stressors when issuing permits. He asked whether differentiations could be made between places that use risk-based versus technology-based requirements. Mr. Fulton encouraged the Council to raise the issue of “where” the Agency should place its focus. He also noted that Dr. Prasad’s question about examining risk-based and technology-based requirements was a good one.

Mr. Kelley urged EPA to develop incentives for cities and local governments to get involved in the permitting process and set a “ceiling amount” of waste that can be accepted by cities. He noted that Port Arthur had received nerve gas, mustard gas waste, and polychlorinated biphenyls from other nations. He said, “Enough is enough for this particular community...”

Ms. Stephanie Hall, Senior Counsel, Environmental Safety and Regulatory Affairs, Valero Energy Corporation, commented that fence line communities often come to mind when she thinks about environmental justice. She referred to the partnership between Valero (her company) and Community In-Power and Development Association (Mr. Kelley’s organization) in Port Arthur, Texas, and noted that for the layperson in communities, “the unknown can be alarming.” She encouraged EPA to give special consideration to fence line communities as it implements changes to its permitting process.

Ms. Catron requested that EPA provide information on how environmental justice and community involvement are being addressed by tribes that are pending “treatment as state (TAS)” status (see Exhibit 5). Mr. Fulton agreed that tribal activities must be considered “in a different light” and noted that Administrator Jackson was committed to respecting tribal TAS status. He reported that the federal government remained “jurisdictionally responsible” in tribal areas without TAS status.

**Exhibit 5**  
**“Treatment as State (TAS)” Status**

Several federal environmental laws authorize EPA to treat eligible federally-recognized Indian tribes with “Treatment in the Same Manner as a State” or “Treatment as State (TAS)” status. These tribes are treated in the same manner as a state for implementing and managing certain environmental programs. Specifically, the Clean Air Act; Clean Water Act; Safe Drinking Water Act; Toxic Substance Control Act; and Federal Insecticide, Fungicide, and Rodenticide Act are environmental statutes with provisions for TAS.

(Source: [www.epa.gov/indian/laws/tas.htm](http://www.epa.gov/indian/laws/tas.htm))

Ms. Catron expressed concern about the impact of domestic energy development and the process of hydraulic fracturing on tribal lands. She noted that state governments do not have the same level of reporting requirements for companies as EPA.

Ms. Teri Blanton, Fellow, Kentuckians for the Commonwealth, urged EPA to involve communities early in the permitting process for mining operations. She cited mining projects as being a “done deal” by the time communities are notified. She also stated that permits under the Clean Air Act and Clean Water Act are important ones for EPA to focus on, especially in relation to mining activities.

Ms. Victoria Robinson requested that NEJAC members contact her if interested in participating in a Council work group to develop a preliminary response to EPA’s charge on incorporating environmental justice into permitting.

Ms. Miller-Travis requested that EPA provide representatives from its regional offices to explain to the NEJAC how Findings of No Significant Impact are determined in permitting.

NEJAC members requested a several-page “primer” on EPA’s permitting process, including a list of federal permits (especially ones that have been “historically contentious”) and a list of states that have delegated authority to run their own permitting programs. Mr. Ridgway requested this primer document before the next NEJAC teleconference call.

#### **1.4 Interim Guidance on Environmental Justice in Rulemaking**

Mr. Jim Jones, Deputy Assistant Administrator, EPA Office of Chemical Safety and Pollution Prevention; and Ms. Louise Wise, Deputy Assistant Administrator, EPA Office of Policy, jointly presented on EPA’s newly-issued *Interim Guidance on Considering Environmental Justice During the Development of an Action* (released on July 26, 2010 and available online at [www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html](http://www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html)). A dialogue with the NEJAC followed the presentation.

Mr. Jones announced the release of EPA’s *Interim Guidance on Considering Environmental Justice During the Development of an Action*, which he said was also known as the “EJ in Rulemaking Guidance.” He explained that the guidance called for “rule writers to analyze environmental justice issues and meaningfully engage low-income, minority, and indigenous populations throughout the rulemaking process.” He recalled two statements by Administrator Jackson when the document was released:

*“Far too often and for far too long, environmentalism has been viewed as a distant issue for low-income and minority communities.”*

*“I have called on this U.S. Environmental Protection Agency to change both the perception and the situation on the ground, by broadly expanding our conversation on environmentalism and developing policies that have a measurable effect on environmental justice challenges. This document is an important tool for answering that call.”*

Mr. Jones acknowledged the leadership of Ms Garcia, Ms. Giles, and Mr. Lee in the development of the EJ in Rulemaking Guidance. He also recognized the efforts of the Agency’s Guidance Development Work Group.

He informed the Council of EPA’s “development process” regarding process guidance and technical guidance. Process guidance, he explained, addressed the questions, “who?”, “what?”, and “when?”; whereas technical guidance addressed “how?” environmental justice should be considered in rulemaking. He pointed out that the new interim guidance was a process guidance document, and that technical guidance would be developed by early 2011.

Mr. Jones described the various parts of the interim guidance. He then presented three questions that are posed to rule writers:

1. How did your public participation process provide transparency and meaningful participation for minority, low-income, indigenous populations, or tribes?

2. How did you identify and address existing and new disproportionate environmental and public health impacts on minority, low-income, or indigenous populations?
3. How did actions taken under #1 and #2 impact the outcome or final decision?

Mr. Jones acknowledged that various kinds of rulemaking exist at EPA. He recognized the challenge of finding a “one-size-fits-all” approach and mentioned several factors that decision makers need to consider when answering the aforementioned questions, including stakeholder interest, legal framework governing actions, availability of data, availability of resources and time, and impacts that environmental justice concerns are likely to have on decision-making. He emphasized the need to determine the level of analysis and engagement early in the rulemaking process. He recognized the challenge of balancing the desire to consider environmental justice without slowing environmental progress.

Continuing his remarks, Mr. Jones indicated that “fair treatment includes not just consideration of how burdens are distributed, but also the distribution of benefits.” He added that disproportionate impact factors to be assessed for minority, low-income and indigenous populations include proximity and exposure to environmental hazards, susceptible populations, unique exposure pathways, multiple and cumulative effects, ability to participate in decision making process, and physical infrastructure. He acknowledged that some factors were easier to assess than others.

Mr. Jones reviewed the following general stages of EPA’s rulemaking process: (1) commence activity; (2) develop analytic blueprint; (3) conduct analyses, engage environmental justice populations, and identify options; (4) select options and prepare proposed actions; (5) conduct final agency review; (6) publish proposal and request public comment; and (7) review public comments and finalize the rule. He pointed out that stages 2 and 5 were perhaps most relevant to the NEJAC.

Following Mr. Jones’ remarks, Ms. Wise described EPA’s “roll-out strategy” associated with the EJ in Rulemaking Guidance. She explained that the guidance applied fully to new rules; and for the rules that were already being implemented, guidance requirements would be incorporated to the extent practicable. She said that Administrator Jackson had issued an Agency-wide memorandum announcing the release of the guidance and asking for Agency-wide “best efforts” in implementing the new process. Ms. Wise reported that EPA was training senior staff, rule writers, and other Agency staff on the guidance; and that Assistant Administrators were assuring its implementation. She also noted that an Agency Website had been established for discussion, comment, and information sharing.

In terms of stakeholder outreach associated with issuance of the guidance document, Ms. Wise reported that Administrator Jackson had issued a press release to announce it to the public; and a Website had been established for public comment ([www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html](http://www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html)). She added that EPA was also making presentations about the document at state and tribal forums, to National Program Manager stakeholder networks, and at various conferences.

Ms. Wise explained that EPA’s Office of Policy and OEJ was overseeing the implementation of the guidance; and the Guidance Development Work Group was monitoring implementation issues; providing assistance to rule writing teams; and identifying “best practices” to inform the technical guidance. She also announced Agency-wide collaboration efforts on selected rules, such as those involving disproportionate impacts and cumulative effects. She specifically referred to the *Strengthening Environmental Justice and Decision Making: A Symposium on the Science of Disproportionate Environmental Health Impacts* conference that was held in Washington, D.C., in March 2010 (see Exhibit 6).

Before concluding her remarks, Ms. Wise also pointed out that the guidance document contained an annotated list of 14 available guidance documents, tools, and other resources for conducting analyses that incorporate environmental justice considerations.

Following the presentation, discussion ensued among NEJAC members and the presenters. Highlights of the discussion are presented below.

NEJAC members expressed high praise to the presenters and EPA for the guidance document, including statements that it was a “huge step forward for the Agency (Ms. Miller Travis)” and “a huge accomplishment (Mr. Targ).”

Father Vien requested that EPA include footnotes in its rules that summarize the views expressed in public comments that were addressed, and for those that were not, the reason why. He suggested this approach as a way for people to know that EPA has heard them.

Ms. Miller-Travis asked how EPA would guarantee that community comments would be considered as seriously as industry input. She cited the often-limited capacity and resources of communities relative to industry stakeholders. Mr. Jones stated that the Agency was engaged in finding ways to listen and incorporate community concerns without requiring members of the community to submit their own risk assessments.

Mr. Jones committed to keeping the NEJAC apprised of the timeline for finalizing the rulemaking guidance. He anticipated that the guidance document would not be finalized for at least 6 to 9 months.

Ms. Briggum requested that EPA incorporate into its rulemaking guidance the question of whether the rule enhances or supports more tangible environmental improvements. She referred to Ms. Miller-Travis's concern about ensuring greater protection of human health and greater environmental improvements, instead of rolling back protections.

Ms. Catron cautioned EPA against viewing rulemaking as a linear process (with checklists), and suggested that it be viewed instead as a circular process. Ms. Wise acknowledged this comment and assured her that the Agency was engaged in "learning by doing" and "continuous listening and improving."

In terms of transparency in rulemaking, Mr. Targ requested that EPA make available to the public the documents used to develop each rule. This, he said, would allow stakeholders to "track" how environmental justice was incorporated during the rulemaking process.

Ms. Margaret May, Executive Director, Ivanhoe Neighborhood Council, asked EPA to review the public participation process and explain how it would work. She stressed the importance of the Agency communicating with grassroots communities like her organization. Ms. May also asked for more details on the training that would be provided to rule writers. Mr. Jones referred to Page 13 of the guidance document (Section E, How Can You Achieve Meaningful Involvement) for more details about EPA's plan for "meaningful involvement." He acknowledged the absence of a "one-size-fits-all" approach. With regard to training, Mr. Jones stated that EPA has a process and structure for conducting training, and that process would be followed to train rule writers on the requirements of the guidance document.

Ms. Kimberly Wasserman, Coordinator, Little Village Environmental Justice Organization, stressed the importance of making community involvement "more than just a checklist." She referred to community organizing methodology and asked the question, "Are people understanding?" Ms. Yeampierre agreed, adding that "strategic outreach" was needed.

Dr. Prasad noted that Mr. Jones's reference to "benefits distribution" was fundamental to environmental justice, adding that community benefits should be reasonably and fairly distributed. He said it was important to emphasize this concept in the technical guidance document. He also strongly urged EPA not to focus on impact assessment but rather "measurable cumulative impacts" when developing the technical guidance. Ms. Wise acknowledged Dr. Prasad's comments and said she expected the draft technical document to be completed by December 2010 and finalized by early 2011.

**Exhibit 6**

***Strengthening Environmental Justice and Decision Making: A Symposium on the Science of Disproportionate Environmental Health Impacts***

On March 17-19, EPA held a symposium on environmental justice research and decision making called, "*Strengthening Environmental Justice Research and Decision Making: A Symposium on the Science of Disproportionate Environmental Health Impacts.*" The purpose of the symposium was to describe the factors associated with environmental health disparities, particularly from the viewpoint of examining the current "state-of-the-science," explore a variety of frameworks, analytical tools, and methods for assessing the environmental health impacts of environmental programs, policies, and activities on disadvantaged populations; and identify short- and long-term preliminary goals – including research and data needs – that could serve as a blueprint for an action agenda.

(Source:

[www.epa.gov/ncerga/events/news/2010/03\\_17\\_10\\_calendar.html](http://www.epa.gov/ncerga/events/news/2010/03_17_10_calendar.html))

Ms. Fisher noted that “risk assessment” was not easy for grassroots communities to understand. Mr. Jones agreed and referenced the steps EPA took during the formaldehyde rulemaking process as a positive example of community participation. He reported that the Agency scheduled public meetings early in the formaldehyde rulemaking process to learn about community concerns and exposure scenarios related to the chemicals in trailers that were used after Hurricane Katrina. Following those early meetings, he explained, EPA returned to the communities with responses to their concerns. Ms. Fisher suggested that EPA enlist the help of grassroots representatives to ensure that communities understand.

Mr. Ridgway referred to Slide 19 of the PowerPoint presentation and asked how “scientific capabilities and technical efforts blend[ed] into the [guidance].” Ms. Wise acknowledged that much more research on cumulative risk was required to answer those questions.

Mr. Ridgway recommended that EPA post on the NEJAC Website all files that support individual rulemaking processes. He acknowledged that this may result in duplication of files that are also posted elsewhere on EPA’s program-specific Websites.

Ms. Miller-Travis asked how the Agency could ensure that these “heavy-duty structural and institutional” changes related to incorporating environmental justice into rulemaking would become a part of the fabric of EPA, regardless of who the President or the Administrator was. Mr. Jones agreed that unless the process was institutionalized, “it [would] be all for naught.” He noted that when analyses can stand on their own, it would be very difficult to undo them, adding that the objective was to analyze the issues before the Presidential and Administrative term ended. Ms. Miller-Travis recommended the formation of a work group comprised of NEJAC members, as well as other colleagues, to delve into this issue.

Ms. Miller-Travis also requested that EPA inform the NEJAC each time a rulemaking process is initiated.

## **1.5 Regulating Air Emissions of Power Plants**

Mr. Rob Brenner, Director, EPA Office of Air and Radiation (OAR), presented on the history and plans related to the regulation of air emissions from power plants. Ms. Tamara Saltman, OAR, was also present to help answer questions.

Mr. Brenner began by sharing data that illustrated the power sector’s major contribution to air pollution. Specifically, he pointed out that the power sector was responsible for 69 percent of sulfur dioxide (SO<sub>2</sub>) emissions, 20 percent of nitrogen oxide (NO<sub>x</sub>) emissions, 44 percent of mercury emissions, and 8 percent of particulate matter emissions (less than or equal to 10 microns in size; PM<sub>10</sub>). He noted that, within the power sector, coal-fired power plants produced most of the emissions, and he explained that roughly 400 coal-fired power plants exist around the country.

Turning attention to health effects associated with ground-level ozone (formed from NO<sub>x</sub>, hydrocarbons, SO<sub>2</sub>, and PM<sub>10</sub>), Mr. Brenner stated that ozone could pose significant health problems, including asthma attacks, respiratory infections, and even death. He reported that exposures to PM<sub>10</sub>, including those resulting from SO<sub>2</sub>, were also associated with a range of health problems, including cardiovascular and respiratory effects. Mr. Brenner pointed out that individuals with lung disease, children, older adults, and those who work outdoors were of primary concern. He showed a map that illustrated the number of PM<sub>10</sub>- and ozone-related deaths attributable to 2005 air quality levels.

Mr. Brenner also described the extensive collection of power plant data on mercury and other emissions (for example, carbon monoxide, lead, nickel, arsenic, dioxins, furans, and acid gases). He pointed out that this data was used to inform EPA’s rulemaking process for air toxics. He announced several upcoming EPA regulations that would be promulgated in the next two years to reduce pollution from power plants, including the Transport Rule.

Mr. Brenner stated that the Transport Rule, also known as the “Clean Air Act Good Neighbor Rule,” would control upward and downwind emissions. He described the Transport Rule as a means to ensure rapid emissions reductions. He added that this Transport Rule would be followed by Maximum Achievable Control Technology (MACT) standards that would require facility-specific compliance with performance standards. Following the MACT standards, he added, a second Transport Rule would be issued.

Mr. Brenner noted that EPA considered environmental justice concerns when developing the Transport Rule from the beginning, as evidenced by (1) the avoidance of backsliding from reductions from the Clean Air Interstate Rule; (2) the focus on achieving emission reductions as soon as possible; (3) the focus on helping states attain the health-based air quality standards; and (4) the focus on low maintenance costs and keeping electricity prices low.

Mr. Brenner welcomed comments on the proposed Transport Rule, which he said would be published in the *Federal Register* at the beginning of August 2010. He said the public comment period would last 60 days, during which EPA would conduct three public hearings in Chicago, Philadelphia, and Atlanta in mid- to late-August. He invited everyone to visit the EJ in Rulemaking Website ([www.epa.gov/air/ej/ejinfo.html](http://www.epa.gov/air/ej/ejinfo.html)).

Ms. Yeampierre urged EPA to place a moratorium on any new power plants in her community until old ones are taken offline. She reported that the nationwide environmental justice movement did not support cap-and-trade programs because facilities were continuing to be sited in vulnerable communities. Mr. Brenner explained that each state would have a limit on the amount of pollution that a power plant could emit, based on local concerns and reducing transport downwind.

Ms. Yeampierre asked whether there were considerations to take environmental justice communities “off the grid” and away from dependency on traditional power plants. Mr. Brenner noted several considerations, including the fact that the energy grid provides communities with backup power and an infrastructure to bring in power from elsewhere if needed.

Ms. Blanton reported that the state of Kentucky generated 90 percent of its energy from coal. She stressed, “There’s no such thing as clean coal.” She noted that pollution from stacks went into waste ponds, resulting in problems with coal-combustion waste. Mr. Brenner acknowledged the issue of coal ash and pointed out that EPA had issued a proposal for addressing coal ash. He said that the proposal considered issues such as mercury and ash.

Ms. Catron asked whether Indian health data was included in the study of coal-fired power plants and mortality rates presented by Mr. Brenner. She encouraged EPA to conduct a public meeting in Navajo Nation to share the results of the study. Mr. Brenner explained that the study examined the relationships between ozone, fine particulates, respiratory disease, and death. He noted that it incorporated findings of epidemiological studies that had been reviewed by the National Academy of Sciences. He acknowledged that significant concentrations of pollution were being observed in the American Southwest. Mr. Brenner committed to working with Ms. Catron and others to identify tools that examine power plants in Navajo Nation.

Ms. Yeampierre noted that Hawaii, Puerto Rico, and Alaska appeared to be missing from the study described during Mr. Brenner’s presentation. Mr. Brenner reported that while Puerto Rico did not have coal-fired power plants, it had oil-fired power plants that contributed significantly to air pollution. He added that many of the plants had relatively short smoke stacks that exposed communities to pollution more than other parts of the country with plants with taller stacks. He reported that the toxic standards that would be released in the following year would also address oil-fired power plants. He added that coal-fired power plants do exist in Alaska, and that they were considered in the rulemaking.

Ms. Miller-Travis referred to Slide 6 in the PowerPoint presentation that highlighted one county in red. Mr. Brenner explained that the county was located in Los Angeles where there was no coal-fired power plant but rather a great deal of transportation-related pollution. He noted that this pollution was the reason for major spending on port and goods movement air programs in Huntington and Long Beach, California.

Ms. Henneke commented that the map on Slide 6 was misleading in relation to the proposed rulemaking because not all the illustrated deaths were associated with power plants. She commented on the challenge of balancing the capacity of power plants and the energy needs of the community.

Ms. Hall raised a concern regarding the economic impacts of changes in power plant regulations on communities whose workforces heavily depend on that industry. Mr. Brenner committed to following up on her concern.

Ms. Fisher asked whether the health-based standards, toxic standards, and risk assessments incorporated exposure assumptions associated with sensitive populations like pregnant women, as well as “typical individuals.” Mr. Brenner stated that the exposure assumptions were based on an average of all types of individuals, including the ones Ms. Fisher named.

Ms. Wasserman noted that her community in Chicago had a coal-fired power plant. She asked whether states that already had “an agreement on the books” with regard to regulating this source would be subjected to the new rules. Mr. Brenner clarified that they would, “as long as [the state regulations were] as or more stringent than our national rules.” He added that Illinois had a very good program.

## **1.6 Facilitating Intergenerational Engagement**

Representatives from the EPA OEJ Youth Workshop addressed the NEJAC, followed by comments from the Council members.

Ms. Kari Fulton introduced herself as the first National Youth Campaign Coordinator for the Environmental Justice and Climate Change Initiative. She expressed her strong desire to involve young people in the environmental decision making process. She introduced Ms. Michellay Cole and Ms. Illai Kenney as “two young leaders” who offered perspectives from the Youth Workshop and how NEJAC and EPA could engage future generations.

Ms. Cole, a student at the University of Maryland and summer Fellow at the Energy Action Coalition, stated that the best way to involve the future generation was through education. She also suggested incorporating youth into the NEJAC.

Ms. Kenney, a senior telecommunications student at Howard University, stated that young people “provide energy in active participation.” She noted that young people created social networking and that this demographic could not be alienated. She advised the NEJAC to consider two recommendations: (1) communicate more effectively with young people by “speak[ing] the same language;” and (2) form a Work Group that would allow young people to gather, “think critically, process, and produce.” Ms. Kenney noted the challenge of young people not thinking or producing enough. She said that ownership was key for young people.

Following the presentations by the representatives from the Youth Workshop, Council members responded to the issues raised, as summarized below:

Ms. Yeampierre recognized Ms. Nia Robinson as the youngest NEJAC member. She encouraged the presenters to reach out to other young people.

Ms. Nia Robinson expressed her excitement about being a part of the Council. She offered her full support to ensure the full incorporation of youth voices. She urged the audience not to discount people’s experience based on their age.

Ms. Catron requested that the youth and young adult presenters establish a Facebook profile for NEJAC to start building an environmental justice network.

Ms. Hall acknowledged the ability of the presenters to articulate their passion for environmental justice. She encouraged them to “pursue excellence” in their education and “take advantage of leadership positions.”

Father Vien recalled the efforts of the youth in his community in New Orleans who led the campaign to shut down a landfill. He requested that the presenters connect with his organization’s youth in New Orleans and reach “across geographic and racial differences.”

Ms. Fisher stressed the importance of involving the younger generation to provide new energy and ideas.

NEJAC members took turns commending the presenters for their participation at the meeting and encouraged them to seek ways to contribute to the environmental justice movement through various means, including the private sector,

state and local governments, and communities. Ms. Yeampierre and Ms. Salkin noted the interdisciplinary nature of environmental justice.

Mr. Ridgway acknowledged Ms. Yeampierre for her efforts as a “catalyst” for introducing intergenerational perspectives at the NEJAC meeting.

On the last day of the NEJAC meeting, Ms. Yeampierre again acknowledged the historical nature of the Youth Workshop and its representatives’ presentation to the Council. She noted that in her own community, young people comprised an integral part of leadership, serving on Boards and as staff members; conducting air monitoring and mapping; and engaging in organizing, education, and planning. She noted that “liberations all over the world have been led by young people.” She advised her colleagues to avoid telling young people “you’re so articulate” because that comment is patronizing. She suggested that, instead of noting “how smart they are,” Council members should recognize the limitations of their own perspectives, their relevance, and whether or not their efforts in environmental justice could be sustained over time. Mr. Yeampierre stressed that the challenge of environmental justice work was to be aware of limitations and to think as broadly and as inclusively as possible because the work “require[s] that everyone be at table. She expressed her hope that young people could be involved in the NEJAC meetings at every city where the event is held.

### **1.7 Federal Agency Activities to Advance Environmental Justice**

The NEJAC heard presentations from senior officials from U.S. Department of Justice (DOJ), U.S. Department of the Interior (DOI), and DOT who highlighted their respective agencies’ efforts to incorporate environmental justice considerations into their work.

**U.S. Department of Justice.** Mr. Patrice Simms, Deputy Assistant Attorney General, Environment and Natural Resources Division, DOJ began by expressing on behalf of Ms. Ignacia Moreno, Assistant Attorney General, Environment and Natural Resources Division, DOJ, Ms. Moreno’s continued commitment to environmental justice. He stated that he was Professor of Environmental Law and Environmental Justice prior to joining DOJ in February 2010. He acknowledged that a meaningful commitment to environmental justice had to be “more than philosophical;” there needs to be, he added, a “commitment to action.” He said, “It is no small task to turn this ship.” He pointed out, however, that he sees “many people doing just that.”

Mr. Simms stated that, as DOJ, EPA, DOI, and DOT strived to make environmental justice an active part of their respective missions, they looked forward to NEJAC and others in the audience playing an important role. He welcomed support and ideas, and expressed his view that the work of NEJAC members and others was changing people’s lives across the country.

Mr. Simms described the Environment and Natural Resources Division at DOJ as “the nation’s environmental litigators,” comprised of 440 attorneys and over 700 employees. He stated that its core missions included a strong enforcement of civil and environmental laws to ensure a clean environment, and stewardship of the nation’s natural resources and public lands. He acknowledged that enforcement was a critical means to address environmental justice issues.

He described three areas of focus at DOJ to facilitate the agency’s ability to focus on environmental justice more effectively in its enforcement work:

1. Enhancing capacity and effectiveness in community engagement.
2. Crafting remedies with the greatest impacts on affected communities.
3. Building capacity and coordination with other agencies.

Mr. Simms expressed his hope for a “robust conversation” with the NEJAC on these issues.

**U.S. Department of the Interior.** Ms. Rhea Suh, Assistant Secretary for Policy, Management, and Budget, DOI, recognized DOI as a “huge agency” that manages one-fifth of the nation’s land mass. She noted that 30 percent of

electricity in the U.S. was produced from minerals on land managed by DOI, and that 30 percent of water delivery was provided by DOI bureaus. She added that DOI recognizes nation-to-nation relationships with over 600 tribes.

She acknowledged that people often associated DOI with national parks such as the Grand Canyon and Yellowstone. Ms. Suh noted, however, that “DOI is just as urban as we are rural.” She identified the following DOI initiatives, pointing out that these were just a few among many ongoing environmental justice-related activities at DOI:

- “Let’s Move Outside” Initiative, including its implementation in Indian Country.
- Native Hawaiian lands and NEPA.
- “America’s Great Outdoors” Initiative.
- Youth program focused on employment and education.
- Strategy to diversify the DOI workforce.

Ms. Suh acknowledged that after a few “dormant years,” there were now big opportunities for DOI and the federal government to move forward.

**U.S. Department of Transportation.** Ms. Beth Osborne, Deputy Assistant Secretary for Policy, DOT, referred to DOT’s joint efforts with states and localities to identify the best techniques for involving communities that have been traditionally left out of decision-making processes. She recognized the need to “go beyond” minimum requirements and to reward those who do so.

Ms. Osborne referred to the Partnership for Sustainable Communities between DOT, EPA, and HUD, which aims to “break down barriers” associated with issues involving the three agencies (see Exhibit 7). She mentioned that DOT was coordinating with HUD on a “glitch” in DOT laws related to local hiring practices. She explained that, unlike DOT, HUD was required to consider local hiring practices. She described a pilot program that was underway to allow HUD rules to apply on a case-by-case basis to DOT projects.

Ms. Osborne expressed her agency’s interest in including populations not traditionally involved meaningfully and early. She referred to DOT’s Transportation Investment Generating Economic Recovery (TIGER) grant program, which was created using funds from the American Recovery and Reinvestment Act of 2009 to address the needs of low-income and minority populations. She acknowledged that grants were “not common to [DOT’s] world.” She recognized that much had been learned but there was much more to learn.

**Exhibit 7**  
**Sustainable Communities Partnership**

In June 2009, U.S. Environmental Protection Agency Administrator Lisa P. Jackson, U.S. Secretary of Transportation Ray LaHood, and U.S. Secretary of Housing and Urban Development Shaun Donovan today announced an interagency Partnership for Sustainable Communities to help improve access to affordable housing, more transportation options, and lower transportation costs while protecting the environment in communities nationwide...”

*(Source: EPA News Release, June 16, 2009)*

Following the remarks from DOJ, DOI, and DOT representatives, discussion ensued among NEJAC members. Highlights of the discussion are presented below.

Ms. Horne referred to the recent America’s Great Outdoors meeting in Asheville, North Carolina, and expressed her disappointment that she and another African American woman were the only two persons of color in attendance. She noted that Asheville has a “very historic African American community.” She expressed concern about federal initiatives to “push minority populations outdoors” while transportation systems in their own neighborhoods – as well as efforts to connect them to further locations such as national parks – were inadequate.

Ms. Horne urged EPA and DOI to work with other agencies, such as U.S. Department of Agriculture (USDA) to introduce culturally-appropriate foods and native food sources to Indian communities on public lands and Indian trust lands. She also urged EPA and DOJ to work with USDA to address the problems associated with combined animal feeding operations (CAFOs).

Ms. Miller-Travis asked Ms. Suh for a status update on the Indian Trust Fund Litigation against DOI in terms of how the settlements were being distributed to tribal members. Ms. Suh committed to following up on this issue.

## **1.8 Dialogue with White House Council on Environmental Quality**

Ms. Nancy Sutley, Chair, White House Council on Environmental Quality (CEQ), expressed her appreciation to NEJAC members for taking time to provide advice to the federal government. She noted that the Council had been an important part of her history while at California EPA, during which the nation's first environmental justice legislation was passed by now Labor Secretary Hilda Solis. She noted that CEQ had been around since the 1970s to help the President and the federal government set environmental priorities. She recognized the importance of ensuring that environmental justice was part of that agenda.

She expressed excitement about an interagency working group meeting in September 2010 that would engage all federal agencies on environmental justice. She added that Administrator Jackson would be chairing the Work Group, noting that there was "no better person to lead that effort in engaging federal agencies."

Ms. Sutley also acknowledged EPA's recently-issued guidance on integrating environmental justice in the rulemaking process, stating that the guidance was an important step toward ensuring that vulnerable communities would have a loud voice in the policies that affect them.

Continuing her remarks, Ms. Sutley mentioned other environmental justice-related activities that were important to the President, including efforts to create a clean energy economy and increase access to parks and green space. Ms. Sutley stated that the America's Great Outdoors Initiative provides opportunities to engage communities in discussions about conservation, open space, and environmental protection. She stressed that such discussions were not just about the environment, but rather also about health, children, and American values.

Ms. Fisher requested that EPA or CEQ provide a list of community groups in New Orleans that received federal government outreach during the NEPA process following Hurricane Katrina. Ms. Sutley responded that, in the event of an emergency such as Hurricane Katrina (and its aftermath), the government uses "very sparingly" the accelerated NEPA process.

Ms. Catron asked whether there were other ways to comment on the Let's Move Initiative besides attending the meetings held in the larger metropolitan parts of the country. Ms. Sutley committed to forwarding Ms. Catron's question..

## **1.9 EPA Responses to NEJAC Recommendations**

Representatives from EPA provided updates to the NEJAC on how the Agency was addressing and incorporating the recommendations from the Council's Work Groups. Specifically, the NEJAC heard presentations on EPA's response to the NEJAC's reports and recommendations regarding Goods Movement, Environmental Justice Screening Approaches, and School Air Toxics Monitoring efforts. Each EPA presentation was followed by discussion, as summarized below.

### **1.9.1 Goods Movement**

Ms. Gina McCarthy, Assistant Administrator, OAR; Ms. Gay MacGregor, Senior Policy Advisor, EPA OAR, Office of Transportation and Air Quality (OTAQ); and Mr. Mike Bandrowski, Chief of the Air Toxics, Radiation, and Indoor Air Office, EPA Region 9, jointly presented the Agency's final response to the NEJAC's Goods Movement report. In addition, Mr. Anthony Furst, Director, Office of Freight Management and Operation, DOT, provided input on the recommendations on behalf of his agency. Following the presentations by EPA and DOT, NEJAC members discussed the issue.

Ms. McCarthy expressed her appreciation to the NEJAC's Goods Movement Work Group for providing EPA with a "roadmap that influenced our thinking." She stated that the Work Group's recommendations sparked immediate action at EPA, pointing out specifically that a recent Regional Administrators' meeting featured an extensive discussion on Goods Movement. She also noted that the recommendations were considered in EPA's 2010-2012 Port Air Strategy and the Diesel Emissions Reduction Act (DERA) Program, which she said was up for reauthorization in

2011 (see Exhibit 8). Ms. McCarthy reported that DERA grant funding included “set asides” for communities and tribal groups.

Turning her attention to EPA’s response process, Ms. MacGregor explained that EPA convened a Goods Movement Report Response team and Sub-teams. She reported that the Response team consisted of the OAR (including OTAQ and Office of Air Quality Planning and Standards [OAQPS]); OECA (including OEJ, Office of Civil Enforcement, and Office of Federal Activities); ORD; Office of Policy, Economics, and Innovation (OPEI), and Regions 9 and 10.

Ms. MacGregor stated that the NEJAC’s recommendations were organized by the following major themes:

- Effective Community Engagement
- Health Research Gaps and Educational Needs
- Regulatory and Enforcement Mechanisms
- Land-use Planning and Environmental Review
- Technology
- Environmental Performance, Planning and Management
- Resources, Incentives and Financing

She noted that the Council’s recommendations had already influenced policy, as she again cited the 2010-2012 Port Air Strategy. Concluding her remarks, Ms. MacGregor and Mr. Bandrowski then elaborated on each of the aforementioned themes.

Mr. Furst, (DOT) recognized the importance of goods movement as an issue of concern for environmental justice communities. He mentioned several DOT initiatives, including the Clean Ports Initiative, the Clear Path Initiative, and DOT’s work with the West Coast and East Coast railroads. He noted that many American shippers were pushing their carriers to be more “green,” and acknowledged the freight community for making significant progress in this area.

Mr. Furst referred to the NEJAC’s recommendation that federal agencies involve local governments in decisions regarding goods movement. He stated that the planning and NEPA processes would accommodate this recommendation. He also recognized the continued involvement of NGOs in addressing the adverse impacts of goods movement.

Mr. Furst committed DOT to providing responses to specific recommendations listed in the Goods Movement Report.

The NEJAC members asked questions and discussed the presentations from EPA and DOT. Highlights are presented below.

Ms. Yeampierre began by recognizing the contribution of former NEJAC and Goods Movement Work Group member, Mr. Omega Wilson, President, West End Revitalization Association, for his “relentless [and] enthusiastic commitment.” Dr. Prasad also acknowledged Mr. Wilson’s role in the Work Group.

Mr. Marsh remarked that EPA’s efforts in addressing the NEJAC’s recommendations were evident. He expressed hope that discussions on community-facilitated strategies would continue, to ensure that community members have the opportunity to participate in federal, state, and local transportation-related decisions that affect them. He recommended that EPA incorporate community-facilitated strategies into its process of siting transportation facilities, as well as when making decisions regarding “legacy issues” related to goods movement. Ms. MacGregor and Mr. Bandrowski committed EPA regional offices to evaluating schools when they conduct goods movement analyses of truck traffic; and following up on Dr. Prasad’s question about whether EPA (diesel) funding is available for schools to address environmental issues in existing goods movement corridors.

**Exhibit 8**  
**Diesel Emissions Reduction Act**

The Diesel Emissions Reduction Act (DERA) of 2005 established a voluntary national and state-level grant and loan program to reduce diesel emissions. DERA authorized \$1 billion over 5 years (\$200 million annually); authorized EPA to oversee the expenditure of 70 percent of funds; allocated 20 percent of funds to states to develop retrofit programs with an additional 10 percent as an incentive for states to match federal dollars; established project priorities (for public fleets and projects that are more cost-effective and affect the greatest number of people); and included provisions to stimulate the development of new technologies, encourage more action through non-financial incentives and require program accountability. The Act is up for reauthorization in 2011.

*(Source: Diesel Technology Forum fact sheet, [www.dieselforum.org/news-center/pdfs/DERA-A-Smart-Clean-Air-Investment.pdf](http://www.dieselforum.org/news-center/pdfs/DERA-A-Smart-Clean-Air-Investment.pdf))*

Mr. Kelley urged EPA to work with cities to phase out construction of residential government housing immediately adjacent to railroad tracks. He noted that safety and health hazards were associated with locating homes so close to the tracks. Mr. Brenner committed to identifying communities that have effectively used HUD, DOT, or EPA funding to address goods movement issues (specifically related to railroads). Once identified, those communities would be used as models for other communities.

Ms. Wasserman asked whether the carrying of coal, coal ash, and other related materials were considered in the Goods Movement report. Dr. Prasad stated that the specific materials being transported were not considered. He clarified that the primary purpose of EPA's charge to the NEJAC was to provide recommendations on emissions originating from goods movement activities; it did not matter if the transported materials were coal or cars. He noted that more than 90 percent of emissions associated with goods movement was due to diesel exhaust.

### 1.9.2 EJ Screening Approaches

Ms. McCabe, Deputy Assistant Administrator, OECA, reported back on EPA's efforts to incorporate the NEJAC Work Group's recommendations on the Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT; see Exhibit 9). Mr. Andrew Schulman, OECA, was also at the table to help answer questions from NEJAC members.

Ms. McCabe described the NEJAC Work Group's final report and recommendations on Nationally Consistent EJ Screening Approaches (May 2010) as a "fine piece of work." She acknowledged that it had taken great energy and talent to develop the report, and she assured the Council that EPA was taking a close look at it. She reported that an EPA technical Work Group was formed to review the NEJAC's recommendations, noting that 12 of the 14 recommendations were labeled as "technical." She added, however, that "there's no such thing as technical without policy recommendations."

Ms. McCabe stated that the report raised "good and valid issues and recommendations." She noted that three recommendations could be implemented within the 2010 calendar year, while others would require more time (such as the request to include more health and environmental data to make the tool more useful in identifying environmental burdens and social vulnerability). She mentioned the challenge of dealing with health data that was only available on a county-wide basis due to privacy concerns.

Ms. McCabe referred to other EPA tools such as the Environmental Justice Geographic Assessment Tool (EJGAT) and "simpler" tools used by regional offices. She recognized the importance for the technical Work Group to bring together the various tools to identify environmental justice areas of concern. She stated that the technical Work Group planned to support the relevant parts of Plan EJ 2014, and develop a common platform and nationally consistent targeting tool.

Following the presentation, Council members engaged Ms. McCabe and Mr. Schulman in a discussion, as summarized below:

On behalf of the Work Group, Ms. Briggum thanked Ms. McCabe for her "kind words." She acknowledged that the project was not easy and, in some cases, contentious. She commended Mr. Schulman for his knowledge of the data.

Dr. Mohai, Professor, University of Michigan, who also served on the Work Group, expressed appreciation for Mr. Schulman's efforts and EPA's preliminary response to the NEJAC report. At Dr. Mohai's request, Ms. McCabe committed to periodically reporting back to the NEJAC on how the Council's recommendations on EJ screening approaches were being implemented. Mr. Schulman listed three areas that were specifically being addressed with respect to screening approaches: (1) simplifying the process for "counting" enforcement and compliance actions; (2) updating the data set to separate out population weighting from the risk screening and

**Exhibit 9**  
**Environmental Justice Strategic Enforcement**  
**Assessment Tool**

The Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT) was created by EPA's Office of Enforcement and Compliance Assurance (OECA) to consistently identify areas with potentially disproportionately high and adverse environmental and public health burdens. EJSEAT uses 18 select federally-recognized or managed databases and a simple algorithm to identify such areas. EJSEAT is currently a draft tool in development, intended for internal EPA use only. Its data sets are divided into the following four indicator categories: (1) environmental, (2) human health, (3) compliance, and (4) social demographics.

*Source:*

environmental indicators measures; and (3) sensitivity analysis. Mr. Schulman noted that the sensitivity analysis was completed and committed to providing those results to the NEJAC.

Dr. Prasad acknowledged the three areas that Mr. Schulman had identified and asked whether the recommended changes to EJSEAT would be implemented after groups at EPA reach a consensus. Ms. McCabe clarified that EJSEAT was being used only in OECA and primarily as a screening tool, given the problems with false positives and false negatives. She reported that some Regions were using their own screening methods that only consider income and race. Dr. Prasad expressed his concern about potential impacts on communities if EJSEAT was improperly used. He suggested involving Work Group members from NEJAC if and when EPA decided to form a technical group.

### **1.9.3 School Air Toxics**

Mr. Richard (Chet) Wayland, Director, Air Quality Analysis Division, EPA OAQPS, provided a status update on the Schools Air Toxics Monitoring study and EPA's preliminary response to the NEJAC's School Air Toxics Monitoring report. The presentation was followed by discussion with NEJAC members.

Mr. Wayland reported that initial air monitoring had been completed at 65 schools (including 63 schools in 22 states and two tribal schools). He stated that EPA planned to conduct additional monitoring in several schools because screening analysis results indicated the presence of toxins at levels of concern; nearby pollution sources were reported as operating below normal capacity; or there were concerns associated with the presence of acrolein (due to a method used to clean sampling canisters). He announced that four final reports were completed; six more were due out by end of August 2010; and the remaining reports would be finalized by the end of the calendar year (totaling 65 reports). In addition to the 65 school-specific reports, Mr. Wayland explained that a final project summary report would be created. The summary report, he said, would be completed by Summer 2011. He stated that EPA would continue to post all reports and data on its Website ([www.epa.gov/schoolair](http://www.epa.gov/schoolair)).

Mr. Wayland pointed out that EPA had received 17 recommendations from the Work Group that covered six general areas:

- Community Collaborations and Education
- Coordination among Government Agencies and NGOs
- Project Scope and Methods
- Potential Mitigation Measures to Reduce Exposure to Air Toxics at Schools
- Data Analysis, Interpretation, and Conclusions
- Work Group Conclusions

He reported that the Agency was working on the responses and, as promised by Administrator Jackson, targeted November 2010 for finalization. He noted that many of the same staff members were also working on addressing the Gulf Coast oil spill, but they were "pushing hard to stay on track."

Mr. Wayland presented the Agency's preliminary responses to eight questions posed by the Work Group and committed to sending the NEJAC the full responses before the end of the meeting. He requested feedback from the Council by Fall 2010 and welcomed input on the Summer 2011 final project summary report.

Mr. Wayland concluded his remarks with the following statement (presented on a PowerPoint slide):

*"On behalf of the School Air Toxics team at EPA, I'd like to offer thanks for the extraordinary time and energy you invested in the workgroup. Although the process was difficult and we didn't always agree, the team heard and considered the points that you raised. Your voice has made a difference in how we approach this project, and we look forward to working together cooperatively to make the most of our resources to protect our over-burdened communities.*

*On a personal note, this has been a rewarding experience to work with such dedicated individuals for such a worthy cause. For my time with each of you, I am a better person and I thank you for increasing my awareness of community concerns and for enriching my personal and professional beliefs."*

The ensuing discussion among NEJAC members and the presenters is summarized below:

Ms. Miller-Travis acknowledged that Mr. Wayland's participation in the Work Group meetings helped clarify many questions. She expressed her appreciation to him and OAQPS staff and noted that, after "lots of push and pull," they jointly produced "extraordinary results." She referred to her co-Chair of the Work Group, Ms. Katie Brown, Research Assistant Professor, University of Cincinnati College of Medicine, who "experienced great frustration over the lack of integration between OAQPS and OEJ." Ms. Miller-Travis added that Ms. Brown had expressed her frustration in writing. Ms. Miller-Travis commented that the Work Group members were awaiting a response from EPA on the letter, and they were also waiting on EPA's response to a request for a meeting with Ms. Yeampierre, Ms. Robinson, and Mr. Lee. She also recognized Ms. Claire Barnett, Executive Director, Healthy Schools Network, Inc., whose organization mapped out and conducted a demographic analysis around the 65 schools in the study. She noted that very few of the schools selected by EPA are in environmental justice communities and expressed interest in focusing on that in the next phase. Ms. Miller-Travis commented on behalf of the Work Group members that they "might come reluctantly but would do it again."

Dr. Mohai, who also served on the Work Group, expressed his appreciation to the EPA staff involved with the Work Group and noted their dedication, sincerity, and helpfulness. He asserted that the broader implications of the monitoring results on schools around the country (totaling over 100,000) were unknown, particularly because the study focused on a relatively small number of schools (65, or less than 1 percent of the total). Dr. Mohai questioned what the proposed remedy would be for those schools whose monitoring results showed significant air quality problems. Finally, Dr. Mohai commented that, while he agreed that EPA should assess the environmental burdens on communities as a whole, the focus should remain on pollution burdens around schools. He cited his own study in Michigan, which found that schools were more likely to be located in the more polluted parts of school districts where there were also more Hispanic, African American, Asian, and poor students. He cautioned against making "early erroneous conclusions."

Ms. Yeampierre urged EPA to include people with community organizing experience in the NEJAC School Air Toxics Monitoring Work Group.

In response to a question from Mr. Ridgway, Mr. Wayland confirmed that *USA Today* was closely following EPA's study. Mr. Ridgway recommended that EPA obtain monitoring data from industrial facilities located near schools – particularly given the limitations of the Toxics Release Inventory, which, he said, were based on modeled estimates instead of real monitoring data..

### **1.10 Update on EPA Activities Related to Oil Spill**

The NEJAC members heard from Mr. Mathy Stanislaus, Assistant Administrator of OSWER, regarding the latest progress by EPA on the Gulf Coast oil spill (see Exhibit 10). Following Mr. Stanislaus' presentation, NEJAC members asked questions and shared remarks.

Mr. Stanislaus described the various air quality monitoring approaches EPA used following the oil spill. He reported that air samples were tested for many pollutants, including constituents of oil; and analytical results were posted on EPA's Website as quickly as possible. He also reviewed the command structure of the response team.

Mr. Stanislaus recognized the concerns associated with using oil dispersants and reported that Administrator Jackson had made it clear to BP that other cleanup approaches (for example, skimming or *in situ* oil burning) had to be used first before considering the use of dispersants.

#### **Exhibit 10 Background on Gulf Coast Oil Spill**

On April 21, 2010, the mobile offshore drilling unit (MODU) Deepwater Horizon, owned and managed by Transocean for BP, sunk after an onboard explosion and fire. The U.S. Coast Guard (USCG) is leading the federal environmental response in the coastal zone, and overseeing all response operations. The Secretary of Homeland Security classified the oil discharge related to this incident as a Spill of National Significance. The USCG Commandant is designated as the National Incident Commander. More than 19,000 federal personnel are involved in the response efforts. Response efforts have included skimming operations, chemical dispersant application, in-situ burning, and deployment of containment booms.

Turning his attention to waste management, Mr. Stanislaus reported that the Agency was working with states to develop waste management plans. He explained that EPA was evaluating the compliance history and relevant environmental justice issues associated with candidate landfills. He also acknowledged the unprecedented placement of solid waste under direct federal oversight, noting that state governments usually had primary authority over solid waste.

Continuing his remarks, Mr. Stanislaus explained that EPA also recognized the need for its oversight and testing of waste at staging areas and landfills. He reported that, to date, no hazardous waste had been identified.

Mr. Stanislaus' remarks generated questions and discussion among NEJAC members, as summarized below:

Ms. Briggum noted that the Council's role was useful to EPA. In particular, she pointed to the Agency's aggressiveness and creativity in terms of its transparency and community involvement efforts.

Mr. Kelley asked about the location of the oil waste landfills, and Mr. Stanislaus referred him to EPA's Website. Mr. Kelley also asked about rumors that cleanup workers were not allowed to wear protective masks or respirators. Mr. Stanislaus clarified that most of the volatile organic compounds were found at the source of the oil spill and that the Occupational Safety and Health Administration (OSHA) required protective gear for workers who worked close to the oil. He noted that the primary concerns being reported were related to heat stress. He added that a health and safety protection specialist was responsible for overseeing the working hours of cleanup crews.

Father Vien commented that his community was "on the ground, directly affected by the oil spill." He acknowledged the "tremendous" response by EPA, including Administrator Jackson's repeated visits. He expressed concern about the future of the area's fishing community, noting that the Alaskan seafood industry had still not recovered from the Exxon Valdez spill 22 years ago. Mr. Stanislaus acknowledged that the Gulf Coast fishing industry was a major concern of President Barack Obama. He added that the claims process had improved greatly since the Exxon Valdez oil spill. He stated that local health professionals were being involved to address potential trauma and mental health effects of the oil spill and Hurricane Katrina.

Mr. Ridgway referred to the NEJAC teleconference meeting in June 2010 and asked for an update on efforts to protect barrier islands and wetlands. Mr. Stanislaus reported that the team was "still in response mode," and he explained that the team would be taking a closer look at restoration activities after their work to install relief wells was completed. He added that the National Oceanic and Atmospheric Administration (NOAA) would also be involved in those efforts. He referred to the Gulf Coast Restoration Plan, which, he said, was "in the works" before the oil spill.

Ms. Miller-Travis referred to an article entitled, *Delta's Black Oystermen Seeking Cleanup Work and Clinging to Hope*, by Trymaine Lee in the July 28, 2010, issue of the New York Times (available online at <http://www.nytimes.com/2010/07/28/us/28marina.html>). She asked EPA to comment on whether African American workers were being left out of the response process. Mr. Stanislaus reported that BP contractors were conducting over 90 percent of the response activities. He said that, under the authority of the EPA On-Scene Coordinator, the federal government could push BP to ensure diversity in their hiring practices.

Ms. Fisher remarked that the local fishing community had ideas regarding how to address the oil spill, but there was frustration "on the ground" because no one was listening to the locals. She noted that coastal Parishes in Louisiana had been asking for barges, and she recommended that EPA "relax the rules" to allow permitting of barges to create a barrier to prevent the oil from reaching land.

Ms. Garcia committed EPA to posting a list of landfills that are receiving oil-contaminated waste on the Agency's Website ([www.epa.gov/bpspill](http://www.epa.gov/bpspill)).

#### **1.10.1 NEJAC Advice Letter to the Administrator**

On the third day of the meeting, the NEJAC deliberated about its proposed letter to the Administrator about the Gulf Coast oil spill. A summary of the major issues discussed is presented below.

- Council members suggested changes in wording and organization of the letter.
- Mr. Lee noted that EPA was developing a grants program for NGOs and CBOs engaged in response activities.
- Father Vien referred to the assertion by public commenter Mr. Floyd Mori that funding was also needed in areas with no NGOs or CBOs (see Chapter Two, Summary of Public Comments). He also asked that the NEJAC's letter reflect community concerns about the potential long-term effects associated with the use of oil dispersants. He expressed concern about the impact on the seafood industry and asked that the letter include suggested ways for the government to help the economy and livelihood of displaced fishers on the Gulf Coast.
- Ms. Garcia noted the historic nature of OEJ deploying a staff member, Mr. Mustafa Ali, as part of the response effort. She also clarified, in response to a comment from Ms. Catron, that EPA included non-federally recognized tribes in the category of NGOs and was reaching out to tribes.
- Ms. Blanton recommended the use of the phrase "oil disaster" instead of "oil spill," to reflect the gravity of the event. Other NEJAC members concurred.

## 1.11 Water Issues

Presenters from EPA OW discussed the Agency's Urban Waters Initiative and efforts to encourage voluntary testing for lead in school drinking water.

### 1.11.1 Urban Waters Initiative

Mr. Michael Shapiro, Deputy Assistant Administration, OW; and Ms. Camille Mittelholtz, Deputy Director, Office of Safety, Energy, and Environment, DOT, jointly presented on their agencies' efforts to implement the Urban Waters Initiative. A discussion with the NEJAC followed. Mr. Silva also participated in responding to questions.

Mr. Shapiro indicated that EPA's "Urban Waters Vision" was to reconnect communities – particularly those that are underserved – with their local urban waters, and to revitalize the waters.. A video message from Administrator Jackson was shown, during which she listed the following EPA priorities related to urban waters:

- Cleaning Up Our Communities
- Protecting America's Waters
- Expanding the Conversation on Environmentalism and Working for Environmental Justice

Mr. Shapiro reported that, since the January 2010 in-person meeting with the NEJAC, (1) OW briefed Administrator Jackson on the Urban Waters proposal, (2) President Obama requested over \$9 million in his FY 2011 President's Budget for this effort, and (3) an Urban Waters Federal Partnership had began forming between EPA and 11 other agencies. He acknowledged that the NEJAC was the first environmental justice group from which OW gained feedback. He recognized that urban waters projects had to begin with communities; and had to ensure that people were aware of, and had access to, urban waters.

Among "early actions" related to urban waters at EPA, Mr. Shapiro listed the following examples:

- EPA Cross-Program Collaboration: Water, Land-Based (OSWER) and EJ programs
- Regional Urban Waters Challenge Projects
- Targeted Watershed Grants (see Exhibit 11)
- Development of Draft Strategic Framework & Draft Measures
- Federal Partnership Senior Leadership Forum at White House Conference Center

Mr. Shapiro listed the following federal partnership themes:

- Focus on reversing past neglect in distressed and underserved communities
- Promote clean urban waters
- Reconnect people to their waterways
- Use urban water systems as a way to promote economic revitalization and prosperity
- Encourage community improvements through active partnerships
- Be open and honest, and listen to the communities to engage them

- Measure and evaluate results

Ms. Mittelholtz provided a DOT perspective on the Urban Waters Federal Partnership. She stated that DOT regarded the partnership as another way to accomplish “more than we could on our own,” noting that it could bring many benefits. She acknowledged that her agency had many formula-based programs and noted that much more could be done to make communities more livable. She reported that DOT was also working with HUD on making affordable housing and transit complementary to each other.

In terms of funding sources, Ms. Mittelholtz referred to DOT’s new discretionary TIGER grant program that her colleague, Ms. Osborne, had described earlier. She said that the program included waterfront projects and intermodal projects that did not fall into other funding categories. She also mentioned TIGER 2, which, she said, was a smaller but similar grant program to TIGER; and a small “set-aside grant” being jointly administered with HUD under the Sustainability Communities Partnership program. She also reported that DOT had FY 2011 funding focused on improving the transportation planning capacity in local areas with a specific livability focus. Mr. Shapiro acknowledged overlaps between the Sustainable Community Partnership and the Urban Waters Initiative.

Mr. Shapiro listed several examples of metrics for the Urban Waters Initiative, including acres of urban waterfront restored (or improved); dollars leveraged from investments in the community; hours of community service volunteered for monitoring and restoring urban waters; number of urban water events (co)-sponsored by EPA; number of schools with urban waters as part of the curriculum; number of urban waters Website users; number of urban water improvement projects initiated with EPA support; pounds of trash collected from urban waterfront cleanups; and number of “chartered” urban watershed champions.

Mr. Shapiro invited the NEJAC to provide comments on the proposed set of measures. He also posed the following questions to Council members:

- How can Urban Waters better incorporate environmental justice into its performance measurement process?
- Are there other resources for environmental justice data that the measures team should approach or research?
- What metrics should be used to track work completed in disadvantaged communities?
- Which metrics show environmental or human health outcomes within disadvantaged communities?
- Would an availability of local urban water “report cards” foster local stewardship and action?

In terms of “next steps,” Mr. Shapiro reviewed the following list:

- Strategic Framework to be released for comment in Summer 2010.
- Urban Waters Federal Partnership to choose initial localities for pilot projects.
- Targeted Urban Watershed Grant and Sub-Grants will be awarded: [www.epa.gov/twg](http://www.epa.gov/twg).
- Urban Waters Service Days pilots will be completed on September 25, 2010.

He encouraged everyone to visit the Urban Waters Initiative Website at [www.epa.gov/urbanwaters](http://www.epa.gov/urbanwaters).

Highlights of the follow-up discussion among NEJAC members are summarized below:

Ms. Yeampierre and Ms. Miller-Travis expressed concern about upgrades along the waterfront resulting in displacement of communities. Ms. Yeampierre reported that environmental cleanups often result in the construction of luxury housing and a change in mixed-use zones. She urged EPA to work with local governments to provide incentives to business and industry stakeholders to remain – and continue employing people – in waterfront areas.

Mr. Shapiro recognized the challenges associated with community redevelopment efforts. He acknowledged that community planning efforts need to provide for the retention of communities in areas where redevelopment is occurring. He noted this as an opportunity for federal partnership.

Ms. Yeampierre also urged the Agency to incorporate climate adaptation and community resilience into its Urban Waters Initiative. Mr. Shapiro reported that OW was exploring the notion of “greening of infrastructure,” which

involved increasing the flexibility and resiliency of water systems in urban areas by relying on green infrastructure during storms. He also cited rising sea levels and wetlands preservation as example focus areas for the EPA with respect to climate adaptation. He mentioned a pilot study by EPA's National Estuaries Program where communities are given funds to identify vulnerabilities to climate change and begin planning ways to address those vulnerabilities.

Mr. Ridgway asked whether storm water from freeways and roads was allowed to enter waterways. Ms. Mittelholtz replied that storm water management comprised a large part of transportation-related projects. She stated that DOT was engaged in designing storm water practices that also contribute to habitat restoration. Furthermore, she added, DOT continues to seek opportunities to "retrofit and undo past wrongs."

Mr. Ridgway asked whether the U.S. Department of the Navy was involved in the Urban Waters Initiative, noting the Navy's "long history of pollution" and "strong awareness of environmental issues," especially in the states of Washington, Hawaii, and Alaska. Mr. Silva committed EPA to working with the Navy under the Urban Waters Initiative.

Ms. Edith Pestana, Administrator, Environmental Justice Program, Connecticut Department of Environmental Protection, stressed the importance of working with states, as well as business and industry, on waterfront issues such as non-point source pollution. Mr. Shapiro agreed, noting that EPA works closely with states. One example he pointed to was the Agency's recent meeting with the Association of State Water Quality Managers. He added that EPA needs effective partnerships with businesses and communities. Mr. Shapiro confirmed Ms. Pestana's question about whether urban water programs would address combined sewer overflows and cited EPA's experience in the Anacostia River as an example.

Mr. Kelley noted the importance of giving young people access to urban waterways. He noted that his community in Port Arthur did not have much access to the waterways that surround it because of the lack of seating areas and the prevalence of blighted properties along the water's edge. He recommended that EPA consider amenities, such as benches and activity areas, as part of its efforts to improve access to waterways. He also urged EPA to partner with business and industry to cleanup waterways and make them accessible. Mr. Shapiro noted opportunities for the Agency to work with other federal agency partners, such as DOI, on the Great Outdoors Initiative.

Mr. Shapiro clarified for Ms. Catron that the targeted watershed program has existed for the past 3 to 4 years but that it did not receive new funding in FY 2010. Ms. Catron expressed interest in the experience and successes of past funding recipients. She recommended that EPA (1) identify ways to connect with others in the larger watershed (for example, use programs on YouTube to connect young people); (2) use the Community Action for a Renewed Environment (CARE) program as an example for promoting stakeholder involvement in the Urban Waters Initiative; and (3) include a "strong cultural value of water" in the Initiative.

Ms. Fisher urged EPA to work with the National Science Resources Center, which is affiliated with the Smithsonian Institute, to develop an urban waters curriculum for schools. She also suggested that EPA and DOT involve high school and university students in its Urban Waters Initiative through sweat equity and community service programs. She also asked about hypoxia zones along the Gulf Coast. Ms. Mittelholtz agreed to forward Ms. Fisher's suggestion about involving young people through volunteer programs. Mr. Silva cited the Mississippi River Hypoxia Task Force that is working on long-term solutions associated with upstream nutrients that contribute to the hypoxia problem.

Dr. Prasad urged EPA, DOT, and HUD to include a condition in Smart Growth grant applications to ensure that grant recipients' projects will not change the land use zoning in areas where the grants will be applied.

Mr. Marsh recommended that, by selecting pilot study areas, EPA and DOT should consult with individuals and agencies that are engaged in sustainable community partnerships and dealing with the issue of displacement of residents.

Mr. Targ acknowledged the limited federal funding for parks and watershed restoration programs. He asked for more details on the expectations and metrics associated with issuance of the \$9 million of funding, including up to \$600,000 in subgrants. Mr. Lee noted that discussions are ongoing about initiating a pilot study, the metrics of which could

serve as an example for other program offices. He also suggested the involvement of the U.S. Department of Homeland Security in the Initiative.

Ms. Salkin recommended that EPA look to the NOAA for examples of dealing with land use issues and displacement of residents.

Ms. Yeampierre (and others) requested that Mr. Shapiro distribute the strategic framework related to the Urban Waters Initiative to the NEJAC.

### **1.11.2 Encouraging Voluntary Testing for Lead in School Drinking Water**

Ms. Cynthia Dougherty, Director, EPA Office of Ground Water and Drinking Water; and Mr. Ron Bergman, Chief, Drinking Water Protection Branch, presented on EPA's program to encourage voluntary testing for lead in school drinking water. A discussion with the NEJAC followed their presentation. Mr. Shapiro and Mr. Silva also helped respond to questions.

Ms. Dougherty reviewed the initiative and provided background on lead exposure. She stated that the primary goals of the initiative were to ensure compliance of schools that are public water systems; and encourage voluntary lead testing at schools and childcare facilities that are served by public water systems. She recognized the importance of providing access to safe tap water at schools, as an alternative to sugar-sweetened beverages.

She reported that almost 99,000 public schools received tap water from a public water supplier that is not regulated by EPA. She added that about 7,700 schools and childcare centers in EPA's public water system inventory were individual public water suppliers that, in most cases, were outside the jurisdiction of a water system. She noted that there were about 320,000 licensed childcare facilities around the country, most of which likely received water from a public water supplier.

Ms. Dougherty referred to EPA's Lead Action Plan, which, she said, was developed for several reasons, including the health effects of lead in children such as impaired development, intelligence quotient (IQ) deficiencies, and shorter attention spans. She acknowledged the efforts of EPA program offices and other federal agencies to reduce lead exposure to children, including regulation of lead-based paint, and lead in dust and soil.

Concluding her remarks, Ms. Dougherty noted that testing for lead in school drinking water was important because children spend more of their day at schools. She stated that lead is "almost never" in the water that comes from the drinking water plant. Instead, she explained, lead usually leaches from surface lines from the water main in the street to people's houses or in the plumbing in people's houses.

Mr. Bergman discussed EPA's two-part action plan for the two different kinds of schools – those that are public water systems, and those that are served by a public water system. He reported that "compliance is better at schools than in the universe at large, and states with primacy tend to react more quickly to schools." He said that "best practices" were being developed for schools.

Turning his attention to ways that EPA has partnered with drinking water utilities associations, Mr. Bergman cited an example. EPA worked with state drinking water programs, Centers for Disease Control, and the Department of Education, he said, to develop the "3 Ts" for reducing lead in drinking water in schools – training, testing, and telling (see Exhibit 12). As a result, he reported that several utilities have conducted testing using the "3 Ts" materials. He noted, however, that few utilities have involved the surrounding community in their efforts.

<b>Exhibit 12</b> <b>3 Ts for Reducing Lead in Drinking Water in Schools</b>
The 3 Ts are as follows:
<ul style="list-style-type: none"><li>• <b>Training</b> school officials to raise awareness of the potential occurrences, causes, and health effects of lead in drinking water; assist school officials in identifying potential areas where elevated lead may occur; and establishing a testing plan to identify and prioritize testing sites.</li><li>• <b>Testing</b> drinking water in schools to identify potential problems and take corrective actions as necessary.</li><li>• <b>Telling</b> students, parents, staff, and the larger community about monitoring programs, potential risks, the results of testing, and remediation actions.</li></ul>
<i>(Source: 3Ts for Reducing Lead in Drinking Water in Schools: Revised Technical Guidance [EPA 2006])</i>

Mr. Bergman recognized the challenge of involving communities, working with parents to understand the results and reasons for testing, and encouraging more schools and utilities to conduct testing. He welcomed the NEJAC's input.

A summary of the Council members' discussion is presented below:

Ms. Dougherty clarified for Mr. Kelley that no variances are allowed for microbial standards in drinking water. She and Mr. Shapiro acknowledged Mr. Kelley's concern that drinking water advisories resulting from compromised wells be issued with ample time for communities to take precautionary measures.

Ms. Fisher suggested that EPA partner with HUD on its Healthy Homes Program. She also recommended that EPA consider the possibility of using its revolving loan fund program to replace older pipes in sewer systems. Ms. Dougherty clarified that state revolving loan programs can be used to replace service lines. She noted, however, that public ownership of service lines end at the property line, beyond which the homeowner has to bear the cost.

Dr. Mohai asked whether replacing faucets and flushing or replacing pipes were the only options for remedying problems in water service lines. He acknowledged the limited availability of funds in school districts. He also asked whether EPA had an idea of the extent of the problem of lead in drinking water in schools. Ms. Dougherty reported that drinking water that "sits" over an entire weekend showed evidence of a higher chance of lead leaching, in which case flushing could make a difference in cleaning out pipes. She acknowledged that replacing pipes was a more costly alternative. Mr. Bergman added that water testing in New York and New Jersey schools revealed that 10 percent of faucets in the schools had potential lead problems. He said that those schools opted to address the issue by turning off those faucets.

Ms. Dougherty committed to following up on Ms. Miller Travis's question about EPA's progress on reducing elevated levels of lead in Washington, D.C., and in the Prince George's County, MD, drinking water supply.

Ms. Catron urged EPA to educate schools and communities about this initiative "in a way that is in plain English." She suggested the use of pictures and graphics rather than "pie or bar charts," and as an example, she referenced a presentation by the National Institute for Occupational Safety and Health (NIOSH) on cancer. She also recommended that EPA hold a "Clean Schools Initiative multimedia blitz." Mr. Bergman agreed, saying that under the Healthy Schools Initiative, EPA had developed elementary school lesson plans for the "3 Ts" approach.

Mr. Ridgway encouraged EPA to revisit previous reports by the NEJAC on how best to involve communities.

### **1.12 Closing Dialogue**

In addition to discussions regarding agenda-specific topics (which are summarized in the relevant sections above), NEJAC members discussed several general issues prior to adjourning. Highlights of general and administrative discussions are presented below.

**General.** Mr. Targ recommended that the NEJAC submit a letter to Administrator Jackson on EPA's Draft FY 2011-2015 Strategic Plan, noting that the public comment period was scheduled to end on July 30, 2010. NEJAC members concurred, and a letter was drafted and circulated among Council members for approval.

Ms. Miller-Travis recommended that OEJ demonstrate to staff in other program offices how environmental justice "looks" in their respective media.

Ms. Fisher recommended that EPA invite federal agency representatives to share how they are integrating environmental justice into their work and training their staff.

Ms. Fisher requested a "cheat sheet" about risk assessments, health assessments, and other forms of toxicity assessments. She also requested information on the media for which they are applicable.

Ms. Catron requested a discussion among EPA and NEJAC members about the Council's relationship with the National Tribal Caucus and the role of the NEJAC tribal government representative. Ms. Victoria Robinson committed to discuss with Mr. Lee the possibility of increasing tribal representation on the NEJAC.

Mr. Kelley requested that NEJAC bylaws be revised to reflect EPA's position that proxies are not allowed on federal advisory committees.

Ms. Fisher recommended that EPA invite representatives from the U.S. Green Building Council and American Planning Association to upcoming NEJAC meetings to discuss zoning laws and ways to avoid unintended consequences from Leadership in Energy and Environmental Design (LEED) certifications.

**NEJAC Meeting Format.** Ms. Yeampierre (and others) urged EPA to provide meeting materials (such as background documents and written statements from presenters) to the NEJAC in sufficient time before the meetings. She pointed out that receiving the information in advance would allow Council members an opportunity to review the materials before arriving to meetings and, consequently, take full advantage of meeting times to deliberate.

Dr. Prasad recommended that OEJ (1) remove from the agenda those items for which no materials are provided in advance, and (2) send speakers a list of questions they should address during their presentations.

Ms. May recommended for future meetings the use of (1) a facilitator, (2) time limit cards (when many NEJAC members wish to speak and time is limited), and (3) cards for members to jot down and turn in more detailed comments.

Mr. Kelley recommended that the NEJAC divide up the Council deliberation time after presentations into two segments – one for questions and another for comments.

Ms. Yeampierre requested that every meeting include an orientation with primers on general environmental topics.

Mr. Ridgway requested that the Council deliberation/dialogue segment of the meetings take place earlier in the meeting agenda.

## CHAPTER 2. SUMMARY OF PUBLIC COMMENT PERIOD

### 2.0 Introduction

On Tuesday, July 27, 2010, the NEJAC held a public comment period to directly engage concerned citizens and members of affected communities. The public comment period convened at 6:30 p.m. and continued until approximately 8:00 p.m. Spoken comments were heard from eight individuals from around the country, five of whom also submitted written comments; and six additional written comments were received for inclusion in the public record.

The public comment period provides an opportunity for NEJAC members to interact directly with concerned citizens. Following several speakers' testimonies, NEJAC members addressed them with additional questions, comments, and suggestions. Where applicable, NEJAC members provided more information on the tools and strategies available for community organizations.

This chapter summarizes the spoken testimony offered during the public comment period, as well as discussions among NEJAC members in response to those comments. Exhibit 14 lists the individuals who provided public comments, including spoken and written comments.

### 2.1 Mr. Omega Wilson, West End Revitalization Association

Mr. Omega Wilson, President, West End Revitalization Association, and retired NEJAC member, noted that much had been said about Plan EJ 2014. He asked, "who [will] drive these agenda items" in the future and why some of the priorities outlined in Plan EJ 2014 couldn't be done now.

Mr. Wilson commented on the NEJAC Goods Movement Policy Report and the Work Group in which he participated. He said he had initially expressed concern about the inclusion of community-facilitated strategies and "empowering the community voice," and stated that he was very glad to see it "standing out" in the report. He further expressed his concern that multi-media impacts of goods movement – in water and soil, in addition to air – may not be considered in the final report; and intra-agency coordination may still be lacking. He requested a copy of the final Goods Movement report.

In terms of interagency involvement, Mr. Wilson said that he was glad that DOT was scheduled to be at the NEJAC meeting. He commented that the West End Revitalization Association had been doing a "song and dance" with DOT for 11 years over a civil rights complaint and expressed hope for a "real, live" movement on the case. He described the DOJ case as involving an eight-lane 27-mile corridor of concern in North Carolina that, he said, was destroying two African-American communities and Native American property "without compliance [or] enforcement [or] inclusion, as if there are no laws in the land." Mr. Wilson stressed the need for EPA to address these issues with "real meat and real teeth."

Highlights of follow-up discussion among NEJAC members are summarized below:

Mr. Ridgway noted that the Council had been provided with only the Executive Summary of the final Goods Movement report. In response to his question about when the NEJAC would have access to the full report, Ms. Victoria Robinson stated that the full 129-page report would be e-mailed to members. She added that it would also be posted on the NEJAC Website.

Mr. Prasad asked whether EPA's presentation to the NEJAC on its responses would be the Agency's "draft" responses or "final" responses that would not require dialogue among Council members. Ms. Robinson clarified that the following day's EPA presentation would consist of "final responses [and] full findings."

Mr. Marsh referred to the outline of EPA's response regarding the NEJAC's recommendation on community-facilitated strategies and expressed concern that there was not "enough recognition of the value of that contribution." He expressed hope that EPA's response report would recognize the value of that contribution "so that the dialogue can

continue in terms of education, training, capacity building,...to assist communities in figuring out how they can use those...brilliant ideas behind that concept in their own work.”

## **2.2 Michael Jacoby, Concerned Citizen**

Mr. Michael Jacoby, a concerned citizen from Seven Valleys, PA, noted that he was following up on the comments and concerns that he had raised during the July 2009 NEJAC meeting. Specifically, he expressed concerns regarding data verification of EPA’s databases and the amount of “inaccurate and misleading” site locational data in them. Mr. Jacoby stressed that the public often used the information, and he asserted that “the sites are not located in the proper towns.”

Mr. Jacoby commented that he had sent e-mails to EPA and received no e-mail responses. He asked whether EPA Administrator Lisa Jackson had received his comments. He asked, if EPA was not going to address the problem, whether the NEJAC would support him on teaching the grassroots community how to find and correct this information.

Following Mr. Jacoby’s comments, Ms. Briggum stated that she had “good news” for him. She noted that in recent rule making efforts by OSWER, she had observed the effective use of Google Maps to identify the locations of facilities. She described an example of a precisely located “footprint of the demographics of all of the facilities in the communities where [those facilities] are located,” based on photographs. She commented that she was very impressed. She expressed her hope that Mr. Jacoby would be “thrilled” to realize that EPA had moved forward and was improving its databases.

Mr. Jacoby referred to his efforts to “teach other federal agencies and First Responders how to watch out for data problems within the EPA databases.” He noted that there was a “larger problem.” He emphasized the need for the information to be correct and the importance of knowing that the information can be trusted. He commented that in order to get the community involved in the programs being discussed at the NEJAC meeting, the database had to be cleaned up and verified.

Mr. Jacoby also submitted written comments, which are provided in Appendix C.

Following Mr. Jacoby’s presentation, Ms. Pestana asked for clarification about whether he was referring to latitude and longitude data being incorrect. Mr. Jacoby stated that he had found errors such as duplicate facility registry information; and some latitude and longitude data that “put me in the ocean,... some put me in Asia.” He said that these errors applied to some TRI facilities, RCRA sites, and other “sites of interest.” He commented that these errors could all be corrected. He reported that he was in contact with First Responders and expressed hope that they would “step up.”

## **2.3 Reverend Jim Deming, United Church of Christ, Justice and Witness Ministries**

Reverend Deming introduced himself as the Minister for Environmental Justice for the United Church of Christ, which he acknowledged as having a “long history of involvement with environmental racism and environmental justice.” He commented that people can prosper or suffer “because of our actions.” He shared a story about Ms. Lorelei Scarbro in Rock Creek, West Virginia, whose husband, a coal miner for 35 years, had died of black lung disease. Reverend Deming noted that Ms. Scarbro’s property borders Coal River Mountain, which he described as one of the most beautiful mountains in the Coal River Valley of West Virginia [and] one of the few untouched mountains in the region with miles of pristine creeks and waterfalls.

Reverend Deming reported that Coal River Mountain is slated for a mountaintop removal coal mine. He explained that if the coal company’s plans are implemented, nearly 10 square-miles of the mountain would be destroyed, and 18 valley fills would devastate the Coal River watershed. He noted as “good news,” however, that Coal River Valley residents had joined together to propose a new idea for sustainable energy that could be a win-win solution for everybody, except the coal companies.

Reverend Deming referred to a 2006 study that demonstrated that the wind potential on Coal River Mountain made it an ideal location for developing utility-scale wind power. He reported that, in addition to creating hundreds of jobs, the proposed Coal River Wind Project would produce enough wind power “keep the lights on in over 70,000 homes,... pump \$20 million into the economy during its construction,... produce \$1.7 million in taxes every year,...[and] allow other uses of the land that would benefit local communities for generations to come.”

Reverend Deming quoted Ms. Scarbro as saying, “We don’t live where they mine coal. They mine coal where we live.” Urging further action, he explained that he shared his friend’s story to raise three important concerns or themes for the Council: First, “that people or corporations outside of our communities are making decisions that can fundamentally alter the air that we breathe, the water that we drink, our ability to make a living and our right to self-determination.” He added that, from mountaintop removal to the BP oil disaster, “powerful outside forces whose only allegiance is to the bottom line [and] its shareholders are telling our citizens what kind of communities they shall live in.” Reverend Deming stated, “This is wrong, and it is an injustice.”

He continued, secondly, “we need the power of the federal government and its agencies to stand beside our citizens against these outside forces that are too powerful for our smaller communities to fight.” He urged for the government to “step up” to take leadership and responsibility. Specifically, he asked EPA to set and enforce environmental safety and health standards and urged the Agency to be proactive instead of reactive.

As his third point, Reverend Deming stated, “Our communities have the resourcefulness to determine their own solutions on a scale appropriate to their needs. The Coal River Wind Project is a solution that comes from the resilience and imagination of this small community.” He referred to the project as a solution that empowers and respects people.

Reverend Deming emphasized the dedication of the United Church of Christ and its partners in the faith community to environmental justice. He quoted Proverbs 29:18, which states, “where there is no vision, the people perish.” Reverend Deming also submitted written comments, which are provided in Appendix C.

Highlights of follow-up discussion among NEJAC members are summarized below:

Ms. Blanton commented that communities in Kentucky were also working to put wind farms on the Black Mountain range. She noted the struggle of dealing with out-of-state companies that own the land.

Ms. Miller-Travis referred to her past experience working with Mr. Lee at the Commission for Racial Justice in 1986 and 1987, during which she was prompted to join United Church of Christ.

#### **2.4 Mary Henderson, Land Loss Prevention Project**

Mary Henderson introduced herself as a staff attorney at the Land Loss Prevention Project in Durham, NC. She referred to North Carolina’s “Renewable Energy Portfolio Standard,” adopted by the state legislature in 2007, which requires North Carolina companies to meet some of their energy needs through renewable sources (such as biomass, including agriculture waste, animal waste and land field methane).

Ms. Henderson expressed concern that this use of biomass may serve to justify undesirable land uses such as Concentrated Animal Feeding Operations (CAFOs), landfills, hog lagoons, and sprayfields. She described a proposal for a “poultry litter incineration plant” in Sampson County, which she said, along with adjacent Duplin County, has a large number of hog operations and communities that are primarily lower income and predominately African American. She stressed that, under the renewable energy legislation, these communities may have to deal with burning of animal waste in addition to odor and health problems associated with industrial turkey and hog operations. She added that community efforts to phase out hog lagoons and sprayfields may also be weakened by the legislation.

Ms. Henderson closed by stating that she was expressing these concerns based on what she had heard from individuals in the community.

Following Ms. Henderson's comments, Mr. Ridgway asked about the extent of EPA's involvement on the issue. She stated that she was not sure of the Agency's involvement, noting that the legislation was fairly new. She referred to past NEJAC meeting public commenters Ms. Dothula Baron-Hall and Devon Hall, who had raised the same issue and would be more familiar with EPA's involvement.

## **2.5 Dr. Stan Caress, University of West Georgia**

Dr. Caress introduced himself as Professor at the University of West Georgia, where he is Director of the Environmental Studies Program. He emphasized his purpose of advocating for additional regulatory action by EPA in the area of consumer products that emit toxic substances, such as air fresheners.

Dr. Caress noted that EPA had been "reluctant" to use its regulatory authority under the Toxic Substances Control Act in recent years, citing cost-benefit analyses and insufficient scientific data as reasons "to justify not increasing regulatory activity." He reported the "growing body of medical evidence that suggest that children, especially poor children, are particularly vulnerable to what are normally considered to be 'safe consumer products.'" He mentioned formaldehyde from new carpeting and air fresheners as examples of products that emit toxic vapors. He urged EPA to pay closer attention to these scientific studies and increase its regulatory authority in this area.

Dr. Caress also submitted written comments, which are provided in Appendix C.

## **2.6 Mr. Floyd Mori, Japanese American Citizens League**

Mr. Mori, National Executive Director of the Japanese American Citizens League, introduced himself as trained economist, former college professor, former mayor of a "suburban growth city," and a three-term California state legislator. He stated that during his years of public service, he began to understand "environmental injustice." He commented that many within the Asian-American community continue to experience the impact of a "toxic environment." At the same time, he continued, these individuals are "the last" to be informed of how to avoid [and] mitigate "the life-changing effects of bad environmental practice and faulty environment policy."

Mr. Mori expressed his view that early immigrants from Asia like his father "were relegated to the dirty, difficult, and dangerous jobs in a developing economy," noting that Asian communities were seen as living on "the other side of the tracks." He referred to formerly thriving Japantowns and Chinatowns that diminished because they became the sewage plants, garbage transfer stations, and heavy industrial areas that serviced the "right side of the tracks." He commented that, "the only escape was to become a farmer or a businessman," adding that "the cultural values of the immigrants from Asia included a reverence for nature, education, and a respect for hard work."

Mr. Mori stated that the Japanese-American farming communities became the heart of the modern farming industry along the West Coast, but noted that "their success brought scorn and discrimination from mainstream farming organizations." He described the experiences of Japanese Americans during World War II, adding that, during their period of imprisonment despite their U.S. citizenship status, they generated productive farms and creative artwork.

He likened the recovery of the Japanese-American farming communities to the recovery in New Orleans after the Hurricane Katrina disaster. He suggested that Vietnamese and Southeast Asian communities were among the most severely impacted communities of the Gulf Coast, referring to homes and boats that were destroyed. He noted that, instead of waiting for government aid, they called upon "the values of family, nature, and hard work to rebuild their devastated communities."

Mr. Mori reported that following the BP oil spill disaster, he learned that Asian communities on the Gulf Coast were being ignored in relief and job replacement efforts; and preyed upon by "unscrupulous business people." He referred to the "insensitivity toward the unique culture of the Asian-American fishing community. He stated that, "All I want to do is work" is what he heard from Vietnamese boat owners and decks hands. He added that they also said, "This is all I know how to do." Mr. Mori expressed his view that in this "man-made disaster" the Asian-American fishing community has been helpless because recovery work depends on "man-made institutions." He referred to the basic problem of "language, access, and cultural sensitivity." He noted the waning trust for BP and the government in the community.

Mr. Mori referred to Ms. Siriporn Hall of Bayou La Batre, AL, a cancer survivor, who sold two of her three boats to pay bills and feed her family and deck hands. He stressed that local Asian Americans have no community-based organization to help them emerge from the "BP oil spill disaster." He urged EPA to establish effective community-based programs with staff that are trained and can be trusted by the community. Mr. Mori encouraged NEJAC to continue to work to strengthen community-based organizations and help build their capacity. Mr. Mori also submitted written comments, which are provided in Appendix C.

At the end of the public comment period, several Council members offered follow-up comments:

Father Vien referred to Mr. Mori's request for EPA and NEJAC to help to build the capacity of community-based organizations. He commented that such organizations generally grow out of communities and asked what EPA or NEJAC could do to help. Mr. Mori clarified that funding would be useful, as well as training on how to coordinate with other organizations.

Ms. Catron mentioned the NEJAC June 2010 teleconference meeting on the Gulf Coast oil spill and encouraged Mr. Mori to track the Council's draft letter of recommendations to EPA.

Ms. Blanton noted that immigrant communities were not the only ones who "don't trust the government." She referred to the experiences of communities in Appalachia and assured Mr. Mori that his community was not alone in that regard. She acknowledged that it was difficult for agencies to build trust and respect in communities. Mr. Mori responded that the Gulf Coast community that he described had the desire but not the knowledge to get involved and work together.

Ms. Yeampierre concluded the discussion by noting that, "with the exception of indigenous people and African Americans, everybody is an immigrant community in the United States."

## **2.7 Ms. Melissa McGee-Collier, Mississippi Department of Environmental Quality**

Ms. McGee-Collier, Director, Office of Community Engagement, Mississippi Department of Environmental Quality (DEQ), conveyed her Agency's greetings on behalf of DEQ Executive Director Ms. Trudy Fisher. Before presenting her comments, Ms. McGee-Collier stressed, "These are my comments and not the comments of Mississippi DEQ:"

- Communities that have been environmentally impacted by landfills, chemical industries, creosote contamination, and other forms of pollution, who face stigmas imposed by financing institutions and developers; and
- The influence of meaningful public participation on regulatory agencies' decisions.

Ms. McGee-Collier stated, "just like the perception of government is important, the perception of a community is important." She then expressed the following desired outcomes:

- NEJAC will advise EPA to formulate relationships with financial institutions so that the redevelopment of environmental justice communities can result in more than just green spaces, but viable areas for economic development.
- NEJAC will advise EPA on how to make sure that the desired effects of public participation on regulatory decisions are clearly outlined in the final Plan EJ 2014 and any policies or regulations that are released in the coming months.

Wrapping up her comments, Ms. McGee-Collier made the following recommendations:

- After cleanups occur in environmental justice communities, EPA should designate those areas as "Economic Redevelopment Areas" and work with local and state governments and financial institutions to economically revitalize the areas using incentives.
- Make EPA clearly define "meaningful involvement" and outline in plain English how public participation will influence regulatory decisions, instead of leaving it up to the states.

Ms. McGee-Collier also submitted written comments, which are provided in Appendix C.

Follow-up questions and comments from the NEJAC members are summarized below:

Ms. Yeampierre expressed her appreciation for Ms. McGee-Collier's testimony, stating that it exemplified "why public comment is so important because it...adds a different lens [to] the way we see things." She commented that Ms. McGee-Collier painted a picture of the community that was very different from the experience of Ms. Yeampierre's community.

Father Vien commented that Ms. McGee-Collier described a situation that was similar to the experience in Louisiana, where the community does not trust the state DEQ. He cited this as the reason why communities call on EPA for help, to "put on the light so that the roaches will show themselves." He described the example of a former landfill where homes were built and the area was later deemed a Superfund site, which resulted in the relocation of the primarily African- American community. He raised the issue of "policy justice," and asked whether the federal government could invest and create jobs in areas that have been "abused" by contamination. Father Vien asserted, "That would be tremendous [in] restoring the people."

Mr. Kelley commended Ms. McGee-Collier on her efforts and encouraged her to "continue to fight." He advised her to build her own community that could mobilize and start their own businesses. He urged her to continue pushing the City Council for cleanup.

Ms. Miller-Travis expressed concern about the rush to purchase contaminated land at lower cost to create new communities that displace "ancestral" communities. She noted the "vigorous effort" by EPA to reclaim, redevelop, and build on Superfund sites. She stated that there was a need to connect such efforts and resources with communities in Mississippi. Ms. McGee-Collier responded that the DEQ had applied for EPA brownfields grants but added that it was "only a small bite out of a big effort." She expressed her desire to see a greater collaborative effort between the state and federal government.

Ms. Yeampierre referred to New Partners for Community Revitalization in New York City, which helps connect bankers, developers, and communities to push community-driven development. She added that New York City was incentivizing community-driven projects and encouraged Ms. McGee-Collier to look into it.

Mr. Barlow commented that Ms. McGee-Collier was "brave [and] bold" for her efforts. He recognized former DEQ Executive Director Mr. Charles Chisolm for his example. He suggested that DEQ's inability to solve everyone's problems was one reason for the community's mistrust for DEQ.

Ms. Fisher asked how should EPA define the subjective term, "meaningful participation." In response, Ms. McGee-Collier recommended that EPA provide specific guidelines (not checklists) and that information be disseminated in multiple ways (for example, not just in newspapers or via e-mail). Father Vien followed up by stressing the importance of EPA keeping the community informed about the risk factors associated with proposed plans.

Mr. Ridgway referred to Ms. McGee-Collier's desired outcome that EPA establish relationships with financial institutions and noted that the NEJAC currently lacked that representation. He reiterated the need for that.

Ms. Hall referred to Ms. McGee-Collier's desired outcome that "environmental justice communities...be more than just a green space, but a viable area for economic development" and asked whether she had explored available resources and connections with City Council members on this issue. Ms. McGee-Collier responded that DEQ had better relationships with some City Council members than others. She noted that supporters had a better understanding of land use issues and zoning, and those who were less supportive were more concerned about being reelected and were "more industry-friendly."

Ms. Henneke noted the value of Ms. McGee-Collier having a technical background because she could "speak both languages." She also raised the "housekeeping matter" of how Ms. McGee-Collier should cite her affiliation when

delivering these public comments. Finally, Ms. Henneke commended Ms. McGee-Collier for engaging in “missionary work in public service.”

Mr. Kelley advised Ms. McGee-Collier to find a common issue to pull the community together behind site cleanup.

Ms. Pestana noted that, based on her own experiences working with the State of Connecticut, it takes “at least 2 to 3 years to get a community to learn to trust...and start working with you.” She advised that, if a state agency could not solve a large problem, it should leverage local agencies to address smaller problems. This, she said, would demonstrate to the community that the state agency wants to help. Ms. Pestana also suggested that Mississippi consider applying for a CARE grant.

Ms. Yeampierre suggested that Ms. McGee-Collier reach out to church communities as part of her organizing strategy.

## **2.8 Mr. Assaf Katz, Concerned Citizen**

Mr. Katz stated that he was from Israel and had been in America for one month. He commented that Plan EJ 2014 presented a “top to bottom” approach. He noted that the word “education” was missing from the discussion and urged its inclusion in order to prepare others to continue the movement. He referred to a recent meeting he attended at EPA Office of Environmental Education that included five people from EPA Headquarters and ten people from the EPA regions across the U.S. He noted that the office had a budget of \$9 million. He stressed that more resources should be made available to education, noting, “Education is [about] empowering communities.” He pointed to education as a way to create a strong community.

## APPENDIX A

### NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL (NEJAC)

#### LIST OF MEMBERS

##### DESIGNATED FEDERAL OFFICER

***Victoria Robinson***

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U.S. Environmental Protection Agency  
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##### CHAIR

***Elizabeth Yeampierre***

Executive Director  
UPROSE, Inc.  
Brooklyn, New York

##### VICE CHAIR

***John Ridgway***

Manager, Information Management and  
Communications Section  
Hazardous Waste and Toxics Reduction  
Program  
Washington State Department of Ecology  
Olympia, Washington

#### OTHER MEMBERS

##### ACADEMIA (3)

***M. Kathryn Brown***

Research Assistant Professor  
Department of Environmental Health  
University of Cincinnati College of Medicine  
Cincinnati, Ohio

***Paul Mohai***

Professor  
School of Natural Resources and Environment  
University of Michigan  
Ann Arbor, Michigan

***Patricia E. Salkin***

Associate Dean and Director, Government Law Center  
Professor, Albany Law School  
Albany, New York

##### BUSINESS/INDUSTRY (5)

***Chuck D. Barlow***

Assistant General Counsel, Environmental  
Entergy Corporation  
Jackson, Mississippi

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## APPENDIX C

### NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL PUBLIC MEETING JULY 27-29, 2010

#### WRITTEN PUBLIC COMMENTS

*(Note to readers: statements included in this appendix are shown verbatim, as provided by the individuals who submitted them, with no modifications or changes.)*

Sections C.1 through C.6 present written comments from individuals and organizations who did not verbally address the NEJAC during the public comment period:

- Ms. Wynetta Wright, Chairperson, The Eastside Environmental Council, Inc., Jacksonville, FL
- Ms. Laurie Shoeman, Project Manager, EJ-CAC and Literacy for Environmental Justice, San Francisco, CA
- Mr. Daniel Parshley, Project Manager, Glynn Environmental Coalition, Brunswick, GA
- Ms. Jan Whitefoot, Founder, Concerned Citizens of the Yakama Reservation, Harrah, WA
- Ms. Albertha Hasten, President, Louisiana Environmental Justice Community Organizations Coalition (LEJCO), White Castle, LA
- Mississippi Coalition for Vietnamese American Families and Fisherfolk (on behalf of Gulf Coast REACH, Hope Community Development Agency, Louisiana Environmental Action Network, Mary Queen of Viet Nam Community Development Corporation, NAACP, Sierra Club, South Bay Communities Alliance, and Vietnamese American Young Leaders Association of New Orleans)

Sections C.7 through C.11 present written comments from the following individuals who also spoke during the public comment period:

- Mr. Michael Jacoby, Concerned Citizen, Seven Valleys, PA
- Dr. Stan Caress, Professor, Environmental Studies Program, University of West Georgia, Carrollton, GA
- Rev. Jim Deming, Minister for Environmental Justice, Justice and Witness Ministries, United Church of Christ, Cleveland, OH
- Mr. Floyd Mori, National Executive Director, Japanese American Citizens League, Washington, D.C.
- Ms. Melissa McGee-Collier, Director, Office of Community Engagement, Mississippi Department of Environmental Quality, Jackson, MS

#### **C.1 Ms. Wynetta Wright, Chairperson, The Eastside Environmental Council, Inc., Jacksonville, FL**

The problems within the community that are being addressed, and the people that live in the blight and abandoned areas are not being fully disclosed. My concern is mostly for the people that have had felony records and not reafin but on top of living in a sick community the doors are closed to them to work in the community where they have lived for generations. I can't see a workable solution if this is not addressed to the fullness with the government as well as with the contractors and yes even the universities and training centers.

#### **C.2 Ms. Laurie Schoeman, Project Manager, EJ-CAC and Literacy for Environmental Justice, San Francisco, CA**

How is the council supporting efforts to provide funding to support green infrastructure upgrades in Environmental Justice Communities? How much ARRA funding has been dedicated and leveraged to support such activities?

#### **C.3 Mr. Daniel Parshley, Project Manager, Glynn Environmental Coalition, Brunswick, GA**

EPA Has a Systemic Problem that Denies Environmental Justice.

The Glynn Environmental Coalition sent a letter to the EPA Administrator on March 9, 2010, seeking environmental justice for Brunswick, Georgia. We appealed to Ms. Jackson to look at the actions of EPA Region 4 in denying our request to test Altama Elementary School after the EPA Office of Inspector General found the testing method used for

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toxaphene pesticide to be inappropriate. Also, we have great concern about the all too cozy relationship between EPA Region 4 and the Responsible Party. EPA Region 4 appears to be acting as an agent for the Responsible Parties rather than the regulating agency.

The response to our March 9, 2010, letter was prepared by EPA Region 4, the very party we contend is denying our community justice. Furthermore, the cover letter from EPA Region 4 stated that Ms. Jackson had forwarded our letter to them for a response.

If you were raped, would you expect to be directed to the rapist for justice? How would you feel if you found out the rapist was the law enforcement agency, judge, and jury? This is exactly the position which we find ourselves.

Over the two decades our community has sought environmental justice, EPA Headquarters has habitually sent our plea for justice back to the very persons perpetrating the injustice. The EPA has a systemic problem, which is at the root of why our community, and other communities, cannot obtain environmental justice.

The EPA states concerning environmental justice, "It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work." The EPA's actions in our community have been the opposite of the stated EPA environmental justice goals. The Responsible Party has routine access to the upper levels of the EPA decision-making structure, while the community is routinely directed to the very lowest EPA Remedial Project Manager level. In addition, EPA Region 4 and the Responsible Party meet for the purpose of planning campaigns to counter community efforts to obtain justice, which the record shows is the case. EPA Region 4 actions are far more similar to an agent working for the Responsible Party than an agency protecting the health and welfare of American citizens.

There is a significant systemic problem within the EPA, which as a matter of routine business denies communities environmental justice and has continued over two decades and several administrations. Will EPA Headquarters correct the underlying problem that causes communities to routinely be denied environmental justice?

The actions of EPA Region 4 should be investigated by the Department of Justice since it appears there was an organized attempt by EPA Region 4 and the Responsible Party to under-quantify toxaphene pesticide since 1991, and now to prevent the full extent of contamination from being determined. The actions of EPA Region 4 over the past two decades epitomizes an agency working to deny a community environmental justice, and an all too cozy relationship with a company responsible for a Superfund Site cleanup.

For the sake of our community, the honor of the EPA, and to uphold liberty and justice for which our Country stands, take all appropriate action to end this injustice being perpetrated upon our community by EPA Region 4.

### **C.4 Ms. Jan Whitefoot, Founder, Concerned Citizens of the Yakama Reservation, Harrah, WA**

The Yakima Valley has been designated as one of the top ten Environmental Justice showcases in the nation. One out of 5 wells are polluted. We have over 80 Factory Farms/Dairy CAFO's in Yakima County, WA State. Yakima County is where the case of "Mad Cow" was found. We requested Environmental Justice assist us in the fight to identify the polluters; then enforce the "Clean Air and Water Act." Charles Lee has been a great help with this matter. USGS says the pollution is over 700 feet in some places; Over 1,000 well samples have been taken. Samples have been sent to 7 labs across the U.S. to pinpoint the source of pollution. We are looking forward to the prosecution of the polluters of our wells and the cleanup of the program.

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### C.5 Ms. Albertha Hasten, President, LEJCOC, White Castle, LA

Communities on the Fence Line with Industry: LEJCOC's issues are based on the Water, Air and Soil quality of various South Louisiana communities. Ms. Hasten will speak briefly on LEJCOC's mission and current environmental concerns. One member of LEJCOC will talk about Shreveport environmental issues and another member will speak on environmental issues involving the Assumption and Ascension Parishes in Louisiana.

### C.6 Mississippi Coalition for Vietnamese American Families and Fisherfolk (On behalf of Gulf Coast REACH, Hope Community Development Agency, Louisiana Environmental Action Network, Mary Queen of Viet Nam Community Development Corporation, NAACP, Sierra Club, South Bay Communities Alliance, and Vietnamese American Young Leaders Association of New Orleans)

MS Coalition for Vietnamese American Families and Fisherfolk  
425 Division Street, Biloxi, MS 39530

July 27, 2010

U.S. Environmental Protection Agency  
National Environmental Justice Advisory Council  
Mail Code: 2201A  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460-0001

Dear Mr. Moore:

We write to you today to request National Environmental Justice Advisory Council (NEJAC) to immediately address the issue of human health effects related to the Deepwater Horizon BP oil drilling disaster in the Gulf of Mexico. NEJAC can address this by recommending to EPA that BP provide health insurance for all workers performing crude oil containment and cleanup activities.

A coalition of Alabama, Mississippi, and Louisiana Gulf Coast non-profit organizations and national partners wants to ensure that BP is held accountable for protecting the health of cleanup workers from environmental and health hazards resulting from working in oil-contaminated areas. The Gulf Coast, and New Orleans East in particular, is an environmental justice region, and has long suffered with toxic water, soil, and air. There are more environmental hazards in disadvantaged communities, and people in these areas already suffer from significant health disparities. It is our most collective and deepest concern that the eventual impact of this oil spill disaster will invariably harm the physical health of all communities, and again, particularly communities of color with limited access, resources and community assets to address current, much less compounded future health needs. In this letter, we would like to call your attention to the ongoing environmental pollution faced by Gulf Coast communities of color, exacerbated by the oil drilling disaster; illustrate the growing health concerns from the pollution and clean up efforts of the oil drilling disaster; and finally, propose a way that BP can provide long-term protection for the health of the cleanup workers.

We recognize and appreciate NEJAC's commitment to addressing cleanup and recovery actions, waste management, and coordinating with affected communities. We ask that Lisa Jackson, EPA Administrator and native daughter of New Orleans, take serious action to protect the health of the workers along the Gulf Coast, many of whom are from environmental justice communities.

#### **Context of environmental pollution**

An increasingly civically engaged community of color, New Orleans East has the highest concentration of Vietnamese Americans in the United States and multiple African American communities. A majority of the membership of the 48 homeowner's associations in New Orleans East is African American. Residents are plagued with environmental pollution of the water, soil,

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and air and live near over 23 illegal dumpsites and automobile junkyards, three major landfills, and below standard levees, mostly located in 7,000 acres of wetlands.

New Orleans East residents have joined together to oppose these environmental ills, resulting in a combination of successes and continual frustrations. In August 2006, over 200 community leaders and residents joined in a unified voice to protest the Chef Menteur Landfill, located less than one mile from communities of color and working class neighborhoods. Residents joined together at the January 2010 bilingual District D and E City Council candidate forum, and again at the April 2010 bilingual Community Environmental Bus Tour and Public Action with New Orleans city council representatives. Over 200,000 yd<sup>3</sup> of potentially hazardous waste still sit in Chef Menteur Landfill, and despite numerous reports to Louisiana Department of Environmental Quality, illegal dumpsites abound.

In solidarity with the struggles of New Orleans East, residents of Alabama, Mississippi, and Louisiana are engaged, passionate, and concerned about their health and that of the environment. The April 2010 Deepwater Horizon BP oil drilling disaster compounded the fears and concerns of the communities regarding the human and environmental health. The health of the workers cleaning up the disaster should be a priority.



*Regional Focus Conference to support regional Vietnamese American Fisherfolk held on June 15, 2010 in Biloxi, MS.*

### **Connection to oil drilling disaster**

Of the 40,000 Vietnamese in Louisiana, Mississippi, and Alabama, one in three work in the seafood industry. Vietnamese and Southeast Asian fisherman make up one-third of all shrimping vessels in the Gulf Coast. Many also work catching oysters, crabs and packaging seafood.<sup>4</sup> BP has been encouraged to hire local fisherfolk to aid in the cleanup efforts. Many of these fisherfolk reside in New Orleans East and lack health insurance that would allow them to address their health concerns related to their exposure to oil-contaminated areas.

Insufficient training of fisherfolk through the Vessels of Opportunity program, reports of insufficient personal protective equipment for cleanup employees, reports of illnesses among cleanup workers and the general public, and the negative health impacts associated with the dispersants Corexit 9500 and 9527 and crude oil, move us to address the potential long-term health effects on those working in oil-contaminated areas. There have been 162 reports of health complaints in Louisiana believed to be related to the exposure to pollutants from the oil spill, 128

<sup>4</sup> Data calculated from "Addressing Ethnic Change in the Northern Gulf of Mexico Seafood Industry". Dr. Dave Burrage, Mississippi Extension Center, Journal of Extension 2009.

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of which were reported by workers and 34 from the general population.<sup>2</sup> There is additional concern regarding exposure to children, pregnant women, and men who might want to be fathers.

We recognize OSHA's oversight of the protections of the workers but see the need for even greater oversight and review of worker protections.

At the June 22-23, 2010 workshop *Assessing the Human Health Effects of the Gulf of Mexico Oil Spill* held by Institute of Medicine, seasoned researchers expressed concern of the lack of knowledge regarding long-term health effects of oil spill disasters. Few studies were conducted in affected communities in Alaska after the 1989 Exxon Valdez oil disaster. There are enough unknowns to indicate the need for both extensive research and health insurance for workers cleaning up oil-contaminated areas being exposed to hydrocarbons, benzene, and crude oil aerosols. Therefore, we demand that BP be held accountable for protecting the health of those who working to clean up oil contaminated areas.

### **Request and Proposal for Next Steps**

We request that NEJAC recommend to EPA that BP be mandated to provide health insurance for all employees hired to assist in the cleanup process. The mandated health insurance should also include health screenings prior to contractual work and emergency health records, particularly for Southeast Asian Americans and African Americans with limited access. Additionally, we recommend greater research and oversight by OSHA to identify and resolve the nature of the reported illnesses by workers and the general public.

Regardless of whether those cleaning up the oil are legally employees or contractors for BP, BP should be held accountable for their health.

Sincerely,

Gulf Coast REACH (MS)  
Hope Community Development Agency (MS)  
Mississippi Coalition for Vietnamese American Fisherfolk and Families (MS)  
Louisiana Environmental Action Network (LA)  
Mary Queen of Viet Nam Community Development Corporation (LA)  
NAACP (MS)  
Sierra Club (LA)  
South Bay Communities Alliance (AL)  
Vietnamese American Young Leaders Association of New Orleans (LA)

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<sup>2</sup> Louisiana Department of Health and Hospitals Office of Public Health, "MS Canyon 252 Oil Spill Surveillance Report, week 25 from 6/20/2010-6/26/2010."

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### C.7 Mr. Michael Jacoby, Concerned Citizen, Seven Valleys, PA

Topic: Data Verification, continued.

My comments/concerns this year will be continued from last year's specific issue of **Data Verification** as it pertains to the data problems within the EPA's database and the amount of inaccurate and misleading **site FRS locational data**/information that is being discovered. Information of this type is often used by the American public and foremost those involved in Environmental Justice issues to include other federal Agencies, Departments etc. throughout our nation.

Sadly to say this year I will have more questions than comments and I would like to save the balance of my time towards an **open discussion** with the NEJAC who may have concerns about the scope of these data problems.

I will start with a statement:

Last year while I was in Washington a woman with her child stopped me on the street and said, "**The Trust is Gone!**" little did she know **how bad this data problem** really was!

I will try to keep my questions of concern very simple.

#### Questions:

1. Since last year's meeting has anybody been able to determined **who was responsible** for checking this vital site FRS locational data **before it was released** to the public for use?
2. Did anybody from the NEJAC after reviewing my detailed CD, public comments and testimony ever contact the **EPA Administrator Lisa Jackson** regarding my concerns about the amount of **BAD data** being discovered in the EPA's database as it pertains to EPA regulated site's of interest and their **FRS locational data problems**?
3. As a result of my written comments to include last year's testimony did members of the NEJAC convene any meetings to address the scope and seriousness of these data verification issues or site FRS problems being discovered throughout our nation?
4. If the EPA is not going to publicly address their data problems, will the NEJAC support me **in providing training sessions** to others teaching them how to find and then report these errors **to improve the quality** of the EPA data until others can come up with a solution to these data verification problems via a change in federal statute, policy or guideline so that errors of this type do not happen again?
5. Can the NEJAC or any designated federal officer explain to me why I am not receiving a response to my e-mails from those in authority as I try to address these data verification issues **to improve the quality of information** available to the **American public**?

**Note:** Since last year's meeting I traveled throughout different areas of the US and I received a lot of input from those at different levels of involvement as well as others who are now interested in looking into these site locational problems.

As mentioned I would now like to use the balance of my time to enter into an open discussion in order to determine where we go from here.

### C.8 Dr. Stan Caress, Professor, Environmental Studies Program, University of West Georgia, Carrollton, GA

There is a serious need for increased regulation of consumer products containing materials that give off toxic vapors. This request is based on evidence of the increasing number of cases of asthma that are potentially connected to exposure to toxic substances.

My recent research strongly indicates that the increase in cases of asthma in the United States is the result of chronic exposure to toxic substances found in common consumer products, such as new carpets, air fresheners, stuffing in

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furniture, fresh paint, and other products generally considered to be consumer safe. This may be particularly a problem for children and especially minority children. This conclusion is strongly suggested by the significant overlap of asthma with chemical hypersensitivity, a symptom typically associated with chemical exposure. Excerpts of my research which demonstrates this finding are below. This research was originally published in *Toxicology and Industrial Health*, Volume 25. Dr. Anne C. Steinemann of the University of Washington, Seattle was the coauthor.

### Supporting Information: Print Only

#### Asthma and Chemical Hypersensitivity: Prevalence, Etiology, and Age of On-Set

An expanding body of evidence indicates that asthma is increasing in the United States and other industrialized nations.<sup>1</sup> In order to understand this growth of reported asthma cases; researchers are examining various aspects of asthma. A major focus of this research has been on asthma's potential association with toxic exposures. Recent studies have explored the possible association of certain types of asthma with chemical hypersensitivity.<sup>2</sup> These studies suggest that the presence of chemical hypersensitivity in some asthma cases can help elucidate asthma's origin.<sup>3</sup>

#### Dynamics of Chemical Hypersensitivity

Chemical hypersensitivity is frequently medically diagnosed as multiple chemical sensitivities (MCS), and is also known as toxicant induced loss of tolerance (TILT) or environmental illness (EI).<sup>4</sup> It is usually considered a condition distinct from asthma. Individuals with MCS adversely react to common chemical substances at levels that are normally considered tolerable. MCS sufferers have difficulty being exposed to common products such as household cleaners, fresh paint, perfume, synthetic building materials, new carpets, pesticides, and other petrol-chemically based products.<sup>5</sup> MCS is chronic and the only way that sufferers can apparently prevent reactions is to avoid offensive materials. While asthma's symptoms usually include wheezing and breathing difficulties, the MCS symptomatology is characterized by a range of multi-system symptoms such as dizziness, eye burning, headache, numbness, mental confusion, fevers, edema, and seizures. MCS reactions range from mild to disabling, and can result from exposures to even low levels of irritating substances.<sup>6</sup>

### THIS STUDY

#### Methodology

This population study uses a random national sample of the continental United States. The sample size is 1,058 cases, which were gathered in four season cohorts (summer 2005, fall 2005, winter 2006, and spring 2006). This size sample produces a confidence interval of  $\pm 3.0\%$  and a confidence level of 95%.<sup>38</sup> The research implement used in this study was a 34-item questionnaire administered by phone. The sample population was constructed with random digitally dialed numbers, which were geographically weighted to insure a valid national sampling.

#### Findings

The study found that 12.9% (n=137) of the sample reported being diagnosed with asthma, and 31.4% (n=43) of this group also reported hypersensitivity to chemicals. This was noticeably higher than the 11.6% (n=123) of the entire sample that reported chemical hypersensitivity. Of those with chemical hypersensitivity, 34.9% (n=43) also had been diagnosed with asthma. Also, while 11.7% (n=16) of those with asthma also report being diagnosed with multiple chemical sensitivities, only 3.9% (n=41) of the entire sample was diagnosed with multiple chemical sensitivities.

While a substantial percentage of the entire sample (n=1,058) found scented products irritating (29.9%, n=316) and get headaches or breathing difficulties from air fresheners and deodorizers (20.5%, n=217), this is more common for asthmatics (n=137) with 38% (n=52) being irritated by scented products and 37.2% (n=51) having problems from air fresheners. Asthmatics are also far more likely to have allergies to natural substances (dust, mold, grass, pollen, or animal dander) with 73% (n=100) reporting it compared to the 38.1% (n=403) of the entire sample. Allergies to natural substance were also more often experienced by respondents with chemical hypersensitivity (63.5%) (n=78) than with the entire sample.

When those with asthma were asked if they knew or strongly suspected the cause of their asthma, 36.1% (n=48) said

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“yes,” 55.6% (n=74) said “no,” and 7.5% (n=10) said “not sure,” with 0.8% (n=1) declining to answer. Additional inquiries were made of the respondents who said either that they knew or strongly suspected the cause of their asthma (n=48) or who responded that they had a suspicion but were not sure of the cause (n=10). When asked if their asthma was the result of an exposure to a toxic substance, 13.6% (n=8) said “yes,” 72.9% (n=43) said “no,” and 13.6% (n=8) said they were not sure if it was from a toxic exposure or not. Those who said their asthma was not a result of a toxic exposure listed a wide variety of causes ranging from accidents, to inheritance, to a byproduct of surgery.

The age of original onset of those with asthma broke into the following categories: 48.9% (n=66) acquired asthma under age 11, 15.6% (n=21) between the ages 11-20, and 32.6% (n=44) after age 20, with 2.9% (n=4) not sure. This indicates that nearly half of the asthma cases can be classified as childhood asthma. Of the cases of asthma that developed under age 11, 25.8% (n=17) reported chemical hypersensitivity, 52.4% of the adolescent onset group (age 11-20 years) (n=11) reported it, as did 29.6% of the over age 20 group (n=13).

The age of onset of asthma was compared with the age of onset of chemical hypersensitivity in respondents who had both conditions. 86.6% of the respondents who reported that their chemical hypersensitivity began under age 20 said that their asthma also began under age 20. However, 55.6% of those who said that their hypersensitivity began after age 20 also reported that their asthma first developed before age 20.

The racial/ethnic characteristics of those in the sample with asthma were:

Asian 1.5% (n=2), Hispanic 11.7% (n=16), Black 19.7% (n=27), White 65.7% (n=90), and Other/Decline 1.5% (n=2). This is in contrast to the racial/ethnic characteristics for the entire sample: Asian 3.6% (n=38), Hispanics 7.5% (n=79), Black 14.2% (n=150), White 69.5% (n=735), and other/decline 5.3% (n=56).

The gender of those with asthma was Male 30.7% (n=42) and Female 69.3% (n=95), compared with Male 35.4% (n=374), Female 63.3% (n=670), with missing 1.3% (n=14) for the entire sample.

### Discussion of Findings

The prevalence of asthma and chemical hypersensitivity<sup>39</sup> and the degree of their overlap found in this study is congruent with the findings of previous studies.<sup>40</sup> The high percentage of asthmatics that experience chemical sensitivity also tends to support the conclusion of the earlier study that there is an association between some types of asthma and multiple chemical sensitivities.<sup>41</sup>

The demographic data indicate that asthma affects a broad cross section of the American population and apparently does not disproportionately affect any racial or ethnic group. The percentage of each racial/ethnic group that reports asthma is statistically similar to that group's proportion of the entire sample. The percentage of whites who have asthma is 3.8% less than their percentage of the entire sample, and the percentage of blacks with asthma is 5.5% higher than their percentage of the entire sample. While these differences are within accepted statistical parameters, they may warrant future research attention. While a higher proportion of females report asthma, and also report chemical hypersensitivity, these results reflect the gender basis in the sample.

The 13.6% of asthmatics who report that their asthma resulted from exposure to a toxic substance is noteworthy. Definitive conclusions about asthma's etiology and classification, however, are limited by the large percentage of asthmatics that could not identify the cause of their condition. Since chronic exposure to low levels of toxic substances is difficult to document and can escape the attention of respondents, this could obscure a higher percentage of asthma cases that result from toxic exposures. This indicates a need for considerably more research on the etiology and association between asthma and chemical hypersensitivity.

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**TABLE 1. Frequencies: Entire Sample (n=1,058)**

	Yes	No	Don't Know	Decline/Missing
Have Asthma	12.9%	86.3%	0.2%	0.6%
	(n=137)	(n=913)	(n=2)	(n=6)
Have Chemical Hypersensitivity	11.6%	85.7%	1.8%	0.9%
	(n=123)	(n=907)	(n=19)	(n=9)
Diagnosed with MCS	3.9%	95.0%	0.4	0.7%
	(n=41)	(n=1005)	(n=4)	(n=8)
Have Allergies to Natural Substances	38.1%	59.7%	1.8%	0.4%
	(n=403)	(n=632)	(n=19)	(n=4)
Find Scented Products Irritating	29.9%	59%	10.7%	0.5%
	(n=316)	(n=624)	(n=113)	(n=5)
Air Fresheners Cause Breathing Problems	20.5%	76.7%	2.4%	0.4%
	(n=217)	(n=812)	(n=25)	(n=4)

**TABLE 2. Frequencies: Asthma with Other Symptoms**

Only asked of respondents with Asthma.

	Yes	No	Don't Know	Decline/Missing
Have Allergies to Natural Substances	73%	26.3%	0.7%	0%
	(n=100)	(n=36)	(n=1)	(n=0)
Find Scented Products Irritating	38%	51.1%	10.9%	0%
	(n=52)	(n=70)	(n=15)	(n=0)
Air fresheners Cause Breathing Problems	37.2%	58.4%	4.4%	0%
	(n=51)	(n=80)	(n=6)	(n=0)
Know cause of Asthma	36.1%	55.6%	7.5%	0.8
	(n=48)	(n=74)	(n=10)	(n=1)

Only asked of respondents who knew or suspected cause of asthma (n=59)

	Yes	No	Don't Know/Decline
Asthma from Toxic Exposure	13.6%	72.9%	13.6%
	(n=8)	(n=43)	(n=8)

**TABLE 4. Frequencies: Chemical Hypersensitivity**

Only asked of respondents with Chemical Hypersensitivity.

	Yes	No	Don't know	Decline/Missing
Also diagnosed with asthma	34.95%	65.05%	0%	0%
	(n=43)	(n=80)	(n=0)	(n=0)
Also Allergic to Natural Substances	63.5%	34.1%	2.4%	0%
	(n=78)	(n=42)	(n=3)	(n=0)

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C.9 Rev. Jim Deming, Minister for Environmental Justice, Justice and Witness Ministries, United Church of Christ, Cleveland, OH

UNITED CHURCH OF CHRIST

Justice and Witness Ministries

Rev. Jim Deming  
Minister for Environmental Justice  
Justice and Witness Ministries  
United Church of Christ  
700 Prospect Ave.  
Cleveland, OH 44115  
demingj@ucc.org

Good evening, Chair and Members of the Committee,

My name is Jim Deming, and I am the Minister for Environmental Justice for the United Church of Christ. I appreciate this opportunity to speak to the members of this committee.

I come to tell you of my friend Lorelei Scarbro. She lives in the little community of Rock Creek, West Virginia in the same house her husband built with his own two hands when they were married, on land handed down to him from his parents. He was a coal miner for 35 years but he is gone now from black lung and is buried in the family cemetery next to their home.

Lorelei's property borders Coal River Mountain, one of the most beautiful mountains in the Coal River Valley of West Virginia, and one of the few untouched mountains in the region with miles of pristine creeks and waterfalls, horseback trails and stunning vistas.

The bad news is that Coal River Mountain is slated for a mountaintop removal coal mine. If the coal company's plans go through, nearly 10 square miles of the mountain will be destroyed, and 18 valley fills will devastate the Coal River watershed. But the good news is that residents in the Coal River Valley have joined together to propose a new idea for sustainable energy and it is a solution where everybody wins.

In 2006, a study of the wind potential on Coal River Mountain demonstrated that the mountain is an ideal location for developing utility-scale wind power. The proposed Coal River Wind Project would produce enough wind power to keep the lights on in 70,000 homes, pump \$20 million per year in direct local spending during construction, and \$1.7 million per year in taxes thereafter. It would create hundreds of jobs and allow other uses of the land that would benefit local communities for generations to come.

Lorelei Scarbro says, "We don't live where they mine coal. They mine coal where we live.... Our concern today is our homes, our environment, and the sustainability of the environment."

God is still speaking. 



COLLEGIUM OF OFFICERS

Geoffrey A. Black  
GENERAL MINISTER AND PRESIDENT

Edith A. Guffey  
ASSOCIATE GENERAL MINISTER

M. Linda Jaramillo  
JUSTICE AND WITNESS MINISTRIES

Stephen L. Sterner  
LOCAL CHURCH MINISTRIES

Cally Rogers-Witte  
WORLDWIDE MINISTRIES

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M. Linda Jaramillo  
JUSTICE AND WITNESS MINISTRIES

Stephen L. Sterner  
LOCAL CHURCH MINISTRIES

Dolly Rogers-Witte  
WORSHIP AND MUSIC MINISTRIES

I tell you the story of Lorelei Scarbro because it contains three important concerns or themes for this committee. First, that people or corporations outside of our communities are making decisions that can fundamentally alter the air that we breathe, the water that we drink, our ability to make a living, and our right to self-determination. From mountaintop removal to the BP oil disaster, powerful outside forces whose only allegiance is to the bottom line and its shareholders are telling our citizens what kind of communities they shall live in. This is wrong and is an injustice.

Second, we need the power of the federal government and its agencies to stand beside our citizens against outside forces that are too powerful for our small communities. While some are crying for less government, we say that we need our government to step up and take both leadership and responsibility. We need the EPA to set environmental safety and health standards prior to any licensing and enforce them during any potentially damaging activities, not just fine corporations after they have fouled our communities. We want you to be pro-active, not just reactive. Healthy streams and rivers and lakes and oceans and air should be the norm and not the exception.

Third, our communities have the resourcefulness to determine their own solutions on a scale appropriate to their needs. The Coal River Wind Project is a solution that comes from the resilience and imagination of this small community, and it is a solution that literally empowers them and others. It is sustainable for the next generations, it produces tangible benefits for this community and others, and it respects the people who live there now.

The United Church of Christ and our partners in the faith community are dedicated to environmental justice for all our citizens, especially those who stand against powerful outside interests who see them only as a cipher on a cost/benefit analysis sheet. We will stand by our small communities from Grand Bayou to Rock Creek, and we expect our government to do the same and we will hold our elected officials and our government agencies accountable. Proverbs 29:18 tells us that "where there is no vision, the people perish." In the same breath, it also tells us that "blessed is the one who keeps the law." I implore you to capture the vision of these small communities, help shape the law to protect them, and then enforce the law. In so doing, our communities will be blessed and they will call you blessed. Thank you.

God is still speaking, 

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### C.10 Mr. Floyd Mori, National Executive Director, Japanese American Citizens League, Washington, D.C.

NEJAC Statement: July 27, 2010  
By S. Floyd Mori, National Executive Director  
Japanese American Citizens League (JACL)

Chairman and members of the Council, thank you for the opportunity to speak before you today. My name is Floyd Mori and I am the National Executive Director of the Japanese American Citizens League. I am trained as an economist and was a college professor of economics. I have been the mayor of a suburban growth community when the term EIR was just beginning to be used. I also served three terms as a California State Legislator. I understand environmental injustice

While the issue of Environmental Justice has been with us for some time, there are many within the Asian American community who continue to experience the impact of a toxic environment and at the same time are last to be given understanding of how to avoid and how to mitigate the life changing effects of bad environmental practice and faulty environmental policy.

Early immigrants from Asian like my father, were relegated to the dirty, difficult, and dangerous jobs in this developing economy. His community lived on "the other side of the tracks" if not right next to the tracks. Japan Towns and China Towns rose up in many cities, large and small. Few of these sections of town have survived the long term as they are now the sewage plants, garbage transfer stations, and heavy industrial areas that service the "right side of the tracks." The only escape was to become a farmer or a businessperson. The cultural values of the immigrants from Asia, included a reverence for nature, education, and a respect for hard work.

The Japanese American farming communities made a desert, so to speak, bloom like a rose. They became the heart of the modern farming industry along the West coast. Their success brought scorn and discrimination from main stream farming organizations. When Pearl Harbor was attacked, that hysteria led to their imprisonment in detention centers without any due process, even though most were US citizens. But even when imprisoned in the most desolate places in this nation,

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they again created productive farms that fed the military that held them prisoner. They created art from discarded junk and furniture from thrown away lumber.

I mention this because that same kind of recovery occurred after the disaster of Katrina. If we look at some of the most severely impacted communities, it was the Vietnamese and Southeast Asian communities of the Gulf Coast. Their homes and boats were destroyed. They didn't wait for the government to come to their aid. They called upon the values of family, nature, and hard work to rebuild their devastated communities.

With the BP oil spill disaster, it was hoped that the relief agencies had learned from the mistakes of Katrina and that the community would be administered to, just as any other community in need. From the beginning, I received messages that the community was again being ignored and passed over in relief and job replacement efforts. They also became the prey of unscrupulous businesses. Both BP and the government failed again and continue to misunderstand the critical needs in that fishing community.

I went to the Gulf Coast two weeks ago and after listening to scores of fishermen three months after the disaster began, there continues to be insensitivity toward the unique culture of the Asian American fishing community. How many times did I hear from Vietnamese boat owners and deck hands, "All I want to do is work"? That is all I know how to do". These people, who pulled themselves out of the devastation of Katrina to rebuild their homes, boats, and neighborhoods with little help from government disaster funds, did it the old fashion way, with hard work and by being good neighbors. In this man made disaster, they have been helpless because recovery work depends on man made institutions.

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Let me quickly repeat the basic needs as I see them:

1. They need well trained and adequately manned community based organizations to outreach into the affected communities. Language access and cultural sensitivity are essential elements that must be part of any relief and recovery program.
2. Long-term economic development programs must include industries and jobs that value nature and work. Any new industries must include appropriate training and take into account of the values of nature and work.

Thank you for this opportunity to tell you of my experiences

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C.11 Ms. Melissa McGee-Collier, Director, Office of Community Engagement, Mississippi Department of Environmental Quality, Jackson, MS

**Name of Speaker:** MELISSA MCGEE-COLLIER, Director  
Office of Community Engagement

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**Concern:**

1) Once a community has been environmentally impacted, whether by landfills, chemical industries, creosote contamination, etc. there is a stigma placed on that community by financing institutions and developers. Communities that have worked diligently with industry and government agencies still have trouble with economic development. They are not looked at favorably as locations for new businesses- other than the types that already exist. The perception of these communities may already be bad because of low income housing, minorities, etc- but when you add chemical contamination, harmful air quality, and unhealthy drinking water- you now have on your hands a community with little chance of economic growth.

Many of the problems in EJ <sup>or environmental justice</sup> issues are problems of the past; environmental issues that occurred before the state agency existed and before the federal laws were written. Yet, now our jobs include rectifying pre-existing environmental issues under the umbrella of environmental justice.

I believe it can be done; but I also believe that it is going to take a substantial amount of time and resources to make the **PERCEPTION** of these communities whole. We may never be able to make the people in the community whole-but we can change the way their community is viewed.

Just like the perception of government is important- within the perception of the government lies the difference between having a community meeting where people are open to ideas and education vs. an angry crowd seeking revenge and monetary compensation---the perception of a community is very important in order for development to take place in that community.

Environmental agencies are being asked for more than transparency (I believe transparency is a lot easier than we make it out to be); but what about **RESTORATION** for affected communities- restoration of clean air, clean water, and clean land. When I say "our", I am not just talking about minority communities, but all impacted communities.

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I feel that a large part of the restoration should be the responsibility of whom or what ever caused the problem- and we need laws to that make that happen. So I am very glad to hear the discussion today about incorporating EJ into the permitting process.

2) I define meaningful public participation as:

A. residents of all communities have an appropriate opportunity to participate in the process regarding a proposed facility or the expansion of an existing facility that may adversely affect such residents' environment or health.

B. public's participation may influence the regulatory agency's decision; and

C. the applicant for a new or expanded permit, certificate or other approval required to be obtained in order to conduct business seeks out and facilitates the participation of those potentially affected during the regulatory process.

My greatest concern is whether or not public participation actually will influence regulatory agencies decisions and how that will take place.

**Desired Outcome:** My desire is that:

- 1) NEJAC will formulate relationships with financial institutions such that the redevelopment of EJ communities can be more than just a green space, but a viable area for economic development.
- 2) NEJAC will advise EPA on how to make sure that the influence public participation will have on regulatory decisions is outlined clearly in the final Plan EJ 2014 and/or any policies or regulations that should be released in the coming months.

**Recommendations:** I recommend that:

- 1) EJ areas not are labeled as such once clean-up has taken place, but EPA now places a designation of **Economic Redevelopment Area** in these communities and work with local and state government AND financial institutions to revitalize the areas with businesses and services, through incentives.
- 2) EPA clearly defines meaningful involvement and outline in plain English how public participation will influence regulatory decisions and not leave it up to the States.