

National Environmental Justice Action Committee Conference
Baltimore, Maryland
September 18 through 20, 2007

This summary presents highlights of the 22nd meeting of the National Environmental Justice Advisory Council (NEJAC) Executive Council, held September 18 through 20, 2007 at the Tremont Grand Conference Center in Baltimore, Maryland. On September 18, 2007, the NEJAC Executive Council hosted a public comment period during which representatives of the community presented their concerns about health risks and environmental issues resulting from goods movement activities. Approximately 144 persons attended the meeting and the public comment period.

Exhibit 1

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 or the Agency) on matters related to environmental justice. Mr. Richard Moore, Executive Director, Southwest Network for Environmental and Economic Justice (SNEEJ), serves as the chair of the NEJAC Executive Council (Council) of NEJAC. Mr. Charles Lee, Acting Director, EPA Office of Environmental Justice (OEJ), serves as the Designated Federal Officer (DFO) for the Council.

OEJ maintains transcripts and summary reports of the proceedings of the meetings of NEJAC. Those documents are available to the public upon request. The public also has access to the executive summaries of reports of previous meetings, as well as other publications of NEJAC, through the Internet at www.epa.gov/compliance/environmentaljustice/nejac/meetings.html (select the meeting summaries link).

This summary provides highlights from the presentations and discussions held during the Council meeting. This document is organized into two chapters. Chapter one summarizes the deliberations of the Council and is organized into eight sections, including Welcome and Introductions, Overview of EPA's Environmental Justice Program, Goods Movement Presentations, Goods Movement Presentations, Goods Movement Work Group Updates and Action Plan, Dialogue with Senior EPA Official, Overview of EPA Environmental Justice Integration Efforts, Discussion: Report Back about Key EPA Implementation Items, and Closing Dialogue: Emerging Issues. Chapter two provides highlights from the public comment period held on September 18, 2007.

1.0 Welcome and Introductions

The purpose of the meeting was to discuss the ongoing development of recommendations on reducing the impacts of goods movement activities on environmental justice communities. In addition, NEJAC heard presentations from regional and program staff of environmental justice integration efforts.

Mr. Lee opened the meeting by thanking the members of the Council and the audience for their time, knowledge, and participation. Mr. Lee reviewed the meeting's agenda and the discussed the three key discussion areas of the meeting – goods movement, environmental justice integration, and Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT).

NEJAC Executive Council

Members in Attendance

Mr. Richard Moore, Chair
Mr. Charles Lee, DFO
Mr. Chuck Barlow
Ms. Sue Briggum
Ms. Kathryn Brown
Ms. Jolene Catron
Mr. William Harper
Ms. Jodena Henneke
Ms. Joyce King
Mr. J. Langdon Marsh
Mr. Gregory Melanson
Mr. Paul Mohai
Mr. Shankar Prasad
Mr. John Ridgway
Mr. John Rosenthal
Ms. Donele Wilkins
Mr. Omega Wilson
Ms. Elizabeth Yeampierre

Members not in Attendance

Ms. Patricia Salkin
Mr. Christian Holmes

1.1 Opening Remarks

Mr. Moore recognized the community of Baltimore for its long history of addressing environmental injustice and noted that he looked forward to public comment and interaction throughout the meeting. Mr. Moore reinforced the significance of the NEJAC meeting by recalling the success of the first NEJAC public teleconference held on August 23, 2007, which 40 participants attended. He acknowledged the significant energy regarding the agenda items and reported back.

He noted that the following was reported back from the teleconference:

- His organization, SNEEJ, conducted a productive meeting with the Region 6 Deputy Regional Administrator, Mr. Larry Starfield. The meeting focused on Region 6's ongoing efforts to address environmental injustices at the community level within Texas, Louisiana, New Mexico, Arkansas, and Oklahoma.
- He invited the Council to an upcoming U.S. Department of Health and Human Services meeting in San Francisco, CA scheduled for November 2007. Senior management from both the U.S. Department of Health and Human Services and EPA will attempt to address the existing disparities.

Mr. Angelo Bianca, Deputy Director of Air and Radiation Administration, Maryland Department of the Environment (MDE) spoke on behalf of Ms. Shari Wilson, Secretary, MDE. He commented on the challenges in integrating environmental justice into the current framework from a regulatory perspective. He added that no state has been able to develop a regulatory framework that prevents environmental injustices. However, Maryland has made numerous small steps to prevent injustices, including:

- Increasing enforcement and compliance actions;
- Conducting community air modeling activities; and
- Providing funds for diesel truck and bus retrofits.

Further, he noted that poor zoning is often blamed for environmental injustices. However, he emphasized that zoning agencies face the same problems of limited authority and the difficulty in defining environmental justice when addressing concerns. He stressed that part of the solution is to educate the planners and the regulators to recognize potential environmental justice concerns and about voluntary pollution reduction measures that go beyond compliance. He added that agencies also need to educate the public about pollution sources in neighborhoods and the potential impacts on their health and welfare.

Mr. William Wisniewski, Deputy Regional Administrator (DRA), EPA Region 3, reflected on his own family's experiences with environmental health impacts from goods movement. He noted that while successes have been realized, that there is more that needs to be done. And he stressed the importance of not just looking at quantitative changes, such as the number of diesel conversions completed, but also assessing the qualitative changes and enhancements in people's lives from these environmental justice efforts.

He recognized the work of Region 3 in developing EJSEAT. He commented that Region 3 will continue to provide support as the tool is refined. He cautioned that EJSEAT should be used as one tool among an array of others. Mr. Wisniewski emphasized the need to visit the community to observe and talk with community members.

Ms. Laura Yoshii, DRA, EPA Region 9 emphasized the timeliness of the topics of goods movement and environmental justice integration, especially in her region. She discussed the crucial role that DRAs play in the integration of environmental justice. For environmental justice efforts to be successful, DRAs must provide strong leadership, identify clear priorities, and align resources to those priorities to ensure that environmental justice is a priority.

2.0 Overview of EPA’s Environmental Justice Program, Mr. Charles Lee, Acting Director, EPA Office of Environmental Justice

Mr. Lee provided an overview of EPA’s environmental justice program, including successes and lessons learned over the past 15 years, continuing challenges and priorities of EPA’s environmental justice program, and the future advisory efforts for NEJAC. The eight lessons learned that represent important milestones in the development of EPA environmental justice program include:

- Build community and stakeholder capacity. Since 1993, EPA has given \$31 million in grants to over 1,100 community groups, which has assisted in the development of community capacity.
- Ensure meaningful involvement. Pointing to NEJAC as an example, Mr. Lee noted that EPA has been able to utilize many of NEJAC’s recommendations to initiate significant changes at EPA.
- Clarify EPA’s discretion under existing legal authorities. Based on a 1995 NEJAC recommendation, EPA’s Office of General Counsel concluded that existing statutes provide EPA with the discretionary authority to address environmental justice in permitting situations.
- Define disproportionate and adverse effects. He noted that these definitions form the basis of the *Environmental Justice Toolkit for Assessing Potential Allegations of Environmental Injustice* by which EPA performs assessments.
- Foster collaboration with all stakeholder groups. In the past, partnerships have led to problem solving, community training in the use of environmental law, and other efforts among stakeholders. He noted that collaboration is a vital element in addressing environmental injustice.
- Incorporate environmental justice into core agency planning and budget processes. In November 2005, Administrator Johnson issued a memo listing the eight environmental justice priorities to be integrated into agency and regional planning for Fiscal Years 2007 and 2008.
- Develop consistent approach to identify areas of concern. EJSEAT is being developed to address this concern. Once implemented, Office of Enforcement and Compliance Assurance (OECA) will be able to accurately assess the impact of environmental justice activities.
- Conduct environmental justice program reviews and program evaluation. Through a collaborative process, OEJ has developed protocols to review current and future environmental justice implementation efforts. The protocols are currently being pilot tested.

He commented that despite these milestones, OEJ and EPA are still faced with the challenge of demonstrating significant measurable environmental and public health results. He suggested that the lessons learned and experiences over the last 15 years will lay the groundwork to address this issue in the future. Mr. Lee stated that a significant amount of time will be devoted to this topic in the future.

Mr. Lee reviewed the current priorities of the environmental justice program, including:

- Invigorate Environmental Justice Executive Steering Committee (ESC);
- Communicate success stories and lessons learned;
- Utilize NEJAC more meaningfully;
- Award and implement environmental justice grants;
- Implement EJSEAT;
- Initiate environmental justice program reviews;
- Restructure and align Environmental Justice Action Plans with Agency planning and budget processes; and
- Strengthen strategic internal and external partnerships.

Exhibit 2

<p>The Environmental Justice Executive Steering Committee</p> <p>ESC is a leadership body that consists of DRAs and Deputy Assistant Administrators (DAA). This body is charged with providing guidance on the integration of environmental justice.</p>

Mr. Lee noted that his office has started to create partnerships with

the Office of Children's Health Protection, the Brownfield Program, and the Community Action for Renewed Environmental Program. He added that each of these programs have a strong nexus with environmental justice. Additionally, EPA has sought to engage the states in strategic partnerships to help coordinate efforts.

Highlights from the Council discussion following Mr. Lee's presentation include:

- The Council urged EPA to bring outside agencies, such as the Department of Transportation (DOT) and the Federal Highway Administration (FHWA) into the discussion of environmental justice. In addition, EPA, especially ESC, was encouraged to engage states in environmental justice, for example, through performance partnership agreements.
- Responding to a comment that environmental justice efforts need to be decentralized, Ms. Yoshii noted that decentralized, regional efforts are ongoing. For example, each regional office has a Federal Regional Council. For example in Region 9, the Federal Regional Council worked collaboratively with East Palo Alto residents and elected officials to establish long-term sustainability and build local capacity.
- In response to a question about how the ESC is integrated in to the environmental justice program, Ms. Kathleen Callahan, DRA, EPA Region 2, responded that ESC, which consists of EPA's senior operational officials, meets periodically to provide direction on environmental justice priorities and resources. Additionally, ESC assesses work done in the environmental justice arena, including success stories and future opportunities. She suggested they come together on a more frequent basis for a deeper discussion.
- Responding to a question regarding how the states were involved in development of the regional action plans, Mr. Lee noted that the action plans reflect various levels of partnership and engagement with the states, and EPA is looking to make the commitments more robust and holistic through state involvement, which will lead to measurable, tangible results. For example, the Boston Lead Collaborative, collaboration amongst EPA, the city, the state, and other partners, seeks to eliminate elevated lead levels by 2008.
- Mr. Omega Wilson, President, West End Revitalization Association, stressed the importance of translating EPA and NEJAC material into the community's voice, by reducing the technical and policy jargon. Mr. Moore added that more interaction, communication, and openness between the community and EPA's senior administration are needed. A suggestion was made to focus a future ESC meeting on investigating how EPA can give communities a voice. Ms. Jodena Henneke, Deputy Commissioner of Coastal Resources, Texas General Land Office, stated that the variety of public involvement procedures limits the community's ability to effectively contribute to the decision-making process, especially for permitting and development matters.
- Mr. Langdon Marsh, Fellow, National Policy Consensus Center, encouraged EPA leadership to increase efforts around partnership building, especially with other Federal agencies, universities, states, private organizations, and grassroots organizations. He recommended the use of the university community to provide critical resources, through research, evaluation, academic services, and by providing a neutral forum to discuss environmental justice issues.
- In response to a comment about the role of the Federal government in ensuring that tribal sovereignty rights were respected and that there is increased participation of tribal communities in the environmental justice dialogue, Mr. Lee noted that NEJAC would like to initiate an official tribal liaison.
- Mr. Charles Barlow, Assistant General Counsel, Entergy Corporation, commented that the resource tensions felt inside state and Federal agencies are similar to those existing in large corporations, especially the tension between environmental visions and responsibility and real-world restraints of time and budget. Mr. Barlow encouraged a continued relationship and communication with businesses and industry to address resource constraints. Mr. Wisniewski remarked that it was critical that the environmental justice message passes both horizontally and vertically through EPA.
- As EPA moves to implement more environmental justice efforts, the Council noted that the efforts will need to be prioritized at the regional and local level and consider

community input. It was requested that the Council be mindful of this when providing recommendations.

- Responding to concerns over a lack of mechanisms to address urgent issues, Ms. Yoshii responded that Region 9 currently provides a single community point of contact within EPA to handle urgent matters. In instances where there is an imminent threat that EPA has jurisdiction over, the point of contact will mobilize the appropriate EPA offices.
- Mr. Moore commented on the correlations of race and class and environmental injustices and reiterated that communities of color have been historically targeted by industry. He encouraged the continued support of capacity building efforts and partnership address environmental justice issues.

3.0 Goods Movement Presentations

On September 18, 2007, members of the Council received a series of presentations about goods movement. Section 3.1 describes goods movement efforts undertaken by EPA and its partner organizations and agencies. Section 3.2 describes goods movement issues and efforts in the state of Maryland.

3.1 EPA and Partners Goods Movements Efforts Panel

This section summarizes presentations to build members' background and understanding of goods movement, particularly as it relates to ports and goods movement.

3.1.1 National Clean Diesel Campaign and SmartWay Transport Partnership Presentation by Ms. Lori Stewart, Deputy Director of Transportation Regional Programs, EPA Office of Transportation and Quality

Ms. Stewart discussed non-regulatory approaches to improving the environmental impacts of goods movement. Regional administrators met at a regional leadership forum, where they revisited priorities in ports and goods movement, and will develop commitments from each regional office.

Ms. Stewart provided the following information about EPA transportation programs.

- Focused primarily on non-regulatory approaches, including the National Clean Diesel Campaign's diesel standards that will help reduce emissions.
- Taking a systems approach to standards to help reduce sulfur and particulate matter (reductions to 15 ppm for sulfur in fuel; non-road engines target reductions to 500 ppm sulfur emissions; and for cargo equipment and road-work equipment a 90 percent reduction in NO_x and particulate matter (PM)).
- Finalizing another rule for marine engines, marine tugboats, locomotives, and barges (will not apply to oceangoing vessels).
- Negotiating international standards for oceangoing vessels, which have been presented to the International Maritime Organization with a target date for decision by 2008 (over 11 million diesel engines, many of which are goods movement-related vehicles and are not affected by new regulations).

The National Clean Diesel Campaign encourages fuel efficiency across the trade sector and creates demand for more fuel-efficient carriers by shippers. Over 600 partners in industry have made commitments for fuel efficiency improvements. The partners support this commitment by reducing idling, improving aerodynamics, and checking tire inflation. The campaigns priorities include: emissions inventories, targets identification, and the development of a supply-chain model so that companies can compare their practices and impacts.

Ms. Stewart highlighted the innovative financing programs under SmartWay, which provide incentives to truck owners to make investments in fuel improvements and emission reductions or to purchase efficient trucks. The SmartWay Plus Loan program will provide lower cost loans for drayage trucks to encourage the purchase of more fuel-efficient trucks to achieve a 50 percent

PM emissions reduction. She noted that the House and Senate have allocated \$50 million in grants for the innovative financing programs. She commented that NEJAC can be most helpful in disseminating information about the program and looks forward to continued work with NEJAC.

3.1.2 EPA's Sector Strategy and Port Operations Presentation by Ms. Kathleen Bailey, EPA Office of Policy, Economics, and Innovation (OPEI)

Ms. Bailey gave a brief history of EPA's sector strategy work including how environmental management systems (EMS) enhance environmental stewardship and sustainability of ports. EPA has worked with the ports for four years to support a shift toward sustainability.

Highlights from the presentation include:

- A review of EPA's work with the American Association of Port Authorities (AAPA), which represents 86 deep water ports (over 12 feet) in the United States. In 1998, the EPA Office of Water produced the Environmental Management Handbook for ports with AAPA, which includes compliance obligations based on the EPA's work in maintenance dredging and stormwater management. In 2003, OPEI developed a sector strategies partnership with AAPA to improve environmental management and encourage ports to work holistically across industries, assisted AAPA members in developing EMS in reference to economic drivers, and measured port performance improvements. AAPA has identified air quality issues and emission inventories as priority issues.
- Issue papers have been developed on measuring emissions, general conformity, and involvement with state implementation programs (SIPs) for air quality and transportation infrastructure planning. The follow-up deliverable was a document of current methodologies and best practices from the United States and Europe for preparing port emissions inventories with best practices and has served to jump start many ports in developing their emission inventories. This document is due to be updated and eventually will be turned into official guidance from Office of Transportation and Air Quality (OTAQ).
- OTAQ launched an EMS assistance project supported by Global Environment Technology Foundation as a technical information provider. They documented the process and made the information available to share with other ports. OTAQ launched the second program iteration to be completed in a few months.
- The Sector Strategies Performance Reports initially focused on manufacturing, but have since moved on to other sectors. Ports continue to place higher priority on improving port air quality. Other top issues that still remain are dredging, stormwater, and tasks requiring permits.
- OTAG has collaborated with OPEI and AAPA to promote the use of cleaner fuel. Additionally, OTAQ has provided at least 12 grants for the implementation of new technologies, which use cleaner fuels.
- Ms. Bailey asked the Council to consider what coastal communities will look like in an additional 500 years noting that environmental stewardship is critical for sustainability. EPA's vision for environmental stewardship includes all parts of society actively taking responsibility for improving environmental quality and in achieving sustainable results. Society will achieve the best results if it can create business value while also protecting the environment.
- AAPA developed a Sustainability Task Force to define sustainability as "the simultaneous pursuit of economic prosperity, environmental quality and social responsibility." Progressive ports are developing EMS for existing and new facilities, many through the Ports EMS Assistance Project and are measuring and reporting on continuous improvement to environmental performance. An EMS improves ports' environmental awareness by linking environmental efficiency and environmental protection. Examples include: a new gate security system, a highly automated system that eliminates trucks idling as they wait for gates to open and the chassis pool, which replaces individually owned chassis for drayage truckers and helps cut down on unnecessary driving while raising the incomes for drayage truckers.

- For every industry, EMS helps the functional operation for any business, especially for long-term planning. It is important that there is a common vision of a sustainable community.

Ms. Bailey encouraged ports to engage stakeholders and local communities as a way of protecting options to grow in the future. She listed the community complaints against ports as: community input into port decision-making; a need for a transparent decision-making process; and the need for a port monitoring system. She noted that EPA's Strategy for Ports Operations, while still under refinement, involved agency-wide senior level participants in a two-day strategy discussion. The strategy will be made public later this year. Ms. Bailey encouraged NEJAC to work with the development committee to refine the priorities.

3.1.3 Environmental Justice at Ports Presentation by Mr. Jeff Scott, Director of Communities, EPA Region 9

Mr. Scott reviewed Region 9's collaborative problem-solving approach to addressing goods movement issues. Emissions will continue to grow as trade increases. Ports are a significant source of NO_x emissions in the South Coast region and potential sources of the air toxics include rail yards, distribution centers, and industrial centers. Noting that many communities around port areas are environmental justice communities and are exposed to more significant risks than other areas, he addressed the complexity of reaching a comprehensive solution given the differing authorities and financial interests.

The following provides highlights from his presentation.

- Over 50 percent of the incoming international goods unloaded at California ports have destinations in other states. Local residents are disproportionately burdened by the traffic. The San Pedro Bay Ports, which include the Ports of Los Angeles and Long Beach, are the largest container ports in the nation, moving almost 40 percent of all imported goods. A recent study concluded that cancer risk was 500 in 1 million people in the South Bay. Additional data was provided in the presentation.
- The Port of Oakland is the fourth largest container port in the United States and projections call for the port to triple in size. Planned expansion projects will double diesel truck trips through the port in a community that is over 90 percent people of color. He noted that children in Oakland are already seven times more likely to be hospitalized for asthma.
- There will be many stakeholders involved in addressing port-related concerns, including affected communities. He highlighted the work of the West Oakland Toxics Reduction Collaborative as a model to other organizations on how to create effective partnerships with community groups. The group has received a collaborative problem-solving grant from EPA as EPA has worked to bring more partners together to collaborate.
- Demographic composition of West Oakland is 40 percent African American, 25 percent Latino, and an increasing Asian population. The community is bordered by freeways and the Oakland Port. Both have significantly contributed to impacts on children's health in West Oakland.
- By creating a partnership with the Pacific Institute in 2002, the community brought together residents and researchers to discuss community health concerns. The researchers, community leaders, and residents developed a list of 17 indicators, which provide a snapshot of the community. Research completed in association to the indicators was compiled for the 2002 *Neighborhood Knowledge for Change* report.
- A 2004 report, *Clearing the Air*, focused on diesel pollution in West Oakland and established 13 action recommendations, including retrofitting trucks by promoting programs to subsidize vehicle cleanup.
- In 2006, the Ditching Dirty Diesel Collaborative released a report, *Paying with our Health: the Real Costs of Freight Transport in California*, which addressed the true costs of disproportionate impacts on port communities. This reports found that for every dollar invested in cleaning up pollution approximately \$3 to \$8 in health costs will be saved.

- Using community-based collaborative problem-solving, Region 9, city, county, and state officials, local businesses, the Port of Oakland, and West Oakland residents established the West Oakland Toxics Reduction Collaborative, which focuses on community-driven concerns through broad stakeholder involvement. A steering committee coordinates among eight action teams, which address concerns in a variety of topic areas. The goal of the collaborative is to maintain viable businesses and employment opportunities for the affected residents while improving environmental health.
- EPA supported the project by bringing partners to the table, providing technical support, leadership, and funding of over a half a million dollars. EPA's technical support helped to empower the community with a greater knowledge of critical data and an understanding of the regulatory process.
- Components of port progress include strong local commitment, a strong port commission, strong port staff involvement, and program coordination with other agency's resources. The internal port culture has to recognize and have knowledge of environmental concepts. This change has to come from a top-down initiative.

Following the presentations, the Council provided the comments below:

- Responding to a question on improving ship fuel quality, Ms. Stewart noted that EPA is working on a U.S. proposal to the International Maritime Organization to decrease sulfur content in ship fuel to 1,000 ppm, down from the 27,000 ppm currently allowed. The proposal would require the use of lower sulfur fuels when near the coast and higher sulfur fuels when on the open ocean.
- Ms. Elizabeth Yeampierre, Executive Director, United Puerto Rican organization of Sunset Park, noted that small business vehicles are often so old that it is cost prohibitive for these businesses to retrofit or buy cleaner vehicles. She inquired about resources available for small businesses and EPA data on the localized impacts of those resources. Ms. Stewart noted that EPA has a partnership with the Small Business Administration, but they want to expand the innovative financing program.
- Responding to a question regarding tracking program results on local health and land use, Mr. Brian Beveridge, West Oakland Toxics Reduction Collaborative, commented that Oakland has not seen a large reduction in emissions. However, the collaboration has achieved small successes, including working with one shipper to switch to low sulfur fuels and to replace between 60 and 70 trucks through a pilot truck replacement program paid for by port mitigation funds. The collaborative's land committee and other partners have worked with the City of Oakland to move ancillary maritime support, including restaurants and services, closer to the port, and out of the neighborhoods. The collaborative wants member representation on the port committee and hopes to use their Community Action for a Renewed Environment (CARE) grant to identify ways to clearly measure and document successes.
- Explaining the breadth and diversity of the port organizational structures and political affiliations, Ms. Bailey responded that there is a huge breadth of diversity, including divisions of the state government and private entities. The Port of Oakland is controlled by a semi-governmental agency that functions as a trustee of maritime land on the shoreline. The mayor appoints commissioners to the board and the city council, so they are responsible for overseeing the port and shoreline development. The port is supposed to use its resources for its highest use. In recent times, they have re-designated the land for other uses, such as housing, support services, and mixed-use development.
- Ms. Joyce King, Director, Haudensaunee Environmental Task Force, expressed concerns about the impacts of increased port activities on tribal land.
- In response to a question regarding the formal definition for sensitive sites, Mr. Scott explained that the definition of sensitive sites came from the *Knowledge for Change* report and included schools, hospitals, and homeless shelters.
- Mr. Moore briefly discussed the southern border issues, particularly recent comments about the new North American Free Trade Agreement (NAFTA) pilot trucking project. He urged caution about impacts of globalization on goods movement. Pointing out that the program could drive some small independent truckers out of business on both sides of the border. Mr. Moore suggested cross-collaborations between Mexico and the United

States. He recognized the important role EPA can play in bringing other agencies and potential partners to the table, and encouraged continued collaboration to bring unions, grassroots communities, and small independent truckers, such as the Independent Truckers for Justice, into the goods movement discussion.

3.2 Maryland Goods Movement Experience Panel

This section summarizes presentations which highlighted the various good movement-related issues facing Baltimore's port communities.

3.2.1 Goods Movement in EPA Region 3 Presentation by Ms. Zelda Maldonado, EPA Region 3, Office of Enforcement, Compliance and Environmental Justice

Ms. Maldonado began by noting that her office provides client assistance and technical support to support environmental stewardship. In 2006, her office identified goods movement as an industry with opportunity for compliance assistance. By changing international shipping trends and dredging activities, ports could reduce their impacts on local air quality, stormwater, and wetlands. Ms. Maldonado noted that changes in shipping routes for goods from China, Southeast Asia, India, Brazil, and Columbia could increase traffic at east coast ports in the United States.

With vessel sizes and capacity increasing, future vessel capacities of over 4,000 tons will make up a large percentage of the world's fleet. Deeper channels will be required for these ships to navigate the ports. In Region 3, there are three ports that have the potential for those depths. There will be associated environmental challenges for these east coast ports including the following points:

- **Air Emissions.** Port air pollution is primarily generated by diesel burning oceangoing vessels, harbor craft, cargo-handling vehicles, locomotives, and highway vehicles. As part of a national effort, Region 3 offers assistance through the Mid-Atlantic Clean Diesel Program. The program provides financial assistance to port authorities and public entities to explore technologies that reduce emissions. For example, Maryland Port Authority has implemented converted cargo handling equipment to ultra-low sulfur diesel fuels.
- **Storm Water.** The high acreage of impervious surface at ports increases their land-based pollution runoff. Ms. Maldonado identified this as an area of clear opportunity to offer assistance.
- **Oil Management.** At least 70 percent of pollution at the ports comes from routine operations, not from catastrophic events. These operations include tank washing, underground storage tanks, loading and unloading, and wastewater discharge.
- **Ballast Water.** Ballast water is used to balance a vessel, but the unloading and loading of this water causes problems with ecosystems and endangered species. She noted that there is currently a court case on whether EPA should address this issue.
- **Wetlands.** Coastal wetlands are strongly impacted by growing coastal populations. Most coastal wetlands have already been lost to development. Primary industrial threats, such as land-based water pollution, oil spills, and dredging need better management to reduce the damage to existing wetlands.
- **Dredging.** Dredging maintains a port's depth to allow for safe vessel traffic. However, it impacts temporary sediment and nutrient release, habitat, and open water disposal. EPA must involve the community and all stakeholders to develop innovative solutions.

3.2.2 Maryland's Air Quality Plans Presentation by Mr. Brian Hug, Division Chief, MDE

Mr. Hug discussed Maryland's air quality trends and the relationship between the state implementation plan (SIP) components and transportation planning. His office is responsible for state air quality emissions' inventories, transportation and general conformity, and work with Maryland ports on emissions estimates.

- The primary pollutants in the state are ozone and fine particulate matter (PM_{2.5}). There has been dramatic improvement primarily in the last four to five years and are very close to meeting ground-level standards. Regional haze, a visibility issue for the state, also has repercussions because these pollutants eventually end up in the Chesapeake Bay. Exceeding the National Ambient Air Quality Standards, especially the PM_{2.5} and the 8-hour ozone standards, are problems in areas surrounding Baltimore. The problem area centers along the I-95 corridor include major population areas, power plants, and industrial areas. He noted that air quality agencies are constantly encountering changing standards. Mr. Hug referred to regulations in place to eliminate fine particulate matter. Maryland has seen a decrease in the PM levels at 14 of the 17 state monitoring sites.
- The SIP includes regulations and air quality monitoring information for the last 20 years; emissions inventory; rate of progress demonstrations (trends in emissions); mobile emissions budgets; reasonably available control measures and analysis; contingency measures; attainment demonstration modeling; and weight of evidence. The SIP utilizes emissions reduction from ports and mobile emissions and sets an emissions budget for mobile-source emissions. As part of the SIP development, the state has to predict future emissions for various regional pollutants. The state then sets that amount as the region's emissions budget. The transportation planning groups cannot exceed that budgeted number. Staying within that budget is considered conformity.
- Ports look at the mobile emissions coming in and out of the property. General conformity includes anything that occurs in a Federal facility and stays on the property.

3.2.3 Maryland Goods Movement Trucking Presentation by Ms. Anne Ferro, President, Maryland Motor Truck Association

Ms. Ferro highlighted the trucking industry's improved emissions' standards and discussed how EPA's SmartWay Transport Partnership (SmartWay) program is effectively providing incentives to purchase cleaner vehicles. She made the following observations:

- Over 90 percent of Maryland's communities are dependent solely on trucks and over 80 percent of freight moves by truck through the state. Truck travel represents eight percent of the state's vehicle miles and represents 35 percent of highway taxes and fees paid. The high levels of freight traffic are due to Maryland's location along the east coast corridor and the gateway to the Ohio Valley.
- Maryland's inter-mobile community is primarily a community of independent owner-operators and allows those in the business to live close to where they work. She commented that most owner-operators usually break even. An average trucking company nets 2 to 5 cents on the dollar, but some companies make a penny to two pennies on a dollar.
- In the 1990's, EPA began requiring the trucking industry to implement a cleaner engine to combat some of the issues related to NO_x and PM emissions. Mandates stated that by 2007, fleets would run on ultra low sulfur diesel fuel (ULSD), with 15 ppm sulfur, a 97 percent sulfur reduction from 500 ppm. These new truck engines use a diesel particulate filter that also catches PM. By 2006, 80 percent of all fuel sold had to be ULSD, and by 2010, the all diesel fuel sold must be ULSD. Ms. Ferro noted that they have seen tremendous changes in truck emissions, particularly NO_x. She, however, commented that owner-operators, who have more difficulty finding the money for fleet investments, are not yet using the newer, cleaner engines. As a result, they have implemented a retrofit for older trucks.
- SmartWay is the trucking equivalent of the Energy Star Program. Companies are certified SmartWay if they commit to purchase 25 percent of their fleet's diesel from SmartWay businesses. SmartWay also encourages idle reduction, single wide tires, improved aerodynamics, driver training, improved freight logistics, automatic tire inflation systems, highway speed reduction, low viscosity lubricants, and inter-modal shipping. She also noted that a qualified driver can make a 35 percent difference in a truck's emissions. However, she also noted that qualified drivers are becoming a valuable commodity as fewer drivers enter the work force.

- The trucking industry will spend \$100 billion on fuel every year while the individual trucker will spend \$50,000 a year on fuel.
- One SmartWay strategy is the installation of an auxiliary power unit (APU), which reduces truck idling by providing electricity to heat and cool the cab of the truck during resting hours. The units cost \$7,000 to install in a truck, but many owner-operators cannot afford the device. An issue arising from APU installation is that it adds 400 pounds to the weight of a truck, which limits the amount of cargo an operator can carry. Federal Motor Carrier Safety Administration sets the general weight allowance, but states differ in the weight limits they allow. She suggested that weight standards uniformity is a critical issue for truckers.

3.2.4 Brooklyn and Curtis Bay: Small Towns in the City Presentation by Ms. Carol Eshelman, Executive Director, Brooklyn and Curtis Bay Coalition

Ms. Eshelman, presenting for Ms. Gloria Nelson, presented a case study on two port communities in Baltimore: Brooklyn and Curtis Bay. She outlined the community's strategy to mitigate the environmental impacts of ports while revitalizing their neighborhoods.

She began by describing the two harbor communities in the southernmost part of Baltimore. While the average income for the state is \$56,000 per year, Curtis Bay average income is \$26,000 per year. Over 40 percent of the community has income levels below \$25,000 per year. Forty percent of the community does not have a high school diploma, and 40 percent are unemployed or underemployed. The area was originally farmland that supplied food to the city, but during WWI and WWII, the communities became a rapidly growing port area. Today, the peninsula is next to several active industrial sites and a power plant. The community is surrounded by highways and the Patapsco River and contains several brownfields and Superfund sites. Trucks passing through the two communities to reach the port have significantly contributed to the pollution; in fact, his area is one of the top ten zip codes for emissions. In response to these conditions, the communities developed a 501(c) (3) organization to help bring the community together and revitalize the area into a "neighborhood of choice." The group is working to change the image of the neighborhood while maintaining its primarily working class population.

Ms. Eshelman stated that current challenges for the city include 150 vacant houses and additional storefronts, undervalued homes, drugs and prostitution, slumlords, and illegal property flipping. The community has had active associations since the 1950's. They have a 100-acre park, an elementary and middle school, but no high school. The community is working on eliminating the intimidating barriers that the river creates for crossing into the city. Baltimore recognizes the area now as a "healthy community." Because the area is only 10 minutes from the Inner Harbor, the city has recommended it as a good location for middle class families or families buying their first homes.

Ms. Eshelman stated that there have to be benefits to moving into the community. She said that the community does not expect ports and industry to disappear, but strongly urged those industries to partner with the community to bring jobs back to the area. Another community imperative was restructuring transportation routes with additional on- and off-ramps or reduced tolls to reroute truck traffic off neighborhood streets and back onto I-895. Ms. Eshelman argued that these small, low-cost changes would make a large difference in the area's quality-of-life. She ended her presentation by commenting that if the community and industry want to continue to coexist, they must learn to be good neighbors by engaging an open, non-accusatory dialogue. She also suggested that in return for the local impacts, industry should make an investment in the quality of the local community.

3.2.5 Maryland's Dredged Material Management and Community Outreach Program Presentation by Mr. Frank Hamons, Deputy Director, Harbor Development, Maryland Port Administration

Dredging is an important industry in the state and plays a critical role in maintaining other industries around the ports. He noted that over 42,000 Maryland jobs are port-generated, and another 86,000 jobs are linked to port activities. Under the Maryland Port Administration (MPA), the Maryland Dredging Material Management Plan (DMMP) began with an executive committee under the governor and was put into law in 2003.

MPA organized a Harbor Team of community stakeholders, including community members, business, government, and activist representatives from potentially impacted areas around the Baltimore Harbor, to participate in deciding on options regarding dredged material for the next 20 years. The Harbor Team represents a change in approach to interacting with communities, which encourages community members to invest in the process. State and Federal agencies support the program and provide any information requested by the team. The first collaboration occurred in March 2003 and provided recommendations by October 2003. The Harbor Team continues to meet to provide advice to MPA on development options. Meetings are led by a neutral facilitator who then serves as the community's voice to MPA. However, team members decide the meeting agendas, speakers, presentations, and any information flow.

Mr. Hamons discussed some of the Harbor Team recommendations, particularly the studies completed on Sparrows Point, where the community initially outlawed dredging within 5 miles of the community. He commented that the way in which the community was included made a huge difference in the process. After their participation in the Harbor Team, the community actually recommended making an exception to the law for a dredging site within five miles of their own location.

He also discussed a project which involved the participation of the Brooklyn and Curtis Bay communities. The community wanted access to the waterfront, and as a result, MPA moved between 8,000 and 9,000 tons of debris from along the shoreline. The community will also have a clean shoreline, trails, habitat enhancement, a bird sanctuary, and an education center, based on community requests made during project development. A request for proposals is currently out to develop a green building for the education center. Mr. Hamons presented a wetlands enhancement map of Masonville Cove that showed environmental restoration. The 130 acres of dredge replacement will address channel needs for many years. This project has included two public hearings with no opposition having been raised to the dredging. MPA made a commitment to implement community enhancement simultaneously with the dredging project. Mr. Hamons said that the project should finish in two years.

Concluding his presentation, Mr. Hamons noted that the port of Baltimore channels must be dredged annually to remain competitive. But to remain successful, MPA must have stakeholder involvement that is comprehensive and open throughout development and operation.

The following highlights the discussion held after the panel presentations:

- Ms. King asked for clarification on the purpose of dredging and for examples of innovative uses of dredging material. Mr. Hamons responded that dredging maintains channel dimensions that are diminished by natural sedimentation processes. New container ships are so big that they need a 50 foot channel and 47 feet of depth. Because sediment from the shoreline will settle in the deepest water and ground a ship, channel maintenance is necessary to stop the shoaling. Previously, dredged material was dropped into deep, un-trafficked bay areas. Now, it can be used to rebuild islands and other wetlands habitat. Mr. Hamons commented that the Masonville project, decided on by local citizens, has multiple beneficial results because it is capping and containing an old shipyard. However, some landlords are holding on to properties in hopes of making a large profit once the waterfront communities are revitalized.
- Mr. William Harper, Vice President of Strategic Sourcing and Operations Support, Pacific Gas and Electric (PG&E) asked about the availability of ULSD. Mr. Ferro responded that it is plentiful, but the challenge resides in the updating of the entire national fleet in time for the 2010 deadline. By 2010, she noted that off-road vehicles and marine vehicles must also use ULSD.

- Mr. Wilson raised a question about the structural and safety impacts as trucks pass through neighborhoods. While there is no quantifiable data, Ms. Ferro noted that some houses do show stress cracks and because of restrictions on main thoroughfares, trucks now detour through neighborhoods. She commented that as long as traffic exists in the corridor and the demand for trucked goods remains high, truckers will find shortcuts. She argued that infrastructure enhancements are critical to keeping trucks off neighborhood streets. Due to the high pollution from trucks, property values have decreased and landlords have disinvested in their properties and allow anyone to rent on a month-month basis without background checks. The community would like to see them take a greater interest in their properties.
- Ms. Yeampierre discussed concerns about gentrification and asked how to make community housing available for lower income families who need month-month rentals to survive. Ms. Eshelman replied that the community strives not to push people out, but they do encourage economic diversity as a way of pulling in more business to the area. She noted that the primary rental concern was property upkeep. The area does have a federal housing project, but it also has a 30 percent vacancy rate.
- Responding to concerns about building the community capacity to participate in decision-making processes and effectively preparing citizens, Ms. Eshelman commented that as her community developed a strategic neighborhood action plan, they held town meetings, including five sub-group meetings, in which experts came to work with participants. The results of these projects were then reported back at town meetings. Although they sent out 5,000 meeting notices, only 100 people were actively involved in the planning. Although experts often only spoke with community leaders, this process made a huge difference.
- Mr. Hamons, responding to the Council's question, explained that MPA decided to engage the public because of experience with previous projects. The first island that MPA restored took over 14 years to complete and costs rose from \$11 million to \$58 million because of public opposition. As a result, MPA created the Harbor Team in order for them to create their own mission. As group tensions were eliminated, MPA projects now have a 5-year turnaround on a project.
- The Council raised questions regarding the increasing size of shipping vessels and the specific environmental management issues and costs that result from dredging for these ships. Mr. Hamons replied that the larger ships earn better returns per ton mile. He also noted that the larger ships are cleaner and have more restrictions. Increased dredging needs require environmentally-safe methods for disposing of the material. The new managing methods do cost more, but there is a return on the expense. MPA is creating 570 acres of wetlands. It is difficult, however, to put a dollar value on this new habitat. He did note that larger ships are more fuel efficient and that fewer ships will decrease emissions.

Mr. Moore closed with a summary by emphasizing the need for additional enforcement activities in communities of color. Regarding issues of displacement, he pointed out the value of recognizing the complexity of encouraging community diversity and accessible to all income levels and demographic groups.

4.0 Goods Movement Work Group Updates and Action Plan

Mr. Shankar Prasad, Deputy Secretary for Science and Environmental Justice, California Environmental Protection Agency, provided an update on the recent progress made by the Goods Movement Work Group (Work Group). He noted that the Work Group consists of 12 representatives from various stakeholder groups. Since its creation, the Work Group has met for the first face-to-face meeting at the end of July and conducted seven conference calls.

One of the Working Group's current challenges is securing representation from the ports and railroad sectors. He added that OEJ and the Work Group members are working to identify representatives from the two missing stakeholder groups. He encouraged suggestions from NEJAC members.

Mr. Prasad referenced the draft Table of Contents in the NEJAC binder. He noted that it represented the Work Group's understanding of key topics within the goods movement issue. He requested that Council members provide input on the selected topic areas as well as the report's direction. He acknowledged that the Table of Contents is missing a section on enforcement and compliance.

The following highlights the Council's discussion regarding the direction and progress of the Goods Movement Work Group:

- Responding to a question about the level of health data that will be included in the community profiles, Ms. Robinson confirmed that the community profiles will contain available health data and that some communities will have more in-depth data and information.
- Ms. Sue Briggum, Vice President of Federal Public Affairs, Waste Management, Inc., added that this health impacts data should be incorporated into the Work Group report noting that the data may have a profound affect on the allocation of resources.
- Mr. Prasad explained that California has calculated the magnitude of impact of goods movement. EPA has not attempted this task; however, he suggested using the California data as an example of magnitude of impacts. The Council agreed to use California as an example with an explicit explanation about the data and its meaning.
- Responding to concern of the lack of participation by representatives of the ports and rail sectors, Ms. Victoria Robinson, NEJAC Program Manager, EPA OEJ, noted that several members of the Council have suggested alternatives. She hoped to have a representative from each sector involved in the Work Group within the month. She encouraged the Council to suggest additional names. Mr. Moore encouraged more grassroots participation in the project, as well as a larger tribal presence. Ms. Robinson noted that the Work Group was exploring the possibility of reaching out to non-Work Group members on an as-needed basis.
- Ms. Wilkins suggested that a representative from a metropolitan planning organization be included in the Work Group. Ms. Robinson noted that Mr. Dunbar Brooks from the Baltimore Metropolitan Council has joined the Work Group.
- Mr. Prasad requested comments on the circulated recommendations. Ms. Wilkins commented on getting participation from DOT, or a metropolitan planning council. Victoria replied that they were engaging people from those groups.
- Clarifying how to address goods movement corridors since they are not stationary sources, Mr. Prasad noted that there is a debate of whether labeling these sources as stationary is legally feasible under the Clean Air Act. The Work Group wanted all recommendations written within existing statutes. Mr. Terry Goff, Director, Public Policy and Regulatory Affairs – Power Systems, Caterpillar, Inc., elaborated that the law is written around one source and one owner, but there may be legal challenges to make goods movement sites stationary sources. If you can actually gauge the impact in a relatively confined area, you have to parse out sources, but the goal is to get an improved emissions profile.

Recommendations for the Work Group report included:

- Add a communication strategy to ensure that EPA's senior management understands the recommendations.
- The current emphasis of health research is on existing ports, rather than new port development; therefore, it is not needed in the background section.
- Include noise and safety impacts, emergency planning, and national security concerns in the report.
- Examine all sources of particulate matter, particularly from diesel engines, tires, and road gravel.
- Include the human aspect of these impacts in order for the report content to be purposeful and relate back to the people. A suggestion was made to provide the story behind the impacts.
- Integrate the community involvement section with the collaborative government section.

- Investigate other health-related impacts, such as socioeconomic impacts, educational impacts, insurance rates, and cost analysis, including the costs a city or government may incur due to not mitigating environmental impacts (e.g., missed school and work days and insurance rates).
- Incorporate the term environmental justice into the topic areas under the Advice and Recommendations portion of the report.

4.1 Collaborative Governance and Collaborative Problem-solving Presentation, Mr. Langdon Marsh, Fellow, National Policy Consensus Center

Mr. Marsh reviewed the current framework for the Collaborative Governance and Collaborative Problem-solving principle of the report. Highlights from his presentation include:

- Collaborative governance is important for effective, on the ground implementation, especially when large amounts of resources are needed from various sources.
- There are three levels of implementation: national, regional, and community.
- At the national level, the recommendations address national rules. At the regional level, the recommendations look at state and multi-state policies. Community level recommendations address land use and infrastructure issues.

A short discussion followed the presentation. Below are the highlights from that discussion:

- Ensure that tribal governments are included in the collaborative governance approach at all levels of implementation;
- Include businesses and industry at all levels of implementation;
- Ensure that collaboration efforts involve the community; and
- Include capacity building as an element of this principle.

4.2 Resources and Financing Presentation, Mr. Greg Melanson, Senior Vice President, Bank of America

Mr. Melanson discussed the framework and recommendations drafted around the principle of resources and financing. Based on previous conversations, Mr. Melanson commented on the need to explore how to internalize the true cost of goods movement; and the need to incorporate more environmental justice concerns into this principle.

A short discussion followed the presentation. Below are the highlights from that discussion:

- Mr. Prasad commented that emissions reduction will add costs to a project and therefore affect the overall cost-benefit projections of a project.
- Responding to a question about financing for smaller, low-income facilities, Mr. Melanson explained that he is investigating the possibility of expanding SmartWay work to address this concern, especially among independent truck owners.
- Ms. Briggum noted that the Carl Moyer Program in California has successfully leveraged funds to reduce emissions among larger fleets.

4.3 Goods Movement: Addressing Environmental Justice Concerns Presentation, Mr. Shankar Prasad, Deputy Secretary for Science and Environmental Justice, California Environmental Protection Agency

Mr. Prasad presented on the approach used by California in 2005 to determine the statewide health impacts of goods movement. He noted that this is only one example of an existing methodology that EPA can employ to assess goods movement impacts on health. The report used 2005 values as baseline numbers. Evaluation was completed for the Ports of L.A. and Long Beach, which are the fourth largest ports in the world and largest in the nation.

Key points from his presentation include:

- A holistic approach should be taken to address goods movement issues.
- Referencing a map of diesel particulate matter concentrations, he noted that the cancer risk for people living within the most burdened communities surrounding these two ports

is 500 in a million as compared with 25 in a million for all of Los Angeles. He added that the population of the most burdened communities is 33,000 people.

- Mr. Prasad raised the question of how to allocate funding to decrease those risks. He asked whether funds should be spent to provide incentives to bring about future regional change, or should the funds focus on helping those who are most exposed to the risk. He noted that the Work Group will have to address these questions as they develop their recommendations.

Following the presentation, the Council provides comments and suggestions. The following highlights that discussion.

- Mr. Moore referenced the NEJAC charge to the Work Group. He reminded the Council of the four focus areas of the charge, including the most significant environmental health concerns from air quality; how information resources can be better utilized in population centers that bear maximum impacts; how to meaningfully involve the community at all levels of the decision-making process; and the strategies stakeholders can pursue to stimulate change.
- Mr. Wilson asked whether national health data exists to answer the questions being asked in the charge or if that is a task that NEJAC could fulfill. Mr. Prasad responded that this was an example of a potential model, but it could provide a useful way forward. The data does not currently exist nationwide.
- Ms. Donele Wilkins, Executive Director, Detroiters Working for Environmental Justice, emphasized the need for NEJAC to leverage relationships with other Federal agencies, particularly DOT. She added that NEJAC could play a role in encouraging manufacturers to produce more efficient goods movement vehicles.
- Ms. Samantha Beers, EPA Region 3, reiterated the importance of having adequate and up-to-date health information. She stated that efforts are underway to gather the most up-to-date available health data from state agencies.

5.0 Dialogue with Senior EPA Official - Mr. Granta Nakayama, Assistant Administrator, EPA Office of Enforcement and Compliance Assurance (OECA)

Exhibit 3

Mr. Nakayama, noted that several bills (see text box), hearings, and other discussions related to environmental justice are currently taking place on Capitol Hill, which he viewed as an opportunity to make progress in this area. He thanked members of the Council for their work and reiterated EPA's commitment to addressing environmental injustice, noting that the Agency's activities related to the environmental justice program reviews and the development and roll-out of EJSEAT.

Mr. Nakayama added that the dialogue around environmental justice was changing and expanding, providing opportunities for communities, industry, and government entities to collaboratively address long-term issues that improve the health of the community. Because this issue transcends multiple government levels and does not have simple solutions, there is a need to work with state and local governments to raise awareness.

Mr. Nakayama stressed the importance of open and continuous communication, encouraging NEJAC members to provide feedback and recommendations to help guide EPA. He emphasized the need for continued involvement from senior EPA officials, particularly ESC, and that NEJAC has the opportunity to provide pro-active advice and comments to EPA on key environmental justice issues, such as the Agency's environmental justice integration efforts.

NEJAC members provided the following responses to Mr. Nakayama's comments:

- Re-establish the Native American subcommittee to address the unique environmental challenges of tribes.

Current EJ-related Bills

- H.R.1103: Environmental Justice Act of 2007
- S. 642: Environmental Justice Act of 2007
- H.R. 1055: Toxic Right-To-Know Act
- H.R. 1602: Hurricanes Katrina and Rita Environmental Justice Act of 2007
- H.R. 3014: Health Equity and Accountability Act of 2007

- Encourage collaboration with other Federal agencies to mitigate environmental justice problems that cannot be solved solely by EPA.
- Follow EPA Office of Water's development of a program assessment strategy that looks at short-term and long-term impacts of climate change along the coast.
- Research ways to partner with universities and community-based organizations to reduce resource demand on EPA.
- Develop innovative ways to fund grassroots organizations to build capacity.
- Include a NEJAC member from Alaska due to its unique environmental justice issues.
- Engage states in actively addressing environmental justice issues.
- Develop innovative ways to fund grassroots organizations to build capacity.
- Include a NEJAC member from Alaska due to its unique environmental justice issues.
- Engage states in actively addressing environmental justice issues.

6.0 Overview of EPA Environmental Justice Integration Efforts

In the interest of time, Mr. Lee did not present on the overview; rather, he referred participants to the fact sheet on environmental justice integration in their binders.

6.1 Discussion and Presentation on EJSEAT Tool, Ms. Tinka Hyde, EPA Region 5 and Andrew Schulman, EPA Office of Compliance

The following highlights the key points from the presentation:

- The idea for EJSEAT originated about four years ago in an effort to promote national consistency in the implementation of the environmental justice program. Additionally, the tool strives to quantify and report measurable results for environmental justice activities. For example, with this tool, OECA will be able to accurately count the number of underground storage tank inspections performed in potential environmental justice areas nationwide. It should be noted that the tool does not answer the question of how many people are affected.
- There are a total of 18 indicators, which are grouped into four indicator categories - social demographics, environmental, compliance, and health. Example data sources for these indicators include Federally-recognized or managed data courses, Census data, and public health and environmental data that can be used to help identify disproportionate impacts. EJSEAT uses a methodology to rank these factors and assign a composite score. The scoring methodology is applied on a state-by-state basis rather than nationally to account for political and economical variations between the states (see the presentation for a more detailed description of the ranking and scoring methodology).
- OECA will begin using this tool in Fiscal Year 2008 following a pilot test.

Highlights of the discussion with the Council following the EJSEAT presentation included:

- A suggestion was made that the tool be piloted outside of OECA, particularly to state agencies. Ms. Hyde noted that the states are not required to use EJSEAT; rather the tool is designed to help OECA integrate environmental justice into its daily activities, such as prioritizing inspections and reporting environmental benefits. In response to an inquiry about the public availability of EJSEAT, Ms. Hyde responded that the public will not have access to the tool during the pilot phase.
- In response to a suggestion that EJSEAT be reviewed by both internal and external groups, especially health professionals and academics, Ms. Hyde commented that internal and external reviews have been completed. The external review panel consisted of numerous health experts. In the future, OECA will consider including methodology experts in subsequent reviews. Additionally, while field testing has not been conducted, EPA regional offices are completing a comparative analysis of the tool.
- With respect to Census data, it was noted that many tribes do not participate in the Census and therefore, the impacts of these populations may be overlooked. Ms. Hyde encouraged the use of this tool in conjunction with other information sources, which better capture impacts on tribal populations.

- In response to a suggestion that the tool be revised to ensure that small highly-impacted communities are not overlooked, Ms. Hyde noted that the tool contains an indicator for linguistically isolated households.
- Responding to a member's question, Ms. Hyde noted that a modest change in a particular indicator would not dramatically alter a tract's score. She added that a significant change in several of the indicator categories is needed to alter the composite score.
- The council suggested that OECA ensure that collected data is reliable; and that OECA consider sharing the EJSEAT scoring methodology with NEJAC. Further, the Council stressed the importance of context and recognizing limitations of EJSEAT.

6.2 Introduction to Program Evaluation and EPA's Environmental Justice Program Reviews

In her presentation, *Introduction to Program Evaluation*, Ms. Yvonne Watson, EPA Office of Policy, Economics, and Innovation Watson provided a detailed overview of EPA's program evaluation process, including definitions of key terms, types of evaluations and tools, and key steps in an evaluation. Highlights from her presentation include:

- Performance management ensures that goals are effectively met through the use of logic models, performance measurement and program evaluation. The logic model identifies resources, activities, customers and outcomes; performance measurement describes the level of achievement; and program evaluation explains the results.
- Measurement and evaluation are different in that measurement provides an early warning to management by providing ongoing monitoring and reporting accomplishments, but evaluation provides a longer term review of effectiveness by examining a broader range of information to explain why the results have occurred. Performance measurement data provides the data for program evaluation.
- Conducting an evaluation increases accountability in answering questions of performance which feed into a learning and program improvement cycle that deals with questions regarding understanding program outcomes. Evaluations can apply to programs or a set of planned activities directed toward bringing about changes, projects, initiatives, processes or systems as in evaluating the steps in awarding grants to communities, products such as guidance documents or services such as outreach and educational programs.
- Evaluation provides the basis of good program management in that it identifies that goals and objectives are being met, helps prioritize resources for the greatest environmental benefit, discovers what works and what it not successful and uncovers areas for program improvement.
- Accountability resources include the Government Performance and Results Act of 1993 and the Environmental Results Order 5700.7.
- Evaluators can be internal and they can use information, history, and experience to reflect the needs of the organization; or evaluators can be external with an impartial, fresh perspective and look at the big picture and ask question relevant to external groups. The types of evaluation can be formative and diagnostic with the purpose of improving the program for the program manager and staff; or the evaluation can have a summative purpose based on decision-making judgments in the interest of potential consumers or funding entities.
- The steps in designing an evaluation are: 1. Select a program to evaluate; 2. Identify the evaluation team; 3. Describe the Program; 4. Develop Questions; 5. Identify Data; 6. Select Data Collection Methods; 7. Select Evaluation Design; 8. Develop Evaluation Plan.
- In making the decision on whether or not to evaluate, one must assess the following factors: the size of the program, the number of people the program serves, the level of consensus among the stakeholders on goals and objectives, the level of commitment for change of the staff and managers, the availability of time and money for the evaluation process, the availability of relevant information and its dependability and the legal requirements.

- The logic model examines how the program works by describing the resources or inputs, the activities, and the outputs and progress to describe the outcomes or results from the program by reviewing the short-term, intermediate, and long-term results.
- The types of evaluations are: the design evaluation examines if a program is feasible and can achieve the intended goal; the process evaluation examines the management of the program to find out if it is delivering results to the targeted recipients; the outcome evaluation examines the program outcomes in reference to context and unintended outcomes; the net impact evaluation compares the effectiveness of various program approaches in delivering the desired results; and the cost evaluation examines if the program is cost efficient and cost effective.

Ms. Margaret Schneider, Senior Advisor to the Assistant Administrator, EPA OECA, provided an overview of EPA's Environmental Justice Program Reviews. She stated that, in response to the Inspector General (IG), EPA has developed environmental justice review protocols in four key areas, including standard setting and rule-making, permitting, enforcement and compliance, and remediation and cleanup. The protocols consist of a series of questions that assess current environmental justice integration and identify future opportunities. The next steps for the protocols are to have the programs link activities with performance measures and develop methods to assess progress. EPA requests NEJAC's input on incorporating the results of program evaluations into EPA's programs.

The following are highlights of the discussion that followed the presentations.

- Include additional function areas such as building partnerships and capacity to the four current function areas;
- Build flexibility into the protocol structure while maintaining a consistent framework for basis of comparison across the Regions;
- Ensure that lessons learned are incorporated into the reviews;
- Ensure that the scope of the evaluations account for short and long-term goals; and
- Pilot the protocols to ensure that the questions solicit the appropriate responses.

6.3 Panel: Perspective from EPA Environmental Justice Executive Steering Committee Members

Members of NEJAC heard presentations regarding EPA's Environmental Justice Integration efforts from a panel of senior EPA officials including:

- Ms. Lynn Buhl, DAA, EPA OECA
- Ms. Laura Yoshii, DRA, EPA Region 9
- Mr. Jim Jones, Principal DAA, EPA Office of Prevention, Pesticides and Toxic Substances (OPPTS)
- Mr. Ira Leighton, DRA, EPA Region 1
- Mr. Mike Shapiro, DAA, EPA Office of Water
- Mr. Larry Starfield, DRA, EPA Region 6

Ms. Buhl noted that each presenter had roughly 30 years of experience, so combined they had considerable knowledge to share. She said that the environmental justice reviews are a significant endeavor, but asserted that they would provide significant insight for the group.

Ms. Yoshii provided an overview of Region 9's Environmental Justice integration efforts at the operational level. Key points of the presentation included:

- Region 9 faces some of the worst air quality challenges. In addition, the region must tackle issues that arise from having three of the fastest growing states (California, Arizona, and Nevada), 146 Federally recognized tribes, and a shared border with Mexico.
- Region 9 created a core team from its various internal groups. The team serves as a point of contact to help communities navigate divisions of EPA. In addition, Region 9 has a key media contact and it works to engage its senior management leadership.

- Region 9 has provided environmental justice training to all staff. It also utilized its diverse workforce to collaborate with community groups and bring in new resources. Current priorities focus on tribes, the Pacific Islands, the U.S.-Mexico border, ports, and the Community Action for a Renewed Environment (CARE) program.
- Lessons learned by Region 9 include: using team approaches to tap into different areas of expertise, focusing on community-defined, results-oriented approaches and building capacity so communities will be able to solve their future problems.

Mr. Jones reviewed Environmental Justice integration efforts within OPPTS. Key points of the presentation included:

- OPPTS ensures that new industrial chemicals and pesticides are safe; it reviews old chemicals to make sure they continue to adhere to current standards; and it manages the Agency's primary pollution prevention program. OPPTS is a Headquarters-based organization which strives for conformity across the nation.
- OPPTS is involved in two key grant programs that address environmental justice issues - the CARE Program and the Environmental Justice Grant Program for Lead. The CARE Program deals with cross-office and cross-region issues such as air, water, and waste, so it rotates through Agency offices and regions. Currently, 51 cities from all Regions are involved in CARE, which is in its third year. However, EPA would like to increase that number. The Environmental Justice Grant Program for Lead focuses on communities with disproportionate exposure to lead. The Program is currently working on legislation regarding managing renovation activities in homes to minimize exposure to lead paint.
- OPPTS has also incorporated environmental justice concepts into its chemical risk assessments. It is placing more focus on communities with high-end exposure, collecting more diet data for pesticide risk assessments about foods consumed by subgroup populations, and raising OPPTS's awareness of its potential impact on citizens.
- Additionally, OPPTS is tasked with completing the environmental justice review protocols for the Lead Program. It stresses the need for both a top-down and a bottom-up approach to lead issues. In addition, OPPTS strives to consider environmental justice issues in its regulation, permitting, and remediation enforcement procedures.

Mr. Leighton provided an overview of Region 1's environmental justice integration efforts. Key points of the presentation included:

- Internally, Region 1 developed six strategies to involve its staff in environmental justice issues:
 - It aligned regional and national priorities.
 - It communicated opportunities and expectations to staff and managers.
 - It assigned accountability to an appropriate level of management--the Deputy Office Directors. The Deputy Office Directors developed the environmental justice compendium which translated the Region's objectives to actual communities.
 - It provided training to its staff. Every new employee and all older employees receive 1.5 days of environmental justice training, which now includes half a day in the field meeting with community members.
 - It provided its staff with census-block level desktop tools that identify areas with potentially disparate impacts in order to facilitate employee engagement.
 - It tracked and communicated its results.
- Externally, Region 1 developed and funded an urban program which engages citizens at a community level. The program attempts to build models of engagement that can be exported to other communities. Region 1 also developed the Healthy Communities Grant Program, which provides funding for communities that face multiple environmental justice-related issues.
- Region 1 is working to centralize resource information and gather environmental data for communities. It believes one of EPA's roles is to help communities obtain data so an undefined problem can become measurable and solvable. For example, the Boston office created a map of Boston that overlays housing information, street information, and blood lead levels to target specific streets with lead problems. In addition, there is a

volunteer monitoring program that loans equipment to communities so they may perform their own sampling.

- Future goals for Region 1 include developing a speaker series, leveraging discretionary funding, strengthening relationships with state agencies, and replicating its urban program in other communities.

Mr. Shapiro discussed the Office of Water's environmental justice integration efforts. Key points of the presentation included:

- The Office of Water put considerable effort into developing strategic measures and objectives that would be carried out as Agency priorities. Two of its main priorities are to ensure that fish and shellfish are safe to eat and that water is safe to drink.
- The Office of Water used to focus on tracking compliance with drinking water standards. However, when it realized that large portions of the population (e.g., Native Americans, others) do not have access to public water supplies, the Office of Water built in a component that tracks access to water resources.
- The Office of Water has implemented many of NEJAC's recommendations on fish consumption, including developing fish mercury level notices in multiple languages. It has also focused on issues such as lead in drinking water in schools and a Drinking Water Fund for disadvantaged communities. In addition, the Office of Water will conduct a pilot study on arsenic levels in drinking water as part of its Environmental Justice Program Review.
- Environmental justice issues need to become embedded into the Office of Water's national program in order to be successful. In addition, direct personal experience on the ground is critical. For example, Office of Water's headquarters is still dealing with issues in Washington, D.C., including the quality of water in the Anacostia River, and it encourages engagement from its staff.

Mr. Starfield reviewed the environmental justice integration efforts of Region 6. Key points of the presentation included:

- Region 6's accomplishments include: integrating environmental justice into the Emergency Response structure after Hurricanes Katrina and Rita, building capacity among tribal and community-based organizations, linking resources with the CARE program, performing a holistic analysis for the Ponca tribe and increasing permit writers, inspectors, and a rule writers' focus on environmental justice issues.
- In conjunction with Region 9, Region 6 is conducting a pilot study on lead exposure. The study identifies high impact areas, existing EPA programs in those areas, and community partners and best practices to further assist the affected communities within those areas.
- To make Environmental Justice integration successful, Region 6 stressed that EPA needs to make a cultural change and take responsibility for environmental justice issues. In addition, communities need an active role, and where solutions are beyond EPA jurisdiction, EPA should partner with agencies, universities, or other organizations.

After the presentations, the panel answered questions from NEJAC members. Members discussed the following issues:

- In response to Mr. Shapiro's presentation, Ms. Jolene Catron, Executive Director, Wind River Alliance, inquired about revisions to EPA's 106 funding within EPA Office of Water, particularly regarding the tribal consultation. Mr. Shapiro responded that there were a number of meetings with tribal groups, a consultation with the National Tribal Operations Committee, and an opportunity for written comments. One concern expressed was the issue of reporting results to EPA. However, he noted that EPA will lose funding for its programs if it cannot demonstrate that its programs are working.
- In response to Mr. Jones' presentation, Ms. Wilkins asked that EPA increase the use of green chemistry techniques in environmental justice communities and examine existing research about mitigating effects of green chemistry on environmental justice communities. Mr. Jones replied that OPPTS could look into leveraging environmental justice into its current green chemistry award program.

- Ms. Wilkins inquired about reducing the complexity of the Environmental Justice Small Grants application process. Mr. Jones acknowledged that EPA grant programs have become extremely vigorous. He reported that EPA is making efforts to manage grants electronically and improve process and flow, but that would not necessarily make the grant applications easier.
- Ms. Kathryn Brown, Environmental Epidemiologist, University of Cincinnati College of Medicine, inquired about the implications of the Memorandum of Understanding between EPA, the Center for Disease Control and the Agency for Toxic Substances and Disease Registry. She asked if CDC would become responsible for communities that continue to experience high lead levels. Ms. Brown inquired about using university resources to support environmental justice efforts. Mr. Starfield and Mr. Leighton agreed that University partners are critical. Mr. Starfield suggested that clinics of graduate students collect data and perform analysis for environmental justice communities, while Mr. Leighton reported that in 2004, Region 1 arranged the first National Environmental Justice Summit in conjunction with Boston University. Mr. Marsh, Portland State University, added that Universities are good centers to hold neutral forums.
- Mr. Barlow suggested developing partnerships between industry and NEJAC. Mr. Lee responded that EPA found that many companies are doing significant things, but they did not want to participate in EPA's environmental justice programs, even when the community recommended them. Mr. Leighton reported that Region 1 had a pilot project to look at the environmental footprint of a supply chain business in New Haven, Connecticut.

6.4 Discussion: EPA Environmental Justice Integration

Mr. Moore noted that the EJSEAT Tool did not receive an endorsement from NEJAC. He suggested that the Council draft a letter to the EPA Administrator and Mr. Nakayama identifying the Executive Council's questions and concerns with EJSEAT and the environmental justice integration process. Potential topics to address in the letter include the goal of EJSEAT, how EJSEAT will enhance environmental justice, and how to safeguard EJSEAT from misuse particularly in excluding or harming environmental justice communities. The letter will also communicate NEJAC's desire to provide input into the formation and development of EJSEAT and capture its enthusiasm about the overall integration effort.

In addition to the letter, the members discussed assembling a work group charged with providing recommendations on environmental justice integration. The work group will be co-chaired by Ms. Briggum and Ms. Veronica Eady Famira, Associate General Council, New York Lawyers for the Public Interest; members will include Mr. Prasad, Ms. Wilkins, Ms. Catron, Ms. Henneke, Mr. Paul Mohai, Professor, University of Michigan, and Mr. Marsh. In addition, the working group will review the draft letter over a public conference call scheduled around October 12, 2007.

7.0 Discussion: Report Back about Key EPA Implementation Items

7.1 Environmental Justice Function in Incident Command System

Ms. Dana Tulis, Deputy Director, EPA Office of Emergency Management (OEM), discussed the incorporation of environmental justice into the Incident Command System. In her presentation, *Environmental Justice and the Incident Command System*, she detailed the National Response Plan (formerly the Federal Response Plan) including its modification into the National Response Framework. The National Response Framework will incorporate State, local and nonprofit roles and responsibilities. Since many responses and decisions are made at a local level, these organizations are now being included into the initial Response Framework.

Ms. Tulis explained that EPA has a National Approach to Response which clearly defines roles for Regions and for Headquarters. Within this approach, the EPA Model for National Incident Coordination involves high-level participation for larger incidents. She noted that the Liaison Officer within the Incident Management Team (IMT) is responsible for environmental justice, tribal

coordination, and collaboration with the Public Information Officer to ensure that information reaches vulnerable communities.

Ms. Tulis outlined EPA’s structure for managing data during an Incident of National Significance. Data samples obtained from floodwater, surface water, air, sediment, soil, or facilities go through a 6-day confirmatory process to test for biological and chemical agents.

In general, EPA’s Field Environmental Units collect the data, the Regional Environmental Units interpret the data and the Headquarters Environmental Unit makes the data available to the public through EPA’s online EnviroMapper and provides recommendations to the impacted area.

The following are highlights of the discussion that followed the presentation:

- Tribal input needs to be incorporated into the National Response Framework;
- University resources can support environmental justice and Emergency Management issues;
- Emergency Action Plans need to include training and outreach to municipalities about maintaining and preparing wastewater treatment facilities; and
- OEM should share best practice guidance about Emergency Management issues with companies and organizations.

7.2 EPA Environmental Justice Awards

In his presentation, *EPA’s Environmental Justice Awards Program*, Mr. Timothy Fields, Senior Vice President, Tetra Tech EM Inc., reviewed the goals and procedure for the 2007 Environmental Justice Award Program, which was initiated in January 2007.

The program is designed to promote positive behavior to address environmental justice issues, recognize major environmental justice achievements, and document models of successful problem-solving solutions. In its inaugural year, nominations for environmental justice achievements in the business and industry community were submitted to EPA. Nominations were judged on six criteria, which are detailed in Exhibit 4.

Exhibit 4

Once the best nominations were selected, the nominations were submitted to the Environmental Justice Stakeholders Panel for further review. The Panel’s final selections will be reviewed by EPA Headquarters.

Mr. Fields noted several lessons learned that will be incorporated into the 2008 process. The lessons included clarifying application guidelines to ensure nomination entries include the pertinent information, involving EPA personnel in the review process, and including an independent verification of nominations. In addition, the 2008 Environmental Justice Achievement Awards will be expanded to include nominations from academic institutions, community-based organizations, non-governmental and environmental groups, state and local governments, and tribal and indigenous governments and organizations. Awards are expected to be presented to an organization in each stakeholder category. A call for nominations is expected in October 2007 with a final announcement by May 2008.

<p>2007 Nomination Criteria</p> <ul style="list-style-type: none"> • The use of innovative approaches, • Community responsibility, • the level of community equity and public involvement, • Established partnerships and collaborations, and • Internal integration of environmental justice principles by the nominated organization; and demonstrated results.

The following are highlights of the discussion that followed the presentation.

- The establishment of the Environmental Justice Achievement Award was a recommendation of a previous NEJAC Executive Council;
- EPA should consider revising the points awarded for collaboration criterion since OEJ places such an emphasis on it;
- The Environmental Justice Stakeholders Panel will select up to two nominations per category;

- EPA will present awardees with a plaque to recognize their achievements. There will be no monetary award;
- The Environmental Justice Stakeholder Panel evaluates the nominations based on the application and letters of endorsement. The Panel attempts to recognize achievements accomplished by a wide spectrum of organizations that face various levels of challenges;
- EPA is working to develop a marketing strategy for this awards program. In 2007, the awards program was publicized using existing networks, such as the Southwest Network for Environmental and Economic Justice and the Business Network for Environmental Justice;
- EPA will consider providing applicants with a mock application; and
- NEJAC can support the Environmental Justice Achievement Award Program by providing input on how best to distribute information to potential nominees.

8.0 Closing Dialogue: Emerging Issues

As part of the closing dialogue, NEJAC members identified several emerging issues for NEJAC to consider addressing in the future. These issues include:

- Effects of climate change and mitigation technologies such as carbon capture and sequestration (CCS) on environmental justice populations;
- The need to involve corporations and industry association groups in environmental justice issues;
- The need to promote green businesses;
- The need to engage Alaskan communities in NEJAC discussions;
- The importance of Native American involvement in community decisions;
- Methods to empower environmental justice advocates; and
- Meeting locations should be hosted at different member locations.

Mr. Lee called for an administrative item for agreement to set aside the 30-day review of Council by-laws. NEJAC members agreed on the proposed administrative item by consensus.

Ms. Buhl reiterated the agency's commitment to environmental justice issues. She stated her appreciation for the Council's feedback and noted that the agency anticipated congressional hearings in the next month.

Mr. Moore and Mr. Lee thanked members of the council for their participation. They reiterated that the Council should always be involved in dialogue and continue to make suggestions to EPA.

CHAPTER TWO PUBLIC COMMENT PERIOD

1.0 INTRODUCTION

The Council conducted one public comment period during the meeting of NEJAC held from September 18 through 20, 2007 in Baltimore, Maryland, and focused on general issues related to goods movement in environmental justice communities. During the session, ten oral statements were offered.

2.0 PUBLIC COMMENT PERIOD HELD ON SEPTEMBER 18, 2007

This chapter summarizes the testimony that the Council received during the public comment period as well as the comments and questions that the testimony prompted from the members of the Council.

Comments are summarized in the order in which they were offered.

Ms. Linda Safley, Executive Director, Environmental Crisis Center

Ms. Linda Safley, Executive Director, Environmental Crisis Center, spoke about the environmental issues facing Maryland, including the clean up and building on Superfund sites, increasing energy needs, and trains carrying toxic chemicals, which travel through neighborhoods and the accompanying groundwater issues. Additionally, she noted that the State of Maryland should improve the quality of the Chesapeake Bay by reducing contamination from business enterprises. Referencing a recent chemical accident in Aberdeen, Maryland, She stressed the need for the public to know when trains, carrying contaminants, are routed through their communities. She requested the Council's assistance in attaining a timetable from rail officials for trains carrying toxic chemicals, especially through residential neighborhoods.

Following Ms. Safley's comments, Ms. King commented that tribe members have similar concerns about toxic wastes passing through tribal territory and their inability to access information about the trains due to homeland security concerns.

Ms. Leslie Fields, Environmental Justice Director, Sierra Club

Ms. Leslie Fields, Environmental Justice Director, Sierra Club, and professor at Howard University, read a letter on behalf of the Sierra Club and several members of the academic community which discussed the new study entitled, *Toxic Waste and Race of 20*. This document, based on 2000 U.S. Census data, concludes that people of color are often concentrated in areas with high levels of waste. Reading the letter, she urged the Council to implement the Inspector General's (IG) recommendations, including requiring risk assessments to ensure compliance with Executive Order (EO) 12898. She requested the creation of a timetable of implementation of the IG's recommendations. Ms. Fields highlighted other environmental imperatives such as: the requirement of buffers around facilities, the use of state assessments, and the development and support of community revitalization efforts.

Mr. Lee responded to Ms. Fields that EPA agrees with the IG's recommendations. In response to the IG's report, EPA has developed a schedule for implementation. The process began with development of four internal working groups. The groups developed protocols focusing on standard setting and rulemaking, cleanup and remediation, permitting, and enforcement. There will be pilot programs to establish that the protocols test the implementation of the eight national environmental justice priorities. The review process will begin in Fiscal Year 2008 when the protocols are distributed to EPA offices.

Mr. Lou Takacs, Public Safety Programs Coordinator, Washington Village/ Pigtown Neighborhood Planning Council

Mr. Lou Takacs, Public Safety Programs Coordinator, Washington Village/ Pigtown Neighborhood Planning Council, illustrated how collaborative planning has improved the environmental quality in his Baltimore neighborhood. He noted that his programs have harnessed the synergy obtained by groups working together on a common strategy. They have increased partnerships from ten community groups in 2004 to over 40 groups currently throughout the Washington-Baltimore corridor. The major theme for success resides in individual engagement and investment in the community. The group is composed of businesses, individuals, Americorps, and faith-based groups and relies on grants funding that emphasizes problem solving and collaboration.

Mr. Takacs presented an example of a successful campaign called "Clean It Like You Mean It," which included a youth-generated rap and a community volunteer day led by 160 Americorps volunteers. The program tried to make kids aware of the dangers of trash, and eventually led to the group's participation on the Governor's Commission on Environmental Justice and Sustainable Communities. He also highlighted the "Talking Trash" pamphlet about smoke, dust and soot, in which the group collaborated with university partners for background research. Ms. Yoshii asked if Mr. Takacs would contribute a written testimonial on the program's success as an example of best-practices.

The campaign also works to engender positive relationships for citizens with government, and teach people how to engage in the community collaborative process. The group has received a "Deep Clean" designation from the Baltimore mayor's office for an event on August 4, 2007 where 120 volunteers participated in a deep clean in a local neighborhood to show agencies how the neighborhood had changed.

When asked if the group collaborates with other environmental justice and community organizations, Mr. Takacs noted that there are many interpretations of environmental justice, and that they try to engage one step at a time in solving problems collaboratively. The group's past community partners include Americorps, Paul's Place, St. Jerome's Head Start (associated with Catholic Charities) and Community Health Nurses. Everyone is part of the process as groups reach out to each other. All these groups are looking for collaboration opportunities. As an example, Mr. Takacs mentioned the University of Maryland's service project day. In closing, he thanked the council for the support the group receives from the EPA regional office and for the EPA staff who attend events.

Ms. Sylvia Betancourt, Policy Advocate, Center for Community Action and Environmental Justice in Commerce, CA

Ms. Sylvia Betancourt, Policy Advocate, Center for Community Action and Environmental Justice in Commerce, CA, commented on the impacts that trucking corridors and highways have had on her community's health and welfare. Using her community, which is located among two inter-modal rails centers and a large freeway as an example, she recounted the high incidences of cancer and lung problems complicated by the community's difficulty in articulating its environmental justice concerns. Ms. Betancourt noted that over 47,000 trucks move in and out of the port of Los Angeles every day, most passing through the community. She also mentioned that this volume of traffic is expected to triple. Those trucks compete with cars on the freeways and in the neighborhoods. This impact stems from the misuse of community zoning. She concluded that the increasing number of trucks on the road will adversely affect local communities and will contribute to an increase in premature deaths rates resulting from exposure to diesel.

She presented a white paper, authored by community members in conjunction with university officials and health groups, including the University of Southern California, Occidental College, and the Long Beach Alliance for Children with Asthma on how goods movement is perceived in the community. Ms. Betancourt also commented on the language barriers, particularly in regard

to doing appropriate community health assessments. They look to EPA for future support and leadership. She invited members to attend the group's November 2007 conference to discuss healthy solutions to goods movement.

Mr. Mohai asked if the community had documented its history to show how industry had encroached on their community. Ms. Betancourt responded that she often receives comments that community members should just move, but that is not always an option. She recalled stories from elders about how a rail facility grew out of a small spur when they took over former Japanese farms after World War II. In the community of Mira Loma, another railroad auto facility was built next to the community's high school. Finally, she noted that the warehouses that have overtaken the Riverside community were built over dairy fields, which draw large numbers of trucks through community neighborhoods. She noted that there is no separation between industrial and residential zoning in the community.

When asked about the community's interaction with the Federal Highway Administration and state highway administration, Ms. Betancourt responded that the community has experience working with the municipal council of governments on plans for moving transit routes from the communities. She also commented that her experience with health risk assessment was done in neighborhoods adjacent to facilities. The community sentiment reflected that there was insufficient outreach or explanation to members about technical terminology. Ms. Betancourt recommended that these types of risk assessments be done in conjunction with other studies and that all concepts be explained in common language to participants.

Finally, Ms. Betancourt discussed the community's tenuous relationship with the rail companies, particularly after a derailment incident in which community homes were destroyed. She spoke about the need for someone to intervene on behalf of the community to bring the rail companies into the dialogue.

Mr. Mike Steinberg, Senior Counsel, Business Networks for Environmental Justice

Mr. Mike Steinberg, Senior Counsel, Business Networks for Environmental Justice, an organization that represents over 200 companies of all sizes, commented on the business sectors' commitment to Title XI and E.O. 12898. His members are interested in working with states, EPA, and other stakeholders to address environmental justice concerns and to help businesses be responsible members of the communities in which they operate.

Adding that EJSEAT as an important tool, he questioned the usefulness of some indicators in appropriately identifying environmental justice areas. He also raised concerns that EJSEAT focuses too narrowly on impacts even though he acknowledged that the law requires equal treatment and not equal result. Mr. Steinberg noted that distance from facilities is not necessarily indicative of environmental justice needs, and that quantitative rankings generated by a tool are not as effective as working on the ground where results can be seen. He pointed out that EJSEAT may have limitations in that it focuses heavily on impacts where not every group will have equal exposure to environmental toxics.

Mr. Steinberg recommended that the most important progress that EPA should undertake is to step up enforcement, particularly in environmental justice communities. He called equal enforcement an indicator of the government's commitment to environmental justice issues, and suggested that by launching a pilot enforcement program, it will reiterate EPA's commitment to environmental justice. Mr. Steinberg responded that perhaps addressing enforcement is a positive step towards a level playing field and an effective use of EPA resources.

Mr. Wilson raised a question about the structure of the business association. He also asked how the Chamber of Commerce responded to conversations about environmental justice and whether it considered opportunities to formally campaign in support of compliance and enforcement. Mr. Steinberg responded that discussing environmental justice can ease communications, but that members of his business network are in favor of dealing with environmental justice issues

directly. He noted that they do not always come to a consensus, but pointed to a commitment to address environmental issues as a business priority. When Mr. Wilson asked why businesses do not necessarily support laws in place, Mr. Steinberg replied that parts of legal mandates are not always clear and are subject to discussion. Mr. Briggum also responded that the business network was founded to be a constructive voice for the business community.

Finally, Mr. Steinberg reiterated his organization's commitment to work with EPA on developing pilot programs in the future.

Mr. Jesse Marquez, Executive Director, Coalition for a Safe Environment

Mr. Jesse Marquez, Executive Director, Coalition for a Safe Environment, presented written comments and gave the council copies of a three-page and 12-page summary. He also submitted 120 pages of testimony for review.

Mr. Marquez commented that the environmental justice community has concerns about the methodology of environmental health risk assessments, and he suggested the need to establish an appropriate baseline when discussing community impacts. He suggested that the appropriate data gathering techniques include house surveys in the area in order to make accurate calculations. Mr. Marquez pointed to his organization's public house survey using 150 public health questions to assess the health impacts of the Port of Los Angeles, which has found different mortality and cancer data than previous studies. While he recognized that the Port has permits and regulations, he pointed out that none require industry to move toward reducing air pollution to near zero levels. He encouraged the agency to mandate the pollution reduction.

Ms. Yeampierre commented that communities with language barriers and large numbers of undocumented community members often have under represented health issues in traditional studies. Mr. Marquez responded that a baseline public health survey could be a solution. He noted that since the formation of his organization in 2001, they have stopped 17 Port of Los Angeles and Port of Long Beach projects because of concerns they raised with projects' Environmental Impact Statement (EIS) and environmental impact report results. He raised a concern that these documents often do not comply with National Environmental Protection Agency or Council on Environmental Quality standards, but are approved because the general public is not trained to interpret them. He stated that Coalition for a Safe Environment decided to complete a public health survey in response to a 6,000 page EIS that was released for a new project. At first, they began with a small leukemia study, and realized that a larger public house survey was needed. The new survey is more comprehensive, including a preceding letter in both English and Spanish, an in-person survey in English and Spanish. This information is organized in an Access database, GIS map outputs created by university students, and other university inquiries. He also noted that all survey information has been made public.

Mr. Bob Griss, Executive Director, Institute of Social Medicine and Community Health

Mr. Bob Griss, Executive Director, Institute of Social Medicine and Community Health, speaking as a disability specialist, began by speaking about civil rights and the need to link the environmental systems to health care systems. He stated that participants were involved because of the concept of equality. The Executive Order that established Title VI was a way of operationalizing the law. He emphasized that they should not lose sight of its leveraging power. As an example, he discussed his work on the Americans with Disabilities Act (ADA) in which just because an accommodation would cost more, they did not discount it. The right to the accommodation was guaranteed under civil rights. He commented that the concept of equality and the treatment of the "disabled" community begin with accommodation.

Mr. Griss also recognized great similarities in environmental justice and health care because they are both concepts that can be understood in terms of geographic location. But if you want to think about equality and equal access, there is a need to think about structure. Because Title VI is a legal requirement of all agencies, he recommended that there are resources on how it is

applied in other sectors available on the internet. He highlighted this view by citing NEJAC as an opportunity for providing recommendations which are broadly applied across agencies and disciplines.

Ms. Wilkins asked Mr. Griss to elaborate on his systems comments, and to talk more about his own work and the applicability of topics discussed at the NEJAC meeting. Mr. Griss responded that he is writing a paper for a public health conference on the heterogeneity of disability and public accountability. He noted that the ADA does not attempt to give everyone the same services. The standards are very individualized and it is unclear how they need to be enforced.

Mr. Griss said he was excited by the conversations at the NEJAC meeting about community solutions because health care also has to be addressed at a community level. He noted that consumers expect the market to consider individual needs through a competitive process, but what is really needed is a community process. Pointing to Mr. Beveridge's presentation on the West Oakland community, Mr. Griss commented that the solution isn't necessarily to impose existing standards, but to fashion a system where everyone's needs are reconciled. He further stressed the importance of being sensitive to equality. While he noted the challenge in applying nondiscriminatory standards to a system and not to an entity, he asked how to fashion a system where everyone's needs are reconciled while still delivering an environmental justice principle. Finally, he pointed to No Child Left Behind as a system that, while insufficient, at least contains an accountability mechanism.

Mr. Wilson noted that in his experience and based on environmental justice community surveys, the populations in these communities are often older and have age-related health disabilities. He commented that perhaps younger people were able to leave the community for better circumstances, and he suggested that aging communities have difficulty just getting out of the house for daily tasks. Mr. Griss responded that he understood that the ADA was not necessarily a solution because the system won't always respond to these types of needs. He noted that Title VI was extended to disabilities, but he believes that the concept of reasonable accommodation is missing from environmental justice work. Arguing that health status is a measure of powerlessness, he stated this view makes it easier to see the structural changes necessary to equalize.

Thomas Denton, Community Member, Washington Village/ Pigtown Neighborhood Planning Council

Mr. Denton spoke briefly about his experiences in environmental justice. He noted that in the recent NEJAC teleconference, they discussed sustainability, and he suggested the importance of working together to keep programs in place. Mr. Denton discussed a community member he had met in 2006 who owned a few homes and wanted to revitalize the neighborhood to make the neighborhood more attractive. The man joined community cleanups which helped bring developers to the table to collaborate, and out of this collaboration he developed an organization. The organization employs people who need to fulfill community service requirements as part of a court order, and they provide a community tool pantry, in which anyone can sign out equipment. Also, they partner with the city of Baltimore, who provided trash pickup free of charge. Already, the city has hauled away over 150 tons of trash.

Ms. Rachel Lopez, Goods Movement Campaign Director, Center for Community Action and Environmental Justice in Riverside, CA

Ms. Rachel Lopez, Goods Movement Campaign Director, Center for Community Action and Environmental Justice in Riverside, CA, commented on how the high number of warehouses and increased rail traffic through their area has affected the safety and health of the community, particularly in children. She noted that the railroad's auto facility entrance is adjacent to the local high school's athletic field. She also commented that the community does not have sidewalks, that trucks often become stuck in the uneven streets, and that the area already has the fourth worst air pollution in the nation. The community has already reached out through agencies like

AARP and EPA, some times more successfully than others. The USC Children's Health study was conducted in the region showing that many children have asthma and allergies.

Mr. Prasad acknowledged the group's hard work, and recalled that he had once seen a train sitting in the middle of a Los Angeles neighborhood with three engines idling for over 28 hours.

Ms. Chandra Taylor, Staff Attorney, Southern Environmental Law Center

Ms. Chandra Taylor, Staff Attorney, Southern Environmental Law Center, commented in appreciation on the process of allowing the public to be involved in the NEJAC process. In her work as an environmental lawyer, she views environmental justice as a way to challenge the sufficiency of evidence in the EIS process and permitting practices. She noted that in practice, it is the only way to discuss environmental justice in the administrative process. Ms. Taylor questioned whether they Agency has a position on whether environmental justice should have more actionable opportunity rather than just for disputing the EIS. Ms. Yeampierre responded that she might have better luck in the state courts. Other applications could include property law actions and community legal education on environmental justice.

Mr. Wilson commented that North Carolina has issues with waste imported into the state along the coast. He asked how the state legislature should respond. Ms. Taylor responded that North Carolina has new legislation for solid waste in which landfills can be cited for trafficking in the ports. Although it is not necessarily a trafficking issue, landfills along the coast could be cited for these types of imports. She noted that they are thinking about goods movement and how it affects the interceding communities.

Ms. Wilkins asked about the clientele of Ms. Taylor's law firm. She responded that they primarily cater to 501(c) (3)'s protecting natural resources as clients, such as river keeper groups addressing a water quality issue. Her firm is funded by donations, and they do not accept attorney fees from clients. Although they do win attorney fees from litigation, these awards are not enough to support the 34 attorneys in six states. She noted that for an individual or a property owner to have access to the firm's services, he or she would need to work through a 501(c) (3) organization.