

National Environmental Justice
Advisory Council
Meeting

January 27 - 29, 2010

Friday, January 29, 2010

National Environmental Justice Advisory Council

January 29, 2010

NEJAC Committee Members Present:

Elizabeth Yeampierre, Acting Chair

John Ridgway, Co-Chair

Chuck D. Barlow

Sue Briggum

M. Kathryn Brown

Peter Captain, Sr.

Jolene M. Catron

Wynecta Fisher

Jodena Henneke

Hilton Kelley

J. Langdon Marsh

Paul Mohai

Ignacia Moreno

John A. Rosenthal

Omega R. Wilson

Charles Lee, Director, OEJ, *ex officio*

Victoria Robinson, Designated Federal Officer, *ex officio*

NEJAC Committee Members Absent:

Don Aragon

William Harper

Christian Holmes

Gregory J. Melanson

Richard Moore

Shankar Prasad

Patricia E. Salkin

National Environmental Justice Advisory Council

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KEYNOTE: "----" Indicates inaudible in transcript.

"*" Indicates phonetic spelling in transcript.

M O R N I N G S E S S I O N

(8:58 a.m.)

NEJAC Recommendations:

Nationally Consistent EJ Screening Approaches

MS. YEAMPIERRE: Good morning. This is the last day on the NEJAC everybody. Congratulations on you getting that far and keeping up your energy. So I would like to welcome everybody back. And I am going to pass the mike on to Charles so that he could introduce the next panel.

MR. LEE: Well, before I do that I wanted to take this opportunity to recognize two people. And the first is Stephanie Owens, and she is the Director of Outreach for the Administrator's office. She is back there. And I know that there was a lot of discussion round the importance of community involvement and public participation in the rule making process and everything that EPA does, and it really is a statement of the Administrator's commitment to this that her Director of Outreach for the Office of Public Affairs, has been here all week. And I think, you know, that's just an indication of how serious we take those issues oat EPA.

The second person I want to recognize is Joi Ross. And Joi, could you stand up. And she is the President of Apex, Incorporated. And Apex is now the contractor for the

NEJAC meeting. And I want to make a point that her firm is a small women owned business. And we have made -- and one of the things that I am proud of as the Director of the office is that we have made a significant move towards engaging small, disadvantaged, minority, women owned businesses. And this is one example of that. And the NEJAC is actually our biggest contract. So -- just not only to recognize her but to thank her and all her staff for all the great work that they're doing in supporting this meeting. So with that -- (Applause) -- with that I just want to turn it over to the next panel, which is about EJ screening approaches and focusing on in part this issue of the Environmental Justice Strategic -- Enforcement Assessment Tool.

There's a long history here, as you know, so I am not going to go into that. The panel consists of Eileen Gauna from the University of New Mexico, and Sue Briggum, from Waste Management Incorporated, who are the Co-Chairs of this work group. Mustafa Ali, who is the front office of Environmental Justice. And the Designated Federal Officer for the work group. Paul Mohai, Jodi Henneke and Omega Wilson. So, I'll turn it over to you.

Presentation

by Sue Briggum, Co-Chair

NEJAC Nationally Consistent EJ Screening Approaches Work Group

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MS. BRIGGUM: Thanks very much, Charles. I'll start off and then Eileen will take care of the difficult part of the presentation.

We wanted to have the members of the work group here with us you can appreciate the kind of complexity and I think depth of what I hope we've accomplished in the past couple of years. The issue of screening methodologies is highly technical. And the methodology that we focused on EJSEAT requires a very extensive knowledge base. And that's why it was so critically important to have basically to components to the work group.

One was ordinary people, like Eileen and myself, grassroots advocates, like Richard and Omega, who brought that depth of experience to the group. And then really skilled academic representatives. Could you -- how do I tell you to advance the slide. Next slide? Okay. Thank you

(Slide)

You will see that we had several people from academia and I would include with that Shankar Prasad, who also is highly technically adept. And it was very important to do this because we had to have the technical expertise from people like Paul who have been doing this pretty much their entire academic career in terms of this kind of analysis, and at the same time allow them to educate the rest

of us that lack that academic background so that we equally understood how this tool would operate, what the components were, what the data was and so we could all have, I would say, equal input into the consensus resolutions.

And that's pretty impressive, I think, because it can be very difficult some times with a lot of profound academic backgrounds to make sure that the rest of us felt that we had an equal opportunity.

So it's a very strong consensus. We came together on all but one point. And if you would skip to the next slide and then to the next.

(Slide)

The charge to the work group was basically -- first of all we needed to understand EJSEAT. And we have to thank Andrew Schulman, who has been magnificent throughout. He is largely in charge of this project. He could not be more responsive in terms of any information that we needed and being very open to our views. So we thank him.

And we first of all had to understand how this might work. Our members had some familiarity with other mechanisms other than EJSEAT that might be used to evaluate where Environmental Justice communities might be found. And so we needed to have first the technical base. And then we also needed to come out with recommendations about how this

tool would be used. And particularly communicated, given the fact that ultimately its use would be by people who haven't spent the two years that we have spent looking into it.

And looking into that was extensive indeed. We had in person meeting, we had conference calls about every other week. We had, I think at last count, 20 drafts and at each juncture we had consensus on every word line by line. This was not something that was written by a couple of people and everyone else glanced at.

We were particularly fortunate because the academic members of the group were very generous with their time given that we're volunteers. And actually did applications of the methodology in California, Michigan and New York, so that we had a specific base of how these factors would operate.

And the goal of looking at this kind of screening tool I think is very necessary in terms of any kind of Environmental Justice analysis. There has to be some kind of consistent methodology for approaching this issue so that you can feel that you'll have a national approach that has some level of commonality.

And it's also important to identify the communities or areas experiencing disproportionate environmental and public health burdens. And it was important to make sure that the data would focus on this.

We started, and Charles suggested, that we really needed to look to a set of fundamental principals that we would begin with and that we would continually test as we went through our deliberations and that we would look at the end after we had our final judgments. And these have really stood the test of time.

I am sorry. Yes. I want work group principals. I am not used to having someone continue. Okay. There we go. Thank you. I apologize.

(Slide)

The most important, I think, was Charles said you need to address the issue of the role of race and income in terms of the way you look at Environmental Justice and the way you analyze the functionality of this kind of tool. Because we need feedback on what your prospective is with regard to these two factors. And we came to full unanimous consensus that the number one task for this kind of tool would be that it's accurate in identifying potentially adversely impacted communities of color and low income communities.

And as we said that, we hope that we were faithful to the Executive Order. And we also were quite explicit in saying that it's very important in an Environmental Justice analysis to understand the need to address the legacy of

racism. And that was one of our controlling points. And as we looked at the screening tool it was important for us to make sure that there wouldn't be factors that might defuse that focus.

We also said that there are other functionalities that we would want to see in this tool. You have to be able to assess changes over time if at all possible so you could be able to track where progress is being made. You would want to do to national comparisons. You wouldn't want to be limited to just a state assessment but it would be helpful to have the national pictures.

To the extent you could, you would want this to be transparent and understandable. This is highly technical stuff. But at the same time it's important that the communities most effective will have an understanding of the way you go about doing this kind of prioritization.

It has to be scientifically sound, but also for it's purpose. We didn't want something so complex that every time you wanted to do an analysis of say the distribution of small grants, for example, that you would have to go through and have a 25 factor analysis that was really unnecessary for the purpose to which the tool was being used. It had to be practical, use available data and we really appreciate the complexity of the data this EPA has, the way it's been

assembled, which can be hard to access, as well as the limits of jurisdiction in terms of data that EPA would want but hasn't been able to get so far.

Had to be useful. And it should also avoid misuse. It was very important to us that you not come up with a list of potential areas of Environmental Justice concern and when someone else raised an issue, say, sorry, you're not on the list. That would clearly be a misuse. And it would also be a misuse if it was used to stigmatize a community as opposed to provide benefits, help, support and environmental improvement.

(Slide)

And finally, because of the complexity and the potential for misuse, we thought it was extremely important how EPA communicates this tool and communicates how it evaluated its final results.

(Slide)

Now, a really quick overview of EJSEAT for those of you, it's been a couple of years since you've had a briefing, basically you take 6,500 census tracts and you evaluate them for four fundamental factors. Demographic, poverty, high school diploma, under five, over 65. You can see that. Environmental. Which is largely air focused because it depends on the National Air Toxic Assessment. And ozone.

And it also depends on TRI which is somewhat broader but we were very mindful that TRI in fact is a somewhat limited screen in terms of potential releases.

There is help data. The only national data that was available is at the countywide level on infant mortality and low birth weight. And finally compliance, some data from the Enforcement Database with regard to the number of facilities per square mile. And inspections, violations, formal enforcement.

And then these factors are basically normalized several times so that what you have in the end is like the top one percent in terms of potential burden, the bottom one percent and everything in between.

And I am going to turn this over to Eileen at this point.

Presentation

by Eileen Gauna , Co-Chair

NEJAC Nationally Consistent EJ Screening Approaches Work Group

MS. GAUNA: Okay. If you thought that was complicated, now is the time that your eyeballs are going to roll back in your heads. So I apologize in advance for it. Again, it's one of these things that is unavoidably -- byzantine.

(Slide)

Okay. So in terms of our evaluation of EJSEAT.
Next slide, please.

(Slide)

We going to give some general observations and then we'll go into more detail. The first observation was, again, a nationally consistency approach. It's needed for some applications as we march forward to addressing these issues.

We also observed that EJSEAT is more appropriate in evaluating the past rather than managing the future. For example, if reviewing -- if a previously identified priority area, you know, has the inspection pattern improved over time, what about clean ups there. What about its share and so forth. Again, this idea of if our main goal is to eliminate disparities, this tool might be useful in seeing how progress is made as we move forward. Next slide, please.

(Slide)

And the next slide, please. Okay. Did I miss a slide? Hold on. Oh, I am sorry. Go back one slide.

(Slide)

A couple more evaluations. EJSEAT has its limits when we're looking at future activities, identifying areas of concern in order to do something there. First of all it's a very coarse screen and we can't emphasize strongly enough how, although it may be useful in identifying areas, it may

fail to identify areas that are indeed experiencing problems. And because of that it may miss important local factors that should effect regulatory priority. Next slide, please.

(Slide)

We're going to go into a more of a detailed evaluation. And I apologize in advance. It's going to get painful. Okay. EJSEAT relies on NATA and TRI data, which really don't include a significant portion of sources of concern to Environmental Justice communities. And we'll explain that a little bit further in a bit.

Important populations such as Native Americans and Hispanics are not really accurately captured in the census data that has been, you know, observed by many people over time. And of course that finds expression in using census data as a basis for EJSEAT.

Much of the data is modeled rather than monitored so, you know, you rely on disbursion, modeling and so forth, it may miss what's actually happening out there in the real world. Next slide, please.

(Slide)

Let's see. It may not -- it does not adequately capture vulnerable populations, particular those with health vulnerabilities, adequately, because the data basis are inadequate for that. Not all data sets give an equally

precise geographic picture. And again we'll explain that a little bit as we go along.

Included data rely on EPA's jurisdiction and it may ignore impacts regulated by other agencies. Especially at the state or local levels. So for example, if we don't have local land use data that's included, we may not have data that is gathered by the Nuclear Regulatory Commission or some other federal agencies.

It doesn't include relative impact or lack of amenities. For example, it's not going to capture the lack of infrastructure in Colonas*, for example. So it lacks that type of data as well. Next slide, please. Next slide.

(Slide)

Specifically, in terms of the health category, you know, we recognize that a focus on health is certainly central to Environmental Justice, but unfortunately only county level health data are available at this point. And you can't really see, particularly in some rural areas, where the county is so large that you can't identify specific communities within that county that may be experiencing health challenges.

Low birth weight is an unreliable indicator. Again, we can get a little bit more into why that is the case, if people have specific questions on that, but our

technical team was pretty much in accord unanimously with that observation.

Therefore, we recommend that the health factor be eliminated or at the very least combined and therefore given less weight. As we will explain later, the health indicator, because it only has two factors within it, but comprised a fourth of the total score, is heavily overweighted within EJSEAT. Next slide.

(Slide)

Environmental, we use the RSEI as a database, has errors in it that has to be corrected. Now, this is one of the more technical portions of our report. It explains exactly how the researcher on our team identified errors that may -- although that had been previously brought to the agency's attention, the CD-rom may not have corrected for those errors. So again it may be just a matter of going back and correcting for it.

More basically, however, the basis for RSEI NTRI data is limited only to some sectors, some chemicals, particularly sizes of facilities in the releases involved. So again, it's not capturing everything that is out there in terms of toxic releases. Next slide, please.

(Slide)

So, for our recommendation is of course first that

the EPA adopt a corrected RSEI toxicity weighted exposure score. But also, more importantly, communicate that the limitations inherent in TRI data itself.

We talked a little bit in the work group about ground truthing, the RSEI data with active outreach to potentially impacted communities. A lot of times the communities can certainly give a much more accurate picture of what the underground conditions are. So -- we think that that's an important step. Next slide, please.

(Slide)

In terms of compliance, work group had a lot of problems with the compliance indicators. First of all, all violations are not created equal but they are within the database. So a very serious violation that could really impact health is counted as much as, you know, some sort of a record keeping violation or something that doesn't really impact health. Single versus repeated violations are not really flagged within the data.

The compliance indicator has a number of inspections but that could be influenced by factors other than the facility being a bad actor in any way. It could be because a particular section is targeted, it could be any number of reasons.

In addition, part of that is that there will be

exempt facilities that will be ignored. So, again, we all have observed over time how the regulatory process tends to target certain industrial sections and we may be missing something by looking at just a number of inspections.

And then of course you can have -- obviously if a particular sector is being highly inspected, they're likely, more likely to be in compliance than sectors who have escaped the inspection wrath.

State enforcement programs vary, as well, and so that doesn't capture that. For example, some states rely more on a cooperative model of enforcement, some states rely on a deterrence model of enforcement, some states may have strong citizen suit activities so they may not need to enforce as vigorously on the public side of the equation.

So there are a lot of -- enforcement is just a very nuance thing and so to just take the raw numbers and throw them into this tool, our work group found that pretty problematic. Next slide, please.

(Slide)

The interaction of the variables, for example multiplying the number of incidents times the percentage of incidents really doesn't coordinate well with known patterns of environmental disparity. And so again, some of our researchers who are very familiar with particular areas

explained why this was the case. And we'll be happy to do so to the full council if you care to look into that a little bit more.

When violations and formal actions were tracked, there was really no variation that was identified in New York and in Michigan. Again, where two of our researchers actually looked at this enforcement data and just by the variation could see that something was off here. Again, we can explain the basis for that if you would like to hear that.

Because of that we strongly recommend that these elements of the compliance factor be omitted from EJSEAT particularly in targeting enforcement -- maybe in using EJSEAT to target enforcement. Again, it's a little circular that you're using enforcement to figure out where you are going to target enforcement. So we'll discuss that as well. Next slide, please.

(Slide)

The one element that we saw in the compliance factor that might be helpful was facility density. So we recommend this EJSEAT be reconfigured to accord facility density sufficient weight and evaluate weight whether a complex facility should be counted as more than just one unit. Okay. Next slide, please.

(Slide)

Demographics. Children under age are vulnerable. And this factor should be included in EJSEAT. That was a strong consensus of the work group. The work group had a problem with the over 64 age category. The category itself is not really associated with concentration in EJ communities although the elderly are more vulnerable to potential environmental impact, for example the effects of ozone, for example.

But -- the -- again this was where some members of the work group felt that the over 64 age category should be retained. Others thought that it might unintentionally dilute more important factors. And that in and of itself may -- for example, let me see if I can back up and explain this.

If you have over 64, you know, elderly people who are located in wealth white suburbs for example, including that is a category isn't going to all of a sudden mean that these areas are necessarily going to be identified as Environmental Justice communities per se. But what it may tend to do is inhibit the potential identities of other communities by unintentionally over weighting that particular category within the overall EJSEAT score.

So, because of that the work group again felt that

the undefined categories should be retained, that was a strong indicator but it was divided as to whether that over 64 category could be retained or not. And again we can go into that in a little bit more detail. I think there are some policy implications to it. Either way I think, myself personally, I think there's a compelling case for going either way on it. I think both are very good and we can talk a little bit about that as we go along. Next -- but I want to get through the whole thing because time is short. Next slide, please.

(Slide)

Race. Percent minority is one of the six demographic indicators which themselves are one quarter of the overall EJSEAT score. Of course NEJAC has frequently noted the legacy of racial and ethnic discriminations and studies have consistently correlated -- noted a strong correlation between race and adverse exposures and in some instances adverse health impact. So we think that race should be included in EJSEAT. And appropriately weighted by eliminating or working with some of the indicators that really have less predicted value. Next slide, please.

(Slide)

This relative weighting. Here is where, for example and you look at the way EJSEAT is structured, we have

four bins or four categories. In some of the categories we have -- we may have six indicators. Race being one of six indicators. In another bin we may have low birth rate being one of two indicators. So, when you have low birth rate being one of two indicators, which then comprises one fourth fo the total score, you have something with very little predicted value really having more weight within the overall score, then an indicator like race which is one of six or so indicators within it's bin, which is then given a weight -- to it's one sixth of one fourth versus one half of one fourth, right. It's a little convoluted.

At the end of the day what happens is you have some indicators with very little predicted value having relatively more weight, then other indicators with a much greater predicted value. Next slide, please.

(Slide)

The environment -- new EJSEAT factors -- okay. All right. Thank you, Sue. Because I just had a little brain freeze there. I am going to let Sue take this one. I think she's better at it then I am. Here you go, Sue.

MS. BRIGGUM: Not at all. Forgot it. You're on a roll.

MS. GAUNA: I am tired of talking. Here you go.

MS. BRIGGUM: Oh, okay. All right. Thanks a lot.

What we decided was, we thought that EJSEAT would best follow the predictive patterns that we've seen in studies that identified EJ communities. If instead of our factors, you conflate them now to two one would be environmental burden. And that would include your health data, particulate matter, ozone, your average RSEI scores, recognizing as we said that this is still not going to comprehensively capture all emissions and facility density.

That that would give you within the limits of national data, a solid evaluation of environmental burden. Is social vulnerability. And there were focused on the characteristics of Environmental Justice. Percent below poverty, percent over 25 without a high school diploma, percent under five years old, perhaps combined with over 60, the linguistically isolated, percent minorities.

Rate of low birth rate or infant mortality, but only if it's available at the census tract level. We feel very strongly the health data really has to focus in are the area that's impacted.

(Slide)

And then social vulnerability. And there we said you might look at per capita income, home ownership, unemployment. Next slide.

(Slide)

We also suggested and I am sitting next to my friend, Paul, in case I fail here, EJSEAT normalized to 100. And the problem with this is every year when you normalize to this scale of 100 rather than having actual scores, it's going to change, and so you won't be able to track things over time. And Omega in particular mentioned the need to have some kind of tracking over time.

And so we recommended that Z-scoring which is subtracting from values, the mean value and dividing by the standard deviation, be used instead of normalizing to 100 at several points in the analysis. And if you have any questions, Paul will be answering those.

MKS. GAUNA: And on that score notice that Sue is not deviating from the script or ad-libbing in any way.

MS. BRIGGUM: I know how easily I can muck that up. Okay. Next slide.

(Slide)

We also thought, you know we have given the commentary that this EJSEAT works well for a retrospective analysis. We should give some advice about how to use it when you want to go ahead and evaluate future activity. And so we felt very strongly that if you are going to have a future use of EJSEAT to do something like distribute grants or to assist in targeting inspections or anything like that,

we proposed a model. Next slide.

(Slide)

And basically this is highly interactive. I think it's consistent with a lot of what we've been hearing in the past three days in terms of EPA's new energy behind community outreach and response to community comments.

You would have your EJSEAT application that would screen annually for priority EJ areas. And then we suggest that you take that list of priority areas and publish it for public comment. Appreciating -- this is -- has the potential for misuse so it would be important to characterize it in the right way. This is not a way of stigmatizing the communities listed. It is not a way of suggesting that a community at the bottom of the list is does not deserve Environmental Justice consideration. But there has to be that local input in terms of the validity of the data and a way to overcome the limits on national data.

So, there would be public comment. And EPA would receive the comment, respond to it and then they would use that input as they continue to refine both the methodology and their list and identification of the areas most in need of Environmental Justice assistance. Next slide.

(Slide)

And we also thought that EJSEAT in particular

requires really good communication. It will be very important to indicate, this is our rough screen. This is in no way a risk assessment. This is a screening device that's used for a rough cut. Using standardized data. It's limited to what's available in the national database. It's very much air-focused. It doesn't tell you very much about whether or not your ground water is going to be contaminated. And it has to be supplemented by information that is specific to the community. They're the repository of the specifics that are really important. Next slide.

(Slide)

It can't be used in an exclusionary manner as we mentioned. It shouldn't be used arbitrarily to impede community development. We would hate to see kind of an ill considered use of the screen to ban jobs and development that the community is very interested in encouraging. We also recognize that it's not going to overturn local land use authorities or permitting decisions. We don't think that EJSEAT is going to interfere with the current legal regulatory structure. And that has to be communicated.

And in particular we are hoping that EJSEAT will be used to be enriching. To bring new resources to the community. To improve environmental quality and improve health, not to create stigma. Next slide.

(Slide)

We also, some of us had been on the Commutative Risk and Impact workgroup and so we harken back to that and said, you know, it's really important to put EJSEAT in that frame work of collaborative problem solving and a bias for action. You remember that report really well. It's standing the test of time. We still believe it profoundly.

And we think that EPA and the states when they use the tool have to make sure that they're really focusing on what they hear on the ground, listening to all voices, and not simply look to the facilities that are captured by EJSEAT. That there needs to be a robust Environmental Justice program that continues.

And also that, we're hoping that one of the benefits of EJSEAT is that all sources of impact will be required to provide their proportional share of the cure. To the extent that you're creating the problem, you should be responsible for solving it. But that means everyone is responsible for solving it.

You know, and we're not naive, we understand that EPS' regulatory jurisdiction is not infinite. And that there are some limits. But at the same time looking at the collaborative approach, we are hoping that all of the force and persuasion of the government can be used to persuade

everyone who is a source of burden to contribute to community betterment in Environmental Justice communities. Next slide.

Do you want to take it back with next steps?

MS. GAUNA: Okay. Okay. Okay, first of all as Sue mentioned, you know, we really commend EPA for seeking diverse state holder views on the development of this tool. Because it is so highly technical I think the natural inclination would be to keep it in-house and, you know, let your technical folks. And letting it out there so to speak is really commendable.

We think that similar outreach again, should be undertaken as EJSEAT goes forward. This is a work in progress. And so I think you need to continue that portion of just putting it out there.

Our work group thought that EPA should undertake a sensitivity analysis to understand how different elements within EJSEAT may effect the overall score. We kind of did a rough reorientation of, you know, two bins with roughly equal numbers of indicators, but each of those indicators, once you do a sensitivity analysis, we may find that some of those may effect more then others.

Again, this is just a first step towards making it hopefully a little bit more reliable, but more work needs to be done. And EPA again should make EJSEAT results public for

each state. Next slide, please.

(Slide)

In terms of longer range steps, again we've mentioned several times that EJSEAT omits important data. A lot of the non-point sources of air pollution -- non-point water sources, pesticide drift, a lot of things aren't captured with EJSEAT. And so as we move forward hopefully this data can be incorporated in the tool to make it a more reliable indicator of where the problems really are.

We, in here -- you know, there wasn't representation on our work group from the Native American community, and so we really felt that EPA should undertake an evaluation in collaboration with Native American groups as to how to capture the risks to these particular populations, which -- you know, there obviously are some things there that we as a group are missing and we were keenly aware of our limited knowledge in that regard.

And EPA should consider creating a community levels screen tool. You know, the EJSEAT is a good rough course screen. It's a rough cut. But, you know, we need that refinement more at the local level. Next slide.

(Slide)

EPA should evaluate how EJSEAT might be reconfigured to allow comparisons over time because again

with that re-normalizing process you can't -- an EJSEAT score today and then an EJSEAT score two years from now, isn't going to show that because all of the little indicators within it have been normalized or re-normalized. So -- so that's a problem. And again, going back to our principals, that this is something that would be ideal.

EPA should press to obtain census track data health on cancer, lead poisoning, asthma and other respiratory diseases. Again, health is one of the strong -- you know, the health data within EJSEAT is just so weak, but we recognize that at the same time that although it is weak and it should be eliminated at this time, because of that, that it's an important data set that needs to be developed.

Again, EPA-SEAT should create an EJSEAT training program to prevent misunderstanding. And here, you know, we just can't recommend -- we can't emphasize strongly enough, I think, how easy it's going to be, for example, state regulators and so forth to just glom onto a number, you know, we all do this. It's a real nice cognitive tool that we tend to overuse too much and say oh, well, that community got a lower EJSEAT score than that community, so, you know, this community is EJSEAT, is the EJ community that we need to focus on.

That is not what this tool does and it has to be

communicated in the clearest of terms in that it misses a lot, it misses a lot, and it should not be used to say that a community is either not an EJ community or less of an EJ community, is another one. And we hope that EPA solicits broader comment on how to use EJSEAT. Next. Next slide. Okay. Thank you. We're done.

(Applause)

Questions and Answers

MS. YEAMPIERRE: That was great, so a -- yes, that was great. I have a bunch of questions, but I would like to hear from the members. Chuck.

MR. BARLOW: Could you explain just a little more to the very uninformed, why the different age categories have a different relevance and importance. Why the under five you see as a very relevant and the over 64 may or may not be.

MR. MOHAI: Yes, I was definitely a part of the debates about whether or not that particular variable ought to be left in.

There were several reasons, and I represented the side that felt that it should not be kept in. And maybe I can summarize the other side or if somebody else would, that's fine, too.

The reasons that I had concerns about that is, mostly empirical. And that is when we mapped each one --

there are 18 individual scores. When we mapped each individual score by census track in Michigan, the pattern we found was that virtually all the scores pointed to where you would expect the pollution and environmental problems and where poor people and people of color in Michigan live.

But the one glaring exception was that variable. It tended to point towards the wealthier suburbs around Detroit. So that was sort of the red flag for me that this ought to be looked at a little more closely.

So, where is what I think is going on. It's basically the areas that are better off, both environmentally and economically, average life expectancies are higher. So if you're going to look at where people of a higher age category are concentrated it's going to be where life expectancies are higher.

The other thing is -- another empirical evidence is that there was a paper just published last November in the American Journal of Public Health that looked at the distribution of polluting industrial facilities and the toxic release inventory database. And it's one of the few, and it may be the only Environmental Justice analysis to have in fact included age. And what that showed was that people over 65 were least likely to live near these facilities.

So, those are the reasons why I have concerns. And

although there are 18 different indicators as Eileen mentioned, that because they're regrouped into components and there are different numbers in each component, it's not true that each of those 18 indicators have the same weight.

And so my concern was that by leaving that particular indicator in it would actually refocus away from the areas that are -- at least I think are as a typically Environmental Justice area, and that is where both pollution and people of color and poor people are concentrated.

So, let's see, there was one other point I wanted to make about that. Oh, the other thing I think people need -- and this was part of the confusion for all us, you know, when we try and conceptualize these numbers, is that although -- obviously people that are older are going to have more health problems than the people that are younger and are more vulnerable, it's got to be kept in mind that EJSEAT does not use data on individual people, it uses geographic data, i.e. census tracts.

So, even though individually older people may be more vulnerable, that's not what's being picked up by EJSEAT. It's looking at the conditions within geographic areas which are census tracts. And what that geographic data is showing is that where older people are concentrated is actually the better off areas. Any questions about the -- should I give

the other side.

Others thought that because we have so many indicators, 18 of them, by including that as an indicator isn't going to cause a significant dilution. A significant enough dilution that we should be worried about. And further, the argument was that if all else were equal, you had two census tracts that were identical in every other way, but one had a larger proportions of older people, maybe that tract should be given higher priority.

I think that particular side, and my side, would agree on one thing about that, because those questions were raised. That whenever those kinds of questions are raised, the easiest way to handle it is just to do a sensitivity analysis to see how much of an impact a controversial variable would have.

And it's really simple. Look at what the results look at when you include that variable in it and then look to see what the results would look like if you exclude it. If they're not all that different then I wouldn't worry. But if it's a drastic change, for example, when we were working with the health indicators because they were aggregated at the country rather than at the tract level, then, you know, adjustments ought to be made in those cases. Did I describe the other side.

MS. GAUNA: Great job.

MR. WILSON: I would like to add some comments because the other side, and we thank the -- the other side that Paul is talking about is me, right.

Vulnerability is a definition and it's a term that we use words and sometimes they mean different things in different places, so in this particular case, from the community point of view and of course I got input from other community people who had heard about this in previous years, long before I got involved in it, the concern had to do with vulnerability, not relative necessarily to health per se, at a particular given time, but vulnerability because the under five group are vulnerable in respect that they don't work, they have to have somebody to take care of them. And it was a long gibberty issue that we discussed and that was really important.

Not necessarily from a data collection point of view, not necessarily from a "a pure science" point of view, but a social science point of view, because if you're talking about children the question that we discussed and bounced back so much was that -- if we're looking at this from a longitudinal basis, if we're looking at this over a long period of time, we come back to the same site and measure every two years or whatever the came may be, and screen, then

it's very important that we take a look at what is happening to our young people in those, communities, which are Environmental Justice communities.

Of course, part of the whole reason for Environmental Justice work in the first place is to protect the future of these communities. And obviously the children are -- the children, the young people are the future of the community. I mean that is not "pure science" in the context of what we're talking about here. So, part to be concern is making sure is that we don't get totally lost in the numbers. And that it becomes a human, we're dealing with the human factor here.

The other question that I was concerned about based on my communication with other communities in California and other parts of the country, New York and other people I talked to, is this question is if we're not addressing this from the point of view of the social context then we're leaving out a lot of the other things that we're talking about, about employability, health. And in this case if there are health problems you're talking about, insurability.

That's a big question we will be discussing on Capital Hill for quite a while, isn't it -- of these children because if they're impacted in a dramatic way with asthma or other kinds of respiratory illness it changes the dynamics of

this whole study and it changes the dynamics of what we're looking at in the future.

It is the population that we're measuring. So we just don't want to concentrate on measuring data. We want to concentrate on measuring the impact of what we're looking at on the population that's under the screening tool.

MS. YEAMPIERRE: Thank you. I just want to add a friendly addendum to say learning disabilities as well because we never talk about how those are related to the environmental conditions. John.

MR. RIDGWAY: John Ridgway, Department of Ecology, Washington State. I have a huge respect for the efforts that went into developing this tool and to you as a work group in trying to consolidate all the factors.

Couple of quick thoughts and then a question. We in our state have attempted to try to do something very different, but take a whole bunch of different factors and use it for decision making or at least a guidance on how well we're doing to get beyond waste, and that's literally the term. We want to just stop making the stuff in every way possible. And then we want to assess how well are we doing.

And we have 16 factors. And some people wanted a score, just to compare. How are we doing this year relative to last year or over time. And we came to the conclusion

that that's just not realistic. It's not good to try to cram all these different factors in. So we have -- put more effort into explaining each of the 15 factors and giving data on how they're measured, what the source of the data is, and a time line as to how they're progressing for assessment for trend analysis. But very clearly not going to go through that process of trying to mush it all up together.

And I might suggest that EPA not try to -- in other words make each measurement clear so that people can look at -- we call it the dashboard. So you have all these different gauges or charts or whatever you want to call it to track. And the communities can then see then how each one is being gauged relative to what they're interested in. And the local communities or the local projects in our case can assess how they're doing. So that is something that I would suggest EPA consider.

The question I have is, I think I heard you say one of the recommendations is that although EPA should keep this in-house, and continue to work on it, and I agree, that makes good sense, did I hear you also say that it should also be published annually for the states to look at? Did I hear that?

MS. BRIGGUM: Yes. That is a part --

MS. GAUNA: In a more general --

MS. BRIGGUM: In a more general sense, that's part of the annual solicitation of impact and public comment.

MR. RIDGWAY: So how can you keep it in-house but publish it annually? I mean to me --

MR. BRIGGUM: I think the in-house was the development and refinement of the methodology.

MR. RIDGWAY: Okay.

MS. BRIGGUM: Not the results.

MR. RIDGWAY: Thank you. And then my last comment -- thanks for the time here, and I might be interested in hearing Jodi's thoughts on this as well, is you know, the contexts of states or local governments using this tool -- I would be very interested as a state environmental -- employee to see this data. Absolutely. But the first thing I am going to then do is I am going to -- really want to be sure that EPA -- and this is my point -- if you're looking for a good communication and I completely agree, context is so critical here to understand the limitations of the data and, you know, census track stuff, that the regions have to be part of this communication system, because headquarters would be overwhelmed with the questions about how is this being used, where did it come from, how old is the data, blah, blah, blah.

So, I want to make a strong encouragement to this

council to consider how to advise EPA on making sure there are resources in the regions that will be available to put this data in the context and in particular its limitations when asked, what the heck does this mean and what are you going to do with it.

And the state, and the local government people are going to have the same kinds of questions because we may be challenged as to why we're focusing on one kind of enforcement or investigation or support, when the EJSEAT suggests it should be elsewhere. Thank you.

MR. MOHAI: John, if I could respond to that point. What you say about communication with states is a really good one. I am on an Environmental Justice task force for the State of Michigan, that has been working the last couple of years to develop an Environmental Justice implementation plan for the Governor's Environmental Justice Executive Directive, which is modeled after the 1994 Presidential Executive Order.

And that document is out now for public comment. And anyone could access it. If you would read it you will see they want to use EJSEAT as a screening tool, as well. And that had nothing to do with me by the way. And what I found interesting is that there already seems to be sharing of information between regional staff and state staff. It's going on, I guess, in an informal way.

But the state government, at least the people that know, who are in the Department of Environmental Quality, not only know about it but are communicating with people in the regions and asking exactly that question. You know, why did this particular track get such a low score or high score, I forget which.

And one of the questions that came out of that is, and this speaks to some of the complexity in the very complex weighting scheme in EJSEAT is they found it very difficult to retrace the raw data to see what -- how could we get that -- how did that score happen. We just don't see anything there in that track. So why did it get such a high score and because I am on the task force, they asked me if I could help them with it. And I said, well, we can trace it back.

And I don't remember the particulars, but it just showed me that they needed help in sort of deciphering what the scores meant. And so I agree with you that maybe some -- see, this is all informal, right, so maybe some kind of formal communication might be helpful.

This is one comment that I wanted to make, given the high level of interest in the State of Michigan in EJSEAT, it wouldn't surprise me that other states are going to look to EJSEAT as a model. At the very least as a starting point. So I see the potential impact of EJSEAT as

being quite large.

And I really appreciate you raising this issue because I hadn't thought about it as explicitly before, you know, but hearing it -- that from you and you're in state government, it seems like that that's a really important point that needs to be addressed.

MS. HENNEKE: Excuse, me. This is Jody Henneke. And I work on the state level as well. And it is one of the things that we talked about somewhat ad nauseam. And I do want to express my thanks to the rest of the work group, because I was there more with them in spirit than I was on the phones. But one of the things that has to go with -- has to be said, is that this is primarily based on air data as Eileen and Sue both said. And most of the air programs in this country are delegated to the states.

And the enforcement strategy, the inspection strategies, that those states have for the very large sum of the whole are based upon measure sources, negotiated with EPA and their work plans every year. And as we've said, that in and of itself may not be the best use of this tool, but that's the way the programs are configured thus far.

It does -- it is more useful looking back than looking forward. But one of the things that I've thought, you know, as we've gone through drafts and read and projected

what ifs and all, that this is one of those tools which is contradictory -- bear with me a minute -- but it is one of those tools that might be well suited for negotiating special conditions in permits or something like that.

But there would have to be a whole lot of interweaving going on between EPA and the states right now for this to be an effective tool looking back. Because most of that information is housed within the states. And it is, other than complaints, the inspections are -- I mean you pretty well have those lined out a year in advance. I don't know if that's getting to your question or not.

MR. RIDGWAY: I just think we're going to be in the middle of this one. And --

MS. HENNEKE: Yes.

MR. RIDGWAY: I do think it's good to have this information out there. Each of the measures. But how they're interpreted and as Jody said, even as it goes down to local air authorities, that the states further delegate on, it's just a mishmash of how they're going to use it as well as the states use is.

MS. YEAMPIERRE: Katie.

MS. BROWN: Well, congratulations. Most impressive. Both presentation as well as the report. The report was very readable. So thank you. Thank you very,

very much.

I guess I have two questions. One has to do with the ground truthing and the community screening. And whether you have any suggestions to EPA as to what that might look like?

MS. BRIGGUM: Well, that was our slide in terms of overall process, that there would be the annual publication of the results of the screening and the solicitation of input.

I think we were also assuming that when the prioritization was used by regional staff as they're allocating resources, for example, that would then go to both the program and the Environmental Justice coordinators to make sure that as they think about taking an action they would solicit the views of the community with regard to the accuracy and appropriateness of the relative scores.

I mean one thing that really worried us in terms of using this kind of national screen, and TRI is a great example, when something is disclosed people will do everything in order to reduce their scores. And when you want to make progress sometimes that means figuring out a way not to report. And that could be a good thing because you've done something that's innovative and higher protection. Or it could be you just shunt it aside so it no longer meets the

regulatory obligation. Hence, a lot of the fear that this thing could be an impetus for deregulation and just not looking anymore.

Which is why -- and Omega said to this to us constantly. He would talk about his community where he would say, wait a second, I am looking at the data set. I don't see anything about these abandoned facilities. I don't see anything about the quality of my water supply and the fact that, you know, we're using private wells and they could be contaminated. I don't see anything about CAFOs. There were a number of things that he continually mentioned. The impacts of Goods Movement, transport, vehicular traffic.

And that's really profound and that's why we really focused on communicating and training with the staff that you're going to have to take a holistic look when you start doing the applications of the tool.

MR. WILSON: I think that -- thanks, Sue. I appreciate that. I appreciate how you said that. You know, we've been grappling with that because this will go back to -- this is a tread that runs within me. That's the reason I am here. Community, community facilitated strategy. This is part of the discussion that we had yesterday. And it's totally not unrelated, because we're talking about air quality, corridors, Goods Movement, this is very much

related. It's hand and glove.

So, the community facilitated strategy training piece to get communities involved in looking at how to put something together goes back to a lot of the work that -- I am going to use Hilton's very able example of this. For instance there's a word in here that we do not want to encourage community groups to technically see this as an enforcement tool because I have a lot of uneasiness about this. Because the data and the way it's structured is not necessarily for that purpose. We do not want community people to take this and run with it. And of course we wind up all being challenged and we fall on our face. It is not designed for that purpose.

So, if we take Hilton as an example, and he has a microphone, he can correct me, the information that he has, already has may make this look like, you know, kindergarten. From the ground. Right. So the ground truthing that people are already informed and organized and doing a lot of testing on the ground, may really, really make this unnecessary in some respects based on what he already knows. Right. From the air quality point of view. Okay. And other things, other factors.

But a lot of communities do not have the organization and structural training that Hilton has been

working on for several years. Jesse Marquez, who I think is still sitting behind me, Angelo Logan, Margaret Gordon, some of the work that Elizabeth has done in New York. And a lot of communities need a formalized training. That is a community facilitative strategy piece that we're talking about. With transportation yesterday. That can be translated in a lot of other work group areas relative to air and other kinds of things.

And of course the question was rather than throwing this out there, just like John was saying, for the states and letting the wrestling with an alligator, you know, with a toothpick, and not really know what they're doing, the community vulnerability is the same way. So the training part of it should be not government people in one room in Las Vegas or some place else, community people, you know, in Port Arthur doing the training thing, we need to do it together so we find out how it works and how it doesn't work.

And that is not here yet. And I think that we have to look for the guidance of Charles and Cynthia to help figure that out and figure out how that's going to be funded so that we not necessarily at odds with each other. We are like right now, sitting around the same table with Jolene and Wynecta saying hey, this is what works, this is what doesn't work. So we as community people can share with our own

community people, this is what this is for.

You know, this is not a catch all, be all, and this is what this particular -- this is what this particular instrument is for. And it doesn't supplant necessarily the data you all have been collecting over the years. It just takes -- gives us a general look.

And how we do that is something that still needs to be structured by EPA. In how it's going to be done, how it's going to be funded is a question, I think, we're leaving up to your guidance based on -- based on what we're doing here. I put it under the umbrella of the powerful knowledgeable of Mustafa Ali.

Ground truthing is the umbrella term for this. How we do ground truthing and how we organizing it so that we're not fighting against each but working together is something that is yet to be done. But of course it's necessary.

The title of this, community tool and EJSEAT, some of the people I talked to in the community were totally confused. Well, this is a new thing, what happened to the EJSEAT thing. Well, years ago it was named something else. I think we need to come to some pretty good conclusions about what we're going to call it so that's not misnamed or whether EJSEAT is going to be an umbrella term, and under it is going to be a category for air quality. And the future we are

going to design a section for water and we're going to design another section for community training. You understand what I am saying.

So all of that needs to be worked out, but we're trying to at least put some ideas on the table about where some of those gaps are.

MR. KELLEY: I was just wondering if I could just respond. Okay. Thank you.

Hilton Kelley, Community In-power and Development Association in Port Arthur, Texas. I concur with what Omega is saying exactly. And what has basically been going on in many communities across this nation, I took the Environmental Justice For All Tour in 2006. There was a huge effort to try to link communities throughout the South, the East Coast, the West Coast and up North. And I was a part of that Southern Tour from Houston, Texas all the way to Washington, D.C. where all the buses finally met up.

And what I learned in that Environmental Justice For All Tour in 2006 is that there are a lot of pockets of community organizations that are somewhat alone and disenfranchised because they're not connected to information.

Within that tour you had people like Judy Robinson that was on the tour, who is a member of the Coming Clean Coalition, which is a coalition of hundreds of Environmental

Justice groups that meet annually and I am a part of that coalition as well. We are dedicated to working diligently to try to help connect all the EJ groups that are out there fighting the Environmental Justice fight. And sometimes they feel very much alone because they don't have the information and they don't the resources.

It's imperative that our federal government learn to work closer with the regions and that the regions learn to work closer with the states and the states learn to work closer with the grassroots organizations. Lets start building -- when you start building a house, you don't start from the top down. You start from the bottom up. You must build, or prepare the land itself. And then you lay that foundation. So in order to heal the communities that are being impacted, we must go to the foundation of where those problems lie. Let's talk to the people that are the blocks of that community. And let's see what they need.

We know without a doubt who is being impacted the most in our community. We see the elders with the breathing machines that are living right next to the fence line. We know who needs to come out of those communities first in the event of a toxic release. We see the kids that are being impacted. We know exactly where the schools are.

I've been very fortunate within my 10 years in this

Environmental Justice fight to come in contact with some great people. But I came in contact with those people because I am very vocal, I stand up for what I believe in, and I don't mind saying in front of who's ever in the room. But that got me to the table. Everybody don't have the same voice and the same strengths that I've been told by my family members, when I tell people, stand up, say what's on your mind.

MS. YEAMPIERRE: Thank you.

MR. KELLEY: Well, I am not you, Hilton. But I want to say this and then I'll finish, it's time that the states learn to listen to the people on the ground. We have air monitors that have data that shows high levels of various concentration of chemicals. We've gone to other states. We have that data like Omega eluded to. It's time that we listen to the people on the ground and start building programs around their ideas.

MS. YEAMPIERRE: I would like to really thank you for recognizing some of the disparities that exist even in collecting the data. You know, we have -- just to use an example, our data in New York City is collected by community boards. And in Brooklyn you could have two community boards where you have a community like Red Hook which is 98 percent people of color living in the middle of industry. And Park

Slope which is a very privileged community in the same community district.

And so the health profile then gets -- it looks as though the community is a lot healthier then it is because that's how the data is collected in New York City. And so it is absolutely important that you look at it from the perspective of community partners because that then drives the allocation of resources, it drives the attention that is given to particular susceptibility communities.

And I know you don't mention this in terms of -- you know, when I think of vulnerable I think of susceptible to disease. So, you know, in the South Bronx and in South Brooklyn you've got clusters of people with compromised immune systems. And so they're not included. You talk about the elderly and you talk about children, but there is a whole middle age set that has compromised immune systems that live along these corridors.

So, those are things that are really important. And I think you have done a phenomenal job in really addressing a lot of the concerns. I mean this really reflects a community driven process. And Environmental Justice priorities.

So, I would like to move the NEJAC to adopt this report. And I would like to ask if the -- and I will take

comments after. I do also want to do a time check. It's a quarter after ten and we're running behind. But I do want to find out if everyone is ready to do that and willing to second the motion. No? No. Okay. Then --

Okay. So then actually I have Katie and then Jolene. So -- you're ready?

MS. BROWN: No, I hadn't finished but --

MS. YEAMPIERRE: Okay.

MS. BROWN: Go ahead, Jolene.

MS. CATRON: My comments are rather quick. My name is Jolene Catron, Wind River Alliance.

The base data is built on the census tracks. Correct, from 10 years ago, and so we have another census count coming up this year. So, I am wondering, it's just kind of thought that popped into my head, is how much the new data will impact your recommendations or if they'll be any change.

I worked on -- at the field level, on the ground, for over two million acres, doing the census count, 10 years ago, and so I am very well away of the limitations of the census data and the faults in the mapping and the information that is included and excluded in that set for where I lived.

And so, and then the other concern that I have and is not -- I don't think is really mentioned all that much, is

that there are more Native American Indian people that live in urban areas, and not on reservations. And so they fall in an interesting category where they are not under tribal jurisdiction but they may not be represented accurately in census data either in urban areas. And so that's one of the categories of people, you know, if that's how we want to say it, that we want to make sure that we're including and that there's a sensitivity to their issues, is the urban Indian. Thank you.

MR. WILSON: Can I quickly say something about that. We did discuss that. And of course, and maybe it's not clearly defined here, we did discuss it. There was a concern about a lot of definitions about Native American Indian culture and what populations, whether they are on federal tribal land that's nationally recognized, state land is not federal tribally recognized, residential land that is owned and always has been by indigenous people, and Native Americans that do not necessarily live on tribal land.

And maybe this is not clearly defined here but that was one of the discussion points we had. We need help from you to help define that and clarify that. And where those populations might be. To help us identify more correctly. Because a lot of the people -- a lot of the people don't understand the diversity of population, geographical

locations, about where the communities are, tribal communities are, and the difference between national tribal recognition, state, et cetera. It's more complicated than the general population understands and we need your help to address that.

MS. YEAMPIERRE: And I believe that that was one of the recommendations that a body be set up to look specifically at those issues. Am I --

MS. BRIGGUM: Yes, absolutely. And because we didn't have a Native American participant, we didn't endeavor to describe that ourselves. It needs to be done. But if you would be willing to, for example, give us some language we could incorporate that as a note.

I think that there needs to be a very fulsome discussion and so unless you disagree, we would still believe there needs a separate effort that has some real seriousness about doing that. But if you could help us explain better why we think that's necessary, that would be terrific.

MS. CATRON: Certainly. Thanks for that opportunity. And I'll get something in writing to you .

MS. YEAMPIERRE: And I also urge you to reach out to the urban areas that Jolene mentioned, are not represented. In New York City there are 6,000 nations and tribes living in New York City. People representing 6,000

nations and tribes. So the American Community House has a lot of that information in New York. And there are other urban centers that where people are -- that people are not necessarily living like in Indian Country, that you would have to reach out to. Lang, sorry that I skipped over you before.

MR. MARSH: I will make it very brief. I wanted to commend both EPA and the work group for taking on this issue. And I think the work recommendations that -- all of the concerns that many of us had when we were first presented with this. I am still a little nervous about the potential or misuse but I think you really have done a great job in reducing that risk.

I just -- I had a technical question which I'll skip over, but I wanted to reinforce one policy recommendation that you all made on future health data. I think it's much broader than you've described it, because there are tremendous needs in this country for good health data on a census track basis that go, you know, well, into the health concerns of the entire country. And I would just like to elevate that recommendation so that it becomes one where EPA is recommended to take it to the national level, you know, OMB and the White House and so forth to do a crash effort over the next few years to develop better data.

There is a tremendous amount of data at the health -- at the county Health Department level, some of it is not adequate on the census basis but, you know, we really need to figure that out. And I just think it's so important for Environmental Justice but also for many others.

MS. YEAMPIERRE: Thank you. The other indicator that I didn't see was population density. And proximity to environmental burdens. I don't know -- all the social indicators were there so many that's not. But is that something that you would include?

MS. GAUNA: That is not included in EJSEAT. You know, there -- part of the discussion that we had -- you know, this is indicative of a larger issue. There are a lot of indicators of vulnerability. Like you said, there is compromised immune systems, there are -- getting into just all kinds of things. If you put too many of these things in you end up with a lot of methodological quibbling and really not much to show for it.

And we're looking at, you know, Environmental Justice is -- you know, a particular problem that comes from a particular history, you know, where particular communities are ultimately left with, you know, environmental hazards. So, it's a very -- understood problem although it escapes precise definition in a lot of ways.

When you start folding in a lot of different indicators that may or may not point to what many people understand and experience in Environmental Justice communities it compounds the analysis.

MS. YEAMPIERRE: It becomes unwheeling.

MS. GAUNA: Yes. So just to say, you know, there are people with compromised immune systems, so let's make that one of the indicators and, you know, there are people with this and there are people with that, you know, what we wanted to stick with was a usable set of indicators that really do point to these communities.

The health data that we saw is not developed to the point where it does that. Not that in the abstract that data isn't important, certainly it is. I think we also have to recognize that there are vulnerabilities like for example -- cancer, you know, that are disbursed widely through the population. So we're not saying don't do anything about cancer or don't do anything about compromised immune systems or anything like this. It is just saying this is a particular problem and we're trying to improve a particular tool meant to point to this problem. So --

MS. YEAMPIERRE: Thank you.

MS. GAUNA: So those -- I am just trying to give you a flavor of the tenor of our conversations in terms of

including or excluding particular indicators. You have to be careful when you're doing it.

MS. YEAMPIERRE: Sure. And you've done a phenomenal job. So, I don't know if the -- I am sorry, Cynthia. I am sorry, I didn't see you.

MS. GILES: I know, I just wanted to say very quickly how much we appreciate this report. Incredibly thoughtful and carefully and searching analysis and I really appreciate that you grappled with the challenge of inadequate data and problems with the information we have, and nevertheless the desire to act and to do something. And that's something that we grapple with all the time. So your advice that goes right to the heart of that question, working on, is incredibly helpful. Thank you very much.

And I did want to add that we are -- this is intended to be an enforcement related screening tool, so hence the emphases on the regulated sources. And we look forward to talking to you more as we try to do a better job with this tool. I have lots of other technical questions that I won't get into here. Thanks.

MS. YEAMPIERRE: Thank you so much. So at this point, I would like to know if the council is ready to move to adopt the report.

MR. RIDGWAY: Yes, so moved.

MS. YEAMPIERRE: Everybody cool. So could you raise a -- you seconded it.

MR. RIDGWAY: No, I moved.

MS. YEAMPIERRE: You moved.

MR. RIDGWAY: It's move. But I would like to add though that it be adopted after we have a chance for the Native American prospective to --

MS. YEAMPIERRE: Okay.

MR. RIDGWAY: -- put some language in to reflect it's lacking that prospective.

MR. BARLOW: So adopt with the understanding that we would add that language.

MS. YEAMPIERRE: So we are willing to adopt it in principal with the addition? Right. Is that right. Second.

VOICE: Second.

MS. YEAMPIERRE: All right. So raise your hands. Let me see everybody.

(Show of hands)

MS. YEAMPIERRE: All right. Good. Thank you.

MR. LEE: I too want to congratulate you on this. This has been a long time coming.

MS. YEAMPIERRE: Really, great work.

(Applause)

MS. YEAMPIERRE: Okay. So --

MR. LEE: Ignacia.

MS. YEAMPIERRE: I don't think people would realize how nothing would work without civil engagement. This is such an example of that, it's amazing. So we have with us today Ignacia Moreno. With the Office of -- well, the Environmental Protection Agency. I would like to welcome you. What office? I am sorry.

MS. GILES: Ignacia is the Assistant Attorney General --

MS. YEAMPIERRE: Oh, the Department of Justice. I am sorry.

MS. GILES: Environmental at the Department of Justice. Yes, we are honored to have you here with us.

MS. YEAMPIERRE: Oh, my goodness. That's -- thank you so much. Welcome.

Presentation

by Ignacia Moreno, Assistant Attorney General, DOJ

MS. MORENO: Okay. There we go. Well, thank you very much for the invitation to speak with you this morning. It is a great pleasure for me to be here. I cannot tell you how personally important Environmental Justice is to me. Not only did I go up in an Inner City neighborhood in New York City, in Washington Heights, and have seen what, you know, some of the burden are that you have been talking about for

the number of days, first had. But I've traveled. I've traveled quite a bit. When I was at the Department during the Clinton Administration, to what we all have come to call Environmental Justice communities.

Communities really that have born an unfair burden of pollution, who have lacked in safe drinking water. And safe drinking water, to me, is fundamental. It's elemental. That's the minimum we could expect.

Many of the most sensitive communities and populations, children, the elderly, suffer greatly from these burdens. I worked at the Department and in the division, when I first was in the government with many others to develop guidance and policies for how to implement President Clinton's Executive Order in the work that we do.

And I'll tell you a little bit about the work that we do so you have some context for what I think we can bring to addressing Environmental Justice concerns.

What I do at the Department of Justice is that I oversee a division that has responsibility for about 150 statutes, environmental and Natural Resource statutes that were enacted by Congress to ensure the protection of human health and the environment and the conservation of natural resources as well as statutes and treaties that address the government's trust relationships with Native Americans in

recognized, federally recognized, tribes.

We have about 700 people in the division and that includes almost 500 attorneys and support staff who are dedicated to the core mission of division, which is vigorous environmental enforcement, defense of our laws and protection of our resources. We have client agencies across the government. You name the agency, they are a client of ours. And as I have come in to my position, having been confirmed in November, I have learned even more about the breath and scope of our work.

So, we have a unique opportunity but from where we sit at Justice, we have to work with our client agencies. They refer cases to us. And then we go and bring the cases in court or arrive at consent degrees, or defend the United States.

Having said that I have thought that I have a unique opportunity to bring to life the President's commitment and the Attorney General's commitment to Environmental Justice. As I sit here, I can tell you first hand that at the Department of Justice, not only the Attorney General but the Deputy Attorney General, the Associate Attorney General and my counterparts in a number of key divisions such as the Civil Rights Division, we're very engaged in Environmental Justice. We are having

conversations to see what we can do working with our client agencies to address some of the burdens that you've been talking about much of the week. To figure out how do we tackle this problem that we have.

The last time I worked on guidance and policies I came in and I said, you know, I really want to work on cases. I want to see how these cases are playing out. I was thrilled to hear that in division we have Environmental Justice representatives in each of the 10 sections that make up the division. That's really important. Because while I have to say was remarkable for me to hear that some of the Environmental Justice leaders had not been in the Department for nine years.

I found it shocking, frankly. We had a meeting about a week ago and I thought it was first order of priority for me to meet with them, and they said, you know, we haven't been here for nine years. And I said well, that's not going to happen again during my tenure. I want to hear from you. It was the first meeting.

But back to the point about the EJ reps in the division, they have been keeping the first alive. They have made sure that the policies and practices that we put in place during the Clinton Administration have been carried forth. That as we look at cases, we do have Environmental

Justice considerations. And I am thrilled to hear that folks at EPA and in the communities and in the different groups have been working to further develop tools for us to get those inputs, so that when cases come in, they're identified as EJ cases and if they don't come in identified that way, that we all are on the same page about identifying those cases and looking for opportunities to address, you know, the pollution burdens.

In the settlements and consent degrees that we negotiate we will and have been looking for opportunities to work with settling parties so that the community gets a direct benefit back. Yes, we always strive for emissions reductions but if there are supplemental environmental projects, they're going to brought right back to the community. If there's mitigation that can be made a part of these enforceable agreements, you have our word that we're going to work toward that.

Part of all of this is having a communications loop. We need to hear from the communities. We need to hear from folks on the ground. And I think Hilton said it right, this comes from the bottom up, but it also comes from the top down and we really have to come at it with all of our partners. And that includes the U.S. Attorneys Offices, it includes the states, communities.

And it includes business. There are companies out there who in recent years have found and seen the benefit of greening their companies. Why? It makes good business sense. But you know what, it also protects the environment. I think we should invite our business partners to the table more so that they can see the benefits, really, to the development that they want to make of having the community input, often and early. Frankly, it will create efficiency for everyone. And there might be a benefit that can be built in that flows back.

We're all partners in this. I saw yesterday, I was in North Carolina, we were launching an Environmental Crimes Task Force in the Eastern District of North Carolina. There were folks from about 17 different law enforcement, law enforcement offices there. And I talked about Environmental Justice yesterday because frankly a lot of what they're seeing on the ground, a lot of what they're looking at, really comes back to our communities and to the burdens and to the -- sometimes devastation of grossly illegal, you know, pollution activities.

So, yes, it's going to take all of us to have this conversations. We are engaged. We want to help with this. And we're going to be vigorous in bringing these cases.

So, what can we do immediately. Well, we're doing

lots of things. And part of this, as I said, is we're engaging folks at the Department, which will include the Community Relation Service and the Intergovernmental Office, because there are resources at Justice that we think we can tap into. Even as prosecutors we can tap into this and to work with you.

One of the key things that I have thought we would do as well, is that we would work with our partners at EPA who are setting national priorities, who are looking to see where with input from you, they are going to focus and cast and set their strategic plan. We're working with them so that they know what cases we have in the pipelines, what things we can do together. And we very much been very happy to have that early dialogue. Because we are intending to hit the ground running here. So I hope that you will see some renewed activity in that regard.

And we're also going to be talking to some of our agencies that have big highway projects and big construction projects to make sure that they are considering Environmental Justice concerns as they go through the analysis that they have to make.

We're going to see a lot of opportunities for these discussions because I think we all know we're in a really tough economic downturn. We want to revitalize the economy,

we want to create more jobs. And along with that will come some additional opportunity for polluting activities, which we hope to advise and counsel certainly our federal partners on how to have those projects go forward but make sure that there are not unfair burdens of the pollution that will come.

And finally, I just wanted to say to you that I am here today and we've had attorneys from our division, Cynthia Ferguson and Quentin Pair participate all week. We've been listening to you. Please let us know what you need from us. We're going to be working very closely with EPA. I can't tell you how thrilled I am that Cynthia Giles is the OECA head because I know that she's going to make a tremendous difference and I thank you for inviting me to join you this morning.

(Applause)

Questions and Answers

MS. YEAMPIERRE: Thank you so much. I lived a better part of my life growing up on 170th and Haven Avenue. So when I heard Washington Heights, I thought that was great. We're part of a National Transportation Equity Campaign where we're trying to flip the formula, 80 percent of the funding goes towards highways and 20 percent goes toward mass transit. And we're trying to increase the amount of mass transit. And looking at Title VI and how we can use that as

a venue and get that private right of action. And it's a campaign from New York City to California, and we would be happy to meet with you to talk about that.

I would like to open it up for two or three questions from the council. Because I think that -- you know, I get notes about how much time we have. I am sorry. Ms. Moreno.

MS. MORENO: I am trying to figure out how to work the mike here. I just wanted to say that the Civil Rights Division at the Department of Justice, is the division who has purview over Title VI matters.

We don't in the Environment Division but I have -- I am good friends with Tom Pettez who is the head of the division and I've had some conversations with him. He's very, very interested in Environmental Justice. And we are, we have passed along the EJ community's interest and request to talk to him about Title VI.

MS. YEAMPIERRE: Thank you. We were trying to encourage interagency and interagency coordination, so we really appreciate that. Do any of you -- okay, Omega.

MR. WILSON: We're very, very glad, very glad and proud to have you here. I think it makes a lot of us feel a lot more comfortable and a lot more visionary and strong in that respect by having you here based on all the work that

we've been doing for the entire week.

The question I have relates to a lot of complaints that have been filed in the past and some of them very much like ours in Mebane, North Carolina, where a project has been on moratorium since 1999 based on EJ and Environmental Justice -- Executive Order 12-898 and Title VI complaint combined for a major highway corridor.

And I've talked to other community groups who have other similar kinds of things. The State Department of Transportation Project Funding by federal money. As far as you are going to be able to participate on the ground to bring the stakeholders together because in our case and in so many other cases the Department of Transportation and Transportation people -- now, this is 11 years, have refused to meet with the community people face to face.

Projects on hold. A lot of things in the communities are on hold. How are you going to be able to facilitate that level of communication because it seems as though the Transportation agency at the state level and federal level just basically act as if they don't have to comply, they don't have to listen, they don't have to have open meetings, et cetera, et cetera, et cetera, how are you going to be able to get that process off the dime and move it forward.

We still have meetings that we plan to have with our local government not shortly after I get back home. And how to facilitate that process in a lot of other communities are in similar situations for things that have been in limbo for years.

MS. MORENO: What is the name of the project?

MR. WILSON: 119 Bypass is the -- is the website, I don't know what kind the Department of Transportation they would look up, they be in North Carolina, West End Vitalization Association which is us, or the 119 Bypass under the state website, it will come up.

MS. MORENO: What I will do is I am going to take this back. I have spoken in general. We've had an initial discussion with the Department of Transportation. And I know that there is a desire to take a fresh look at Environmental Justice opportunities. And when I get back next week I will find out what the status of this is and if this presents an opportunity for us to talk, you know, I will follow up on that.

Now, we may already have attorneys working on this in the division. I don't know. But I also will look into that. And then we'll figure out a way to consider what you've raised which is some, you know, you mention a refusal to meet with the community. Let me get some more

information. But I will raise this internally and with the Department of Transportation to see what, you know, opportunities there could be for some new conversations.

Not only on that project but almost on anything, I think you have a -- you know, really great people coming in and to the Obama Administration who are very interested in looking at where we've been to see where we can go.

MS. YEAMPIERRE: Thank you. Langdon.

MR. MARSH: Thank you. Ms. Moreno welcome and thank you very much for coming and I feel that confident that between you and Cynthia that there is going to be a ramp up in environmental enforcement. And I am very happy about that.

You did mentioned supplemental environmental projects, SEPS and several times that's come up here. And I've gotten the impression also from some work that I've done previously, that SEPS are -- that there is an opportunity to expand the number of SEPS that are used, there are some legal restrictions that I know -- I can't remember -- it's some ancient act about receipt of funds that make it difficult for EPA and other agencies to tout them too much.

But what I would like to ask the two of you is to -- see if there is some way of number one, assuring that the legal restrictions are interpreted as narrowly as possible so

that attorneys, settlement attorneys, are able to do more than wink and nod to the sources that they may be able to do with SEPS.

And secondly, it seems that there is not a lot of knowledge about the opportunity for SEPS among Environmental Justice communities and others. And whether there is some way to get information out so that they can, a number of regions for example in EPA maintain open lists of potential projects that can be selected by polluting sources as a settlement opportunity. Not everybody knows about them or how to get on them, or what format to use and so forth. So maybe some outreach activities would be useful. So that's --

MS. GILES: We have certainly heard a lot about SEPS and the many benefits that communities can get from supplemental environmental projects when we settle environmental enforcement matters. And you're also correct that there's been some legal back and forth about the Arcadian provisions of Miscellaneous Receipts Act among other things.

I can't even begin to tell you how thrilled I am that Ignacia is here and that her commitment not only to environmental enforcement but to Environmental Justice. And we're looking forward to our offices getting together and trying to wrestle those problems to the ground. And be able

to use that tool for community benefit as much as possible.

MS. YEAMPIERRE: Thank you. John.

MS. ROSENTHALL: Thank you. Good morning and thank you so much for coming out. My comments were along the lines of Lang's about the supplemental environmental projects.

I am very pleased to hear you talk about direct -- I think your term was direct benefits back to the community. And so often the SEPS, the direct benefit is clean air, clean water and a park. And that's not necessarily the benefit that the community is actually looking for.

And so Lang and I have had these discussions practically since we've been on the -- since I've been on the council. And we definitely love to see the change such that the SEPS can actually go back to the community in the form of a direct benefit as defined by the community and not necessarily by the offending party and the government.

MS. GILES: We hear you loud and clear.

MS. YEAMPIERRE: Hilton.

MR. KELLEY: Yes. Welcome. My name is Hilton Kelley, I am with the Community In-Power and Development Association, located in Port Arthur, Texas, on the Gulf Coast.

Along the line of SEPS, you know, one of the problems with SEPS has always been that the offending party

has control of who gets the SEPS. And in many cases the person that gets the SEPS has projects such as, you know, planning new trees, or doing some weatherizing of windows in the communities. I don't have a problem with new trees of -- and windows. But at the same time when it comes to a project that has some real teeth like an air monitoring project to sort of monitor that fence line, or a project that would help to reduce the amount of emissions coming into the community, a lot of times these industries will overlook such a proposal.

I've applied for SEPS for years and I have not been able to obtain one because my SEPS was more geared toward taking air samples and getting air monitoring equipment to help police our fence lines. But yet they will fund more -- I would say household type projects when it comes to insulation.

And also I would just like to suggest that the Justice Department do everything it can to try and get some of our big polluters to at least obey the laws that are on the books. We not looking at any type of new legislation. But I think a good start would be to try to enforce the laws that are on the books and get these guys to stop polluting in a gross manner. Thank you.

MS. GILES: Absolutely. Obeying the laws, that's

what we're about. Let me just add another point on the SEPS. The supplemental environmental projects are of course voluntary projects that the private party agrees to in the course of a settlement. They're not things that we could order the company to do.

But having said that, one of the things that we're increasingly looking at in these cases is where a community has been damaged by past pollution practice. What are some of the things that we can order the company to do as mitigation for the past violations. So it's not in the SEPS category, but looking at it as part of the relief that we get either in settlement or for a court to order to do some of the things that you're talking about here as a means of, you can't really make up for the past violations. That harm has been done, but an attempt in terms to mitigate somewhat the damage that's been done.

MS. MORENO: I think, you know, that with Cynthia and I you have our 100 percent commitment that we are going to be aggressive on enforcement. And you're right to say that there are a number of legislative initiatives which we think are, you know, going to provide additional authorities in some regard. I am sure you've heard Administrator Jackson talk about some of the things that she wants to do.

In the meantime, as I said earlier, we do have

enforcement authorities. We do have -- the agencies also have authorities to take rapid response if there is an imminent substantial endangerment. And I know that you are going to see a renewed and focus efforts on some areas that, you know, could use some attention.

So the attorneys in the division are jazzed up more then ever. I got -- I can tell you that. Everybody is working really hard already. It's not the we're going to do, we're doing it. We're doing it now. And you're going to hear and see more. I don't want to over promise because I hate doing that, but I can't tell you how committed we are. And we're going to work tirelessly for the people of the United States. And we're going to do better then has been done in the past.

(Applause)

MS. YEAMPIERRE: With that I would like to extend a heartfelt thank you on behalf of the NEJAC and because this is really comforting for us to hear.

And now we are moving on to EPA Enforcement Initiatives with Assistant Administrator, Cynthia Giles. Thank you.

Presentation

by Cynthia Giles, Assistant Administrator , EPA Enforcement Initiatives

MS. GILES: I know we are running late, so I am

going to do the short form and give you an opportunity to give me some input.

We recognize that enforcement is the key in making the benefits of the environmental laws real on the ground. So we need to get compliance. So that's what our office is about. We do it in two principal arenas. One is the federal enforcement cases that we bring. That EPA brings in working with the Department of Justice. For the big sources of air pollution, water pollution and sources of hazardous chemicals. And we also do direct implementation of the law in some places.

A lot of our programs as you know are delegated to the states. So a chunk of the work that we do is about overseeing the enforcement programs that are done in the states. The states do about 90 percent in numbers of the total enforcement actions that are done in the country. So working with the states and overseeing the states is an important part of our job.

What I am here to talk to you about today is every three years the enforcement office of EPA selects some areas for particular focus for a federal enforcement action. That is by no means all the enforcement work we do. We're busy about the job of implementing and enforcing all the laws that we are charged with enforcing. These are just some places

where we think some particular federal focused attention over a period of years could make a significant difference.

And we have out a list of candidates for work to be done in that category that I am not going to go over all these with you. I just want to highlight a couple of them that might be of particular interest to you and get your feedback.

I just want to make sure that we're clear because I think that this point is really important, that there's a lot of other enforcement work that we are doing that is important to us that might not be on this list. Let me give you one example, is drinking water compliance.

We have the job of overseeing states with respect to the Safe Drinking Water Act. That's an important job. We take very seriously. Assuring clean drinking water is essential for public health. We're going to be about that job and we're going to be focusing on drinking water. It is not one of the ones that is proposed for this special category of federal directed enforcement, but we're going to be working on it with the states. And it's going to be part of our goals and part of our accountability. So this is not by any means all the work that we're doing.

Three particular things that I wanted to bring to your attention that are candidates, I guess one of the

preface is we've had in the past nine areas of such focus for EPA. And I think that there's a general consensus that nine is too many. That we are not making as big a difference as we need to make on these areas when we have nine of these national enforcement focus areas. So we're looking to have a smaller than nine list for this, the selection this time.

Three candidates that I think you might be particularly interested in, one is what we call new source review, prevention of significant deterioration. Very catchy title. What these are, the really, really big, the really, really big source of major air pollution that matters to people's health. So -- coal fired power plants, refineries, cement kilns. These are the ones that, you know, have presence all across the country and have a significant impact on people's health. So we're proposing this is an area of -- has been and proposing as a candidate to continue doing that because it makes such a huge difference in community health to go after these incredibly large sources of pollution.

The second area that we heard loud and clear, especially on the Environmental Justice Outreach call that we had a couple of months ago, in which there was great participation and we got a lot of folks on, we heard loud and clear from that a lot of people were interested in concentrated animal feeding operations as an area of focus,

especially from an EJ prospective.

There's been a real shift in that industry over the last decade or so. Incredible degree of concentration of sources and an increase of size of individual facilities with a consequent increase and impact in the local communities. So heard you on that, that's one of the candidates. We have the regulatory tools on all we might hope for and our ability to enforce, but recognize that that's an important issue.

And the third is a little bit following up with what Gina McCarthy was talking about in terms of air toxics. This is another one that we've heard from communities greatly impacted by air sources is that air toxics are a real issue of community health concern. And an issue where the impacts are really not proportionately spread in the country, and that some communities, particularly the low income and minority communities, bear disproportionate burden on these.

The start-up, shut-down malfunction issue, and flaring is an area that Gina was talking. The pollution burden that is imposed by those activities, that's not captured within the regulatory framework that we have as we have traditionally been thinking about it. And we've been working closely with Gina McCarthy to develop this is a candidate for enforcement, national enforcement attention.

And one of the things that is exciting about this

idea is that instead of having it be just an enforcement tool, which we've done in the past, sometimes we go in using enforcement and we find, guess what, there is nothing in violation here. There's impact, there's toxins, there's issues of concern, but it's not a violation. Now, what.

What Gina McCarthy has been talking with us about is that the air division would be side by side with us so that instead of saying, well, there's no violation, you know, sorry, there's nothing we can do, that there is something that we can do. And so to have the permitting folks and the enforcement people working together on the same problem.

One of the things that this enables us to do, having a national initiative focus like this, is to get real economies of scale of our enforcement resources and make a difference in a lot of communities at once. We have a number of enforcement focus, things that are -- we have a number of enforcement initiatives that are ongoing in the regions that are community based. We're going out into the community and saying what are the issues you have here and how can we make a difference.

The proposal on this was is that we would attempt to affect lots of communities at the same time by going after this subject matter and large industrial facilities that are engaged in this practice.

So, the other thing -- that I want to also add is that the Office of Research and Development is also engaged in talking with us about this air toxics start-up, shut-down malfunction initiative to increase our monitoring tools and use some of the new technologies that are out there to figure out what the fence line impacts are and what areas to be focusing on.

So, you have the list I think in your materials of all the candidates that have been out for public comment. I would certainly be happy to answer questions about any of the projected -- any of the candidates that are out there. We've had an extended public comment period. It's been out for a couple of months now for public comment. And we're hoping to get the closure so that we can select these, get the plans going and -- get the cases started. So I'll be happy to take any questions.

Questions and Answers

MS. YEAMPIERRE: Sue.

MS. BRIGGUM: I just wanted to say thank you. The process of setting up an EJ conference call that was a public meeting so there was enormous participation. It's clear when you look at the document that you listened. That was, I think, a very innovative and affective supplement to the notice and comments. So thank you very much. It's clear

that Outreach is going to be very broad.

MS. YEAMPIERRE: Omega.

MR. WILSON: I would also like to thank you for the very, very close consideration, the candidates. And one of those areas of course, very akin to me and so many other people I've had a chance to meet over the last three years with NEJAC, with the major agriculture farming industry throughout the country. Massive, massive problem.

I am not sure -- and you could help us explain it, what level and how this process will move on to the next steps and how we get community people involved or if there's going to be a press release or something that NEJAC members could officially share at the local community level to, you know, to try to do the first step level of sharing -- to let -- sharing of information to let the people on the ground what may be coming.

MS. GILES: Well, as far as the -- to the extent your question was about sort of how do we figure out how we're going to do under these enforcement initiatives. What's different about these as compared to all the other enforcement work that we do is that we form a national strategy team that includes representation from all the regions to figure out how we going to reach out to the communities and figure out where to target, who are we going

to use EJSEAT, what are some innovative tools that we could try, technology tools, air, aerial surveillance tools. That are some of the things this we could do that would could nationally that would be very hard for any region or state to undertake on their own.

And as far as the press outreach, I think that's a great idea. Hopefully when we get this resolved and go out publically with what these are going to be, we should reach out to the NEJAC and the community list, so that you can get that information out, too. Happy to do that.

MS. YEAMPIERRE: There are -- I am sorry. John.

MR. RIDGWAY: Cynthia, thank you so much.

John Ridgway, Department of Ecology. And I wanted to encourage you to keep that underlying message that you're ongoing enforcement of the other activities, then the final priorities will then continue I think will help with your messaging.

MS. YEAMPIERRE: Well, if there are no other questions, I would just like to say that, Cynthia, the fact that you've been here for the entire convening itself is unprecedented.

(Applause)

MS. YEAMPIERRE: And you really -- it's unbelievable to us, so thank you. We're going to break for

half an hour. Please be back -- oh, did you want to say something, Charles?

(Pause)

MS. YEAMPIERRE: I think we have to check out and so this is a time for you to gather your things, bring back your luggage. So, a half an hour from now. Right. Thank you. It's 11:30 right now. Okay. I'll be back at 11:30.

(Break)

MS. ROBINSON: We're going to turn this section over to Charles. We've moving up the discussion about NEJAC future work plan to accommodate the travel schedules of several of the members who have to leave about twelve noon. And then after that discussion we'll have -- we'll be closing out with some old business and some new business items. Okay.

I'll introduce Charles who will introduce also Rafael who is involved in the discussion.

Presentation

Developing Future NEJAC Work Plans

by Charles Lee , Moderator

MR. LEE: Let me -- this is like a part of the agenda that really tries bring together what is -- how is EPA going to respond to all the things that you talked about and the issues you raised. So this is going to be more in terms

of future directions but also very specific action items.

I thought a lot about how to go about this and I thought that would be the most action oriented way to proceed. Because there are a lot of issues on the table. And so it's better to put that in terms of a larger framework where we want to go with the NEJAC overall relative to the agency. And that's a bigger question in the context of federal advisory committees.

So, I think I want to start by really congratulating you for a really, great, great meeting. And I think that you should all give yourselves a big round of applause.

(Applause)

MR. LEE: I mean this is a truly amazing meeting, both in terms of the fact that in terms of the community participation, the fact that, you know, we've been thinking a lot about how to make sure the communities, the impacted communities, are really getting engaged and participate in NEJAC meetings. So, having this be coordinated with the Air Toxic Conference was a really great idea. And I think we benefitted a lot from that particularly in terms of the communities' involvement in the meeting.

Secondly, of course, we have witnessed really the -- all the activity that's now taking place around

Environmental Justice in different ways. And this is something that I guess we can say really -- came through and we were able to present it to the public, to you, at this time. And there's a lot more of that to come.

And thirdly, a lot of the issues came up here. A lot of the issues that, you know, require us to talk with you about how to best proceed.

So, this is more going to be kind of a work session and if I am kind of pushing this quickly I want to apologize because of the lack of time. But I do want to make sure we're moving really quickly through this and get what we need to get done.

So, I am breaking this down into three major sections. The first is that there are immediate action items that I think we need to just get addressed and get a read from you in terms of how you want to proceed.

The second is I want to have a discussion about the larger frame, I eluded to this, in terms of the NEJAC moving forward in terms of how it is going to do business in the future. Not just the NEJAC itself, but within the context of other advisory, federal advisory committees that EPA -- that EPA convenes.

And so then the third, a number of issues came up. And I wanted to just kind of talk about them in terms of big

buckets, if you will, in terms of issue areas, that we can address one way or the other.

So, in terms of the first item, the one big issue in terms of action is the request for the NEJAC to provide advice to the currently ongoing fast moving DSW Rule EJ Analysis. And the request for members of the EJ Screening workgroup to provide advice on that. And in talking through this we thought that the best way was to have individuals associated with that to provide the advice and we'll reach out to do that. As well as any of you that want to and I think we'll try to identify other people particularly those with some technical expertise.

I mean a formal -- from a formal sense that workgroup has now sunsetted. Because the work is done. And we really appreciate that. And it was mindful of the fact that a lot of time was volunteered to that. We want to be respectful of the members of that group. They have other things to do other than provide advice to EPA.

So, that's the first one. And we can move forward with that very quickly. And so -- with a comfort level with that, I think we can just go ahead. If there is anybody that has a problem just speak up and you know, we'll address that. Okay. Everybody okay, right.

Okay. The second thing that came up out of the

public comment period, I think there was a lot of strong sentiment around this, was that the NEJAC send a letter to EPA around the CARE program, the Community Action for Renewed Environment Program, in terms of support and around that. And so I've talked with Elizabeth and John about moving forward process around that. So, John, you want to speak to that?

MR. RIDGWAY: Yes. Just a couple of things. One is I have to pass around to the members an executive summary from -- Marva King for you to take a look at. And this is just to summarize what heard back in July. And I am glad to take responsibility for drafting a letter that should be relatively non-controversial or complicated, to just reiterate it formally, we would like to see it expanded. And I assume we can do that via e-mail and get this done well before we meet next time.

So take a look at this coming around. And if there are any questions about that you can feel free to give me a call and/or Victoria. I'll work with Victoria on that.

MR. LEE: So how did you want to proceed in terms of drafting a letter?

MR. RIDGWAY: I would propose to draft with a letter and work with both the Chair and Victoria to get that out as soon as possible to the members of the NEJAC. And ask

for input or any sort of edits. And have a fairly short turn around, I would suggest not more than a week or two at the most. And then we incorporate those as appropriate. And have Victoria draft it up in a final format. Probably send it out a second time for everybody approve via an e-mail correspondence and define any -- complexities, and then we would send it on --

MS. ROBINSON: Hold on one moment. The process is going to require, if we are going to be sending it on, is that the deliberations have to be conducted in open meeting of the NEJAC. So we would have to have a minimum of 20 days to post a federal registered notice to have a public meeting in which that letter would be discussed. So we need to keep that -- be mindful of that requirement for the timing. Thank you.

MR. RIDGWAY: So that public meeting, I am assuming, would take place via a call.

MS. ROBINSON: That's correct.

MR. RIDGWAY: Thank you. So I would like to get that scheduled, you know, as soon as we can. Maybe late February or early March, something of that nature. Does that seem workable, Victoria, logistically?

MS. ROBINSON: Yes, it is. If -- we'll -- on Monday we'll send out an e-mail asking that you check your

schedules for the last week of February, probably the first week of March. Thank you.

MR. LEE: Great. Okay. So we can move forward with that. The third item in terms of immediate action items are, I just want to run over the reports that EPA is working on or will work on to respond to your recommendations. And this, of course, as I said before, is really important. This is really where -- where your work makes a difference in terms of EPA taking the recommendations, really thinking them through and acting on them.

And of course, you know, we've always said that ultimately -- the measure of success of your work is what EPA does with your recommendations. And I do have to say that, you know, the NEJAC has probably been very successful in making sure that, you know, EPA is responding to you. So this is really important.

The first is the Goods Movement workgroup -- I am sorry, the Goods Movement report that EPA has set up a workgroup. You heard about your respond to you -- the timing of that is a written report in June and a conversation about this at the June meeting.

Secondly, is the School Air Toxics Report Recommendations. The process to respond to that we need to thing about but we'll get back to.

The third is the report on EJ Screening approaches and that is a pretty, I think that's going to involve a pretty deliberate process. But we're going to set that up and get back with you on that note.

Not to overlook the fact that we still owe you a response around the Small Drinking Water Systems Variance that you adopted in July. And Mike Shapiro, you will recall, talked about it a little bit. But it's still going through a process so we can't respond to you formally yet. But that is something that we don't want to get off the radar screen.

So, these I think are the major immediate action items. The -- so I want to move -- any questions? Everybody okay. Okay.

(No response)

MR. LEE: The second part of this discussion is I want to provide a larger context for how we see moving forward in terms of the NEJAC and how it operates within, the new heightened emphasis on the part of Administrator Jackson around Environmental Justice.

And I do, you know, I just want to -- we're going to talk frankly about what has been going on and what we want to see, is that I mentioned at the public comments period that, you know, the NEJAC Charter says that the NEJAC provides advice and recommendations to the EPA Administrator.

And for the past eight years and more, the NEJAC hasn't really provided advice directly to the EPA Administrator. It provided advice through surrogates to the EPA Administrator. And so this is an opportunity to really kind of elevate, if you will, make the strong connection between the Administrator. And this is her advisory committee, you know,, per the Charter.

So, I've talked to Cynthia and Lisa Garcia and Rafael DeLeon, who is here to help with this discussion. Rafael is the Director of the Office of -- the Office and Manages the Federal Advisory Committees, of which I think there are 25 or 26 at EPA. So that's one part of this. And we see moving forward, you know, major charges coming forth from the Administrator to the NEJAC.

And this the way that the other advisory committees that are like the National Advisory Committee for Environmental Policy and Technology, the NACEPT, has been operating.

The second part of this is that we want to talk about the work of integrating Environmental Justice throughout all the federal advisory committees. And we've had many conversations with other advisory committees to kind of foster that. This is an issue that Elizabeth and many of you have raised, you know, about Environmental Justice in

terms of other advisory committees, in terms of diversifying the membership of other advisory committees.

And so some, you know, development -- I am going to have Rafael talk about this, but some developments around that are for example the NACEPT has been one of the items or charges or issues that the Administrator has in mind for the NACEPT, is vulnerable populations. And of course vulnerable populations is what the NEJAC address -- deals with all the time in one way or the other.

In talking with us about this, our position is that this is a good thing, because it moves issues like this with great emphasis on Environmental Justice into the mainstream of EPA and into other advisory committees. So that's a really thing.

We also thought that it's very important that there be coordination with you and with the Office of Environmental Justice. And around how that process was forwarded.

So in a large measure we're talking about trying to figure out ways, the paradigm change would be ways in which a lot of other advisory committees are taking on Environmental Justice and greater interaction among advisory committees particularly with the NEJAC.

MS. GILES: Can I say something.

MR. LEE: Yes, sure.

MS. GILES: I just wanted to add to this point is that we have heard the view of this committee as well as many other people that Environmental Justice needs to be a part of the fabric of everything that the agency does, and not confined to, you know, one advisory committee or one initiative. So think we're going to increasingly see and I think that the charge of the NACEPT is just one example, lots of other advisory committees and other places where the agency, trying to grapple with the issues of Environmental Justice.

So -- this certainly remains, the Administrator's Advisory Committee on Environmental Justice, but I am really pleased to see as a result of your long years of work of hanging in there, that these things are, I think, coming to fruition now. And so you're going to see lots of other people engaging on these topics. So in future meetings you'll hear a lot more.

I just wanted to also add too in terms of this committee's direct communication to the Administrator, that Lisa Garcia, who is the Special Advisor to the Administrator on Environmental Justice, really regrets that she wasn't able to be here at the end of this meeting. She had a personal family commitment that she had made long before the time that she was even appointed to this position, but you

should expect to see her there throughout at future meetings.

MR. LEE: And so, the one last point, I just want to make before I have Rafael speak a little bit, is this, we've met with Rafael around the charge, around vulnerable populations. And so this is going to be an ongoing process where we're going to develop this together. So, Rafael.

Presentation

by Rafael DeLeon, Director, Federal Advisory Committees

MR. DeLEON: Good afternoon or good morning. I guess it's afternoon here. First of all let me thank Cynthia, Charles and Victoria for inviting me and members of the NEJAC. It's real good to see all of your. And I am happy to be back. I see some longtime acquaintances that served on the first NEJAC and it's good to meet you new members of the NEJAC.

As Charles mentioned and as you've heard from other senior officials, it's sort of a new day at EPA. And my office implements the FACA, and I have it up behind me, which is the Federal Advisory Committee Act. And we provide broad oversight to all the FACA committees. And I've provided you a list of all the committees at EPA. This list changes periodically as committees are formed and terminated. And they're general broken up into science and policy committees.

As we go into this discussion, I put this third

bullet up there about what does FACA require. It requires a number of things. But I think for the purposes of our discussion one of the constraints and parameters that I work with is making sure that the members of the FACA represent broad points of view.

And as you've heard from all of the folks who have presented to you Environmental Justice is one of the Administrator's top priorities. And it's filtered down not only through the political levels but also through the career employees like myself. And so I am looking for ways to integrate Environmental Justice into everything that I do in my office.

And we started with trying and I think Elizabeth -- Charles mentioned, you know, NEJAC has always been a big proponent of having diversity. And under my leadership, all of the packages, all of the committees that come through, have to come through to be approved by my office. And one of the things that I've been stressing is getting diversity on the committees. And in this past year in particular under Lisa's leadership, we've been able to improve the diversity of virtually every single committee that has been either reestablished or proposed for creation.

So the message has gotten down through the ranks and certainly my office will continue to implement and push

back. When we see a committee that's not diverse, it's not going to go through every easily if at all. So I do agree with Charles. I really appreciate the advocacy that you all have continued to push over the years.

And so I think the last bullet is the one that we want to sort of focus on, what does that mean then for Environmental Justice with the FACA advisory committees. And as the bullet says, the charge that I feel I have is to where possible -- and it's virtually in every single committee, is to look for a way to add an EJ voice.

I mentioned some of the science committees, we can use your help, particularly finding scientists and others who can provide a good EJ voice to the committees. You have a list there. It's a wide list. We have committees in the water program, air program, children's health, pesticides, virtually across the entire agency. And so there'll be plenty of opportunities as vacancies come up.

And then the second part of that bullet there is as Charles mentioned, is looking for ways for NEJAC to work with other federal advisory committees. They're working on a lot of interesting stuff. Some science, some policy, some having implications for Environmental Justice, some don't. But I want to be aggressive and know that you have a continuing ally in my office in trying to weave the Environmental

Justice into the fabric of everything we do.

Charles mentioned that the Administrator has picked two broad charges for one of the committees that I run. My office runs five committees. One of them is NACEPT, which is the National Advisory Council for Environmental Policy and Technology. Some of you may have heard of NACEPT. Sonia, if you could just get up for a minute, so people can see you, Sonia Altieri is the DFO for the NACEPT. And the Administrator has charged her with looking at two charges or developing two charges.

One of them of vulnerable populations. And the other one that I think is of interest to you too is work force management issues. And we can have a long discussion on what the diversity of EPA looks like or doesn't look like, I am sure. And I know that you'll have some views on that.

But the two broad charges are vulnerable populations and work force management issues. So --

Charles, you know, we can tee it up and talk about how do we do that, we certainly -- Elizabeth -- you know, what are the other ways that other committees do it as they appoint an liaison from this committee to NACEPT or vice versa. I would like to explore those opportunities with you. And any other ideas that you guys have.

MS. YEAMPIERRE: If the council can indulge me for

a second, there are a few things that I want to respond to that I may forget. If I want too long. First of all thank you. This has been, you know, pet peeve and a little rant that I've been on now for a few months that it's really necessary that we have a space in all the FACAs that have some kind of impact on Environmental Justice.

And in fact was talking about advisory councils that may exist outside of EPA and the role that we could play there. You know, there are issues having to do with public health and transportation and a number of other issues where there needs to be a better collaboration. And I know that the nature of the NEJAC really limits that. And so I actually know what those limitations are so -- so I am trying to think of ways that we can explore changing that or a systems change, because I am feeling Michelle Roberts.

But it is really important that even in your effort to -- and I don't think it has to be members of the NEJAC that sit on those. There are certainly a lot of people throughout the entire country that are working on Environmental Justice issues and working with technical advisors in a number of capacities. Everything from chemical engineers to people who do development and manufacturing, who are real good allies to the Environmental Justice movement, which is why we have been able to have success on

the ground.

But I just want to make sure that when we do that that those advisory councils don't work in silos and that they have a responsibility to some extent of reporting back to the NEJAC so that the public benefits from that participation and that collaboration because it's really very difficult for the public to attend public hearings for all of the advisory councils that exist out there. So we want to make it so that the information is accessible to them and so that they understand who is doing what where.

The other thing is that -- so, you know, restructuring so that we have an opportunity to weigh in on all those different ones. And also making sure that a lot of the agencies that haven't been here are here at these meetings like OMB and ATSDR and HHS.

And I had actually thought that one of the recommendations that I wanted to make before the end of the day was that we send out a letter to OMB and to Cass Sustein* and CQ so that they would weigh in on the rule making and talk about how their work is going to include Environmental Justice and the science in all of this.

So, anyway, those are some of the things that I wanted to add which are really important. Thank you for indulging me so because I should be waiting for you to speak

first and as a Chair I get a little out of control sometimes. But I am mindful of my role. So, questions from -- comments from the members of the council. Omega.

Questions and Answers

MR. WILSON: Rafael, one of the questions I have -- I was looking over the list of various advisory councils and I am not sure how to process a funding flow goes with all these advisory councils and the process they advise for and how community input and how community sharing and how -- funding for the issues we have been raising is going to be equitably shared at the ground level in EJ communities. Can you help us understand how that process is going to work and how those doors are going to be open to make more funding for sustainability for the groups on the ground.

MR. DeLEON: Thanks for the question, Omega. I am not sure about funding on the ground but I can tell you how the committees are funded. These are all EPA committees. And each, if you look at the contact person, there's a little bit of information about what the committee does, a contact person, and generally in there somewhere is a sponsoring office. So the activities from that committee from putting the membership together to developing the charges that the committee is being asked to provide advice, to the dollars that are spent on the committee, are provided by the

sponsoring office.

The committees themselves don't provide funding. Is generally one way of looking at it. It be the sponsoring office. So for example it would be the air program or the water program or the X program that would give or have funding available either through grants or contract for each of the communities that you're interested in. But the committees themselves don't have funding, but they are funded by a sponsoring office.

MR. LEE: Just to add more to that and in the context of the -- just to add more to that. In the context of how the NEJAC operates, when, you know, you are supported by the Office of Environmental Justice. And to a certain extent, you know, many of the workgroups that get established are supported by the Office of Environmental Justice. But many -- most of the issues that you deal with are not just the purview of the Office of Environmental Justice. And so we go and negotiate with another office, like the Air Office in terms of the Goods Movement, in terms of their helping to support that effort, you know. And along with that too then is jointly coming together with the charge.

And so the -- the -- when we go ahead and do this -- you then recognize that it is very important that we get the buy-in of all of the offices involved.

MS. YEAMPIERRE: Langdon.

MR. MARSH: It's a pleasure to meet you.

MR. DeLEON: We met a long time ago.

MR. MARSH: Oh, yeah.

MR. DeLEON: Yeah.

MR. MARSH: Okay. Good.

MR. DeLEON: You were part of the first group in Environmental Inequity and How to Define Minority and --- and all that --

MS. ROBINSON: Langdon, I am sorry to interrupt you. If you could -- Jolene has to leave --

MR. MARSH: Oh, sure.

MS. ROBINSON: Is it possible for her to take the comment first. Thank you. I am sorry.

MS. CATRON: Thank you for being so gracious, Langdon. Jolene Catron, Wind River Alliance. I am heading out the door but I wanted to let the NEJAC council know that we worked for the last -- well, me personally I worked for the like last month, two months, drafting up this request for the NEJAC to consider. Done a lot of research and talked to a lot of organizations and tribes and individuals about this. And it's a request for a workgroup around tribal adaptation to climate change, the green economy and the renewable energy.

And I have a charge, a request that I've typed up. And I've asked for copies to be given to all the NEJAC members. However, I won't be able to read this because we need to head on out the door. But I wanted to let everybody know that I have this and hopefully you will all get a copy of this also. And if time permits I've asked Wynecta to present this information. Thank you.

MS. YEAMPIERRE: Thank you. Thank you. Okay. Langdon.

MR. MARSH: Yes, so I am also a member of another FACA which is the Environmental Financial Advisory Board. And I am aware that the ways those -- that one and this one works is that we respond to a charge, from EPA. So -- I guess I am been trying to puzzle -- how for example on the Environmental Financial Advisory Board we might address many of the issues that come up here around money that -- and perhaps work together with Charles and Cynthia and -- and Stan Meiburg, to develop a charge that would address -- environmental finance in relation to issues of concern to Environmental Justice communities.

So, I haven't thought much about it but I think it's something we should be doing on that --

MR. LEE: You know actually Stan and I have talked about this. And I think what is great now is just -- many

ideas -- and I think we could be very flexible. I don't think unless Rafael says I am wrong, I think the emphasis on trying to be creative and try to leverage the different kind of strength of different committees to address specific questions.

I mean it's a -- it's a certain amount of coordination. For example, you know, I think that -- this is to Sonia and Rafael and Victoria and I have talked and brainstormed about how the NACEPT and the NEJAC can work together because particularly there's an overlapping interest around a vulnerable population. So maybe you have joint meetings, you know, where there's a -- obvious separate business but, you know, some joint sessions.

You know, the good thing -- that really great thing about that is the -- I don't think there is a federal advisory committee maybe in the whole federal government that has the amount of community participation that the NEJAC has. And so this would be a great educational experience for the other FACA committee members.

MR. DeLEON: Yes, Langdon, I would say that's a great idea. I was sitting in the back all week sort of thinking in my mind how to make this second part of that bullet work, look for opportunities for NEJAC to work with other FACAs, and the EFAB is one that I think there's a

natural overlap of interest.

MS. YEAMPIERRE: John.

MR. RIDGWAY: Thank you. It's a little frustrating and this is said with a lot of respect, but to leave to the end when members are leaving and the members of the audience are thin, this is the first chance we've had for deliberation. We've had a very packed agenda. That has been set up. And now we have minutes. And we've had a number of things brought up that we've had relatively little time to look at -- strategic use of this council and the many issues that are brought before the council.

So, I want to ask in general that we try to incorporate a little more opportunity earlier in the NEJAC meetings for deliberation with the council itself without having to cut into the time of the presenters who have done just an outstanding job and put out such a commitment to get here, to let us know what they are dealing with and what they want us to be sure we better understand.

That leads to the next issue and maybe Rafael maybe you can address this too, I have been nitpicking a little bit about the bylaws of this council. They're completely out of date. And it's thus very unclear to me how we lead this council. There used to be a protocol element where the council would have a capacity to look at strategic thinking

and strategic use. It's not use.

So, I am going to ask that we address that sooner then later so that we can get an effective tool that the public as well as us can see how are we supposed to work. How are we to determine what are some of the issues, respecting that the Administrator sets charges to this council and all the FACAs, and their respective Administrators, but -- in the spirit of the best that this NEJAC has addressed over the last 20 years, the NEJAC should also have an opportunity to engage in how those charges are considered and so that we have a good clear understanding of how we can -- it's not oversight but it's just engagement. And we really need that.

So, I've also heard that maybe there's some new guidance coming down from the new Administration, OMB, on generally how FACAs and bylaws work. We need to have a current set of bylaws so we understand how leadership is selected. How workgroups or other issues are addressed. Any thoughts.

MR. DeLEON: Yes, a whole bunch of thoughts on this. One is that I'll be available at any future NEJAC meeting. You know, I used to come to all of these years back and sort of stopped coming for a number of years. But will be back at your invitation and even if you don't invite me

I'll sit out in the audience because this is an issue that's dear to me and always has been.

On the issue of bylaws I think yesterday or the day before there was a discussion of charters. And the committees have to be rechartered every two years. And there is certainly an opportunity for Cynthia and OEJ and others to look at bylaws and amend them as, you know, necessary. So I would encourage you to work closely with Charles and OEJ and Cynthia to discuss changes to bylaws.

On the broader issue of FACA in the government, some of you may be familiar that there is renewed interest both on the Hill and at the White House about FACA committees, lobbyists sort of serving or not serving and also there has been some proposed legislation to amend the FACA. To talk about transparency and workgroups and that kind of things.

But I would encourage you to stay abreast of those development A, on the Hill and two, at the White House. The General Services Administration is currently working with the White House to issue some further guidance on FACA.

So we're all waiting for that. My office is the policy for EPA. And we're certainly flexible. We work with the committees all the time to look at their charters, their bylaws and the best practices, to make sure the committees

run effectively and efficiently.

And the last point I wanted to make on charges, is that yes, the Administrator through her political leadership, provides charges to each of the committees. That's a requirement that we have at EPA. And if you think about it, it makes sense, committees can give advice, unsolicited advice. And you know what happens with unsolicited advice. And so as you think through this, what we've learned is that working closely with the senior leadership, they need you to give them advice that they can use, that they want help on, complex issues.

And as you redevelop charges there is nothing that prohibits us and the Chair from working closely with OEJ, looking at the charges, you know, once they're sort of framed, scooped out, providing it to the committee and saying, what do you guys think. Does this get at what we think we need advice on. So, it's an iterative process and there is certainly room for that.

MR. LEE: I just want to make sure that the -- yes, I too want to thank John for raising these questions. There has been an ongoing discussion about bylaws. And there has been a concern on our part that we need to update them. And also I wanted to thank John for raising the issue about the meeting agenda and the --- greater deliberation.

You know my general observation about this meeting, it's been a great meeting, but it could have been more deliberate. And so that's something that we need to work in both in terms of how the agendas are structured. Cynthia and I had a conversation about this. And as how we approach the discussions. So, this is an ongoing process and any ideas about that would be great.

I think the issue of the bylaws and this has to do with the question that was asked by Bob Bullard, about, you know, what exactly is the structure of the committee. Is really important for everybody to know in terms of transparency. And, you know, is also -- you know, a lot of hard questions to wrestle with in terms of how to make these kinds of processes as effective as possible. So that ultimately, you know, you spend like I said, you know, that everyone of you when you become a member of the committee, when you leave, you know, you are really proud of the fact that you contributed to things that made a big difference.

So, more on this, more on an ongoing conversation on this.

MR. RIDGWAY: I need to follow up then in one of -- thank you very much. I appreciate that. And I certainly am glad to volunteer to help with that process. And I am confident that many other members would as well.

Similar to the FACAs and it's come up so many times and I am just going to, in honor of John Rosenthal here, say where do we engage, how do we engage with the interagency workgroup on Environmental Justice. This is another thing that Doctor Bullard and others have brought up, I think Peggy Shepard. How do we -- how do we get something to happen here. We can ask for reports even if we're not charged to do that, but -- what is the NEJAC's relation with that interagency workgroup -- facetiously it's been zero -- so how can we increase that, how can we see something functional come out of that group and this council's interaction with that interagency working group.

MR. LEE: Let me respond to that. That is a very big question. There are a lot of questions in there. I think the first thing is -- and I think I need to preface what I say with the recognition, the strong recognition of your -- I mean repeated, you know, concerns about the role of the federal agencies. I think that's something that is very important to understand.

And, you know, Lisa Garcia and -- you know, on the first talked about the beginnings of conversations with CEQ in terms of the role with the federal agencies and Ignacia Moreno being here is an example. So I think this is going to, you know, I think as -- the -- I have some other ideas

about that in terms of the next meeting.

Now, the relationship of this advisory committee to other federal agencies and this interagency working group per the Executive Order, I think is something we need to discuss in the future. It's a very complicated set of issues. And I think it's premature to talk about it. These are all issues on the table, I think. And they're all part of that context -- and they will be discussed in the context of the increasing attention on the part of other federal agencies.

MS. YEAMPIERRE: I think the problem, Charles, with all due respect is that a lot of the public is telling us that these problems needs to be approached holistically and that time is of the essence. And we are well aware of all the opportunities that exist right now on the federal level and really want to take advantage of them immediately before people settle in to structures that were really kind of, you know, that were set in stone.

And so we see this as an opportunity to really start working with each other differently. And so it's not something that we want to delay.

And John is absolutely right, that we need to not only look at the bylaws but figure out how we engage each other. Because there hasn't been a whole lot of time for us

to even have a dialogue. Presentations are made. We have questions and answers. And we haven't talked in advance about how we feel about these things, whether there's consensus or not and we may be talking past each other in some ways. And so it hasn't been very strategic in my view.

And so I think that -- what I am hearing from people who testified and from the members of the council is that we may need to restructure how we work with each other as well. And that hopefully that there's some work that can be done between now and June so that we can take advantage of June and that meeting and really sort of start with a structure that's already looking a little different and work on that.

I know that it's really hard because everyone has their jobs and everybody is overextended, but for us to be meaningful and for us to be strategic, I think that's going to be what's required if, you know, that's what I am hearing.

Sue, you've had your card up. You've been very patient.

MS. BRIGGUM: Thanks and I can't think of a better person to be working on this, Rafael, because you've been so familiar with the NEJAC and other state agencies and advisory boards and so you really have a wonderful grounding, I think, in the substance.

And when I was thinking about how this work I remembered Wilma Subra who is in the audience, used to be the NEJAC liaison to the NACEPT. And I think that worked incredibly well. But for two reasons. Wilma is, you know, a very long term and very committed advocate for Environmental Justice communities. So she brought a great deal of expertise to the table as well as the kind of scientific credibility that you expect on that kind of committee. And I know she was very well received and rose in the leadership.

But also in terms of the opportunities for NEJAC to work with the other FACAs. The NEJAC has a real body of work here. And the thing that I've observed over time is that there are kind of enduring principals and fundamental agreements that are really unusual in advisory committees because we keep building one, that work, and reiterating positions that previous NEJACs took in and it's very much, you know, really substantive dedication to Environmental Justice so I would just, you know, have you think about how you could make sure that as you had this interaction it would be the responsibility of those who are working as a liaison, you know, to really be faithful to the NEJAC in that prospective. Because NEJAC isn't just about, you know, the opportunity for community voice, but there are really profound things in terms of protection of the vulnerable and

continuous improvement in reducing pollution.

And so it would be fantastic to see that prospective in a number of these groups that at the moment I think can be a little insular. So this is it, a huge innovation and improvement.

MR. DeLEON: Yes, I think Elizabeth put it very well when she said, at least from where I sit, there's a period of opportunity that I have not seen in the 22 years that I've been here. And so I want to also take advantage of that, that window. And doesn't have to be an either/or like liaison or the other groups working on EJ. It could be both. There are opportunities in the appropriate circumstances for someone to be a liaison to NACEPT or one of the other communities.

At the same time we work with those program officers and say, hey, what about Environmental Justice. And so hitting it from both sides to take full advantage of the window that we're in.

MS. YEAMPIERRE: Thank you. Wynecta. Can you put the mike on.

MS. FISHER: I wanted to honor Jolene's request. Are we at the part where we are able to just offer general comments or is this something specific? And I apologize for not being --

MR. LEE: Well, I think we --

MS. YEAMPIERRE: It's on business

MR. LEE: Let me just say what I think. You know, there's a third part of this discussion that has to do with major issues that come up and that falls in there. I know this is a good discussion but I would just wondering, we want to move ahead. Because time -- because, you know, people got to leave and -- I mean this is a great discussion but is that -- if anybody has heartburn, let me know.

But okay. Let me get to the third issues, which is actually a pretty big one. That has to do with, you know, the kind of big issues that has come out. I mean lots of issues came out. And obviously you can't address all of them. And, you know, we have to be strategic in our thinking about them.

And -- and I have listed the following as real big kind of issues in terms of buckets. The first is rule making. EJ and rule making. You know, the second is interagency, activities around Environmental Justice. The third is climate adaption and community resilience, right. The fourth is sustainable community partnerships. Holistic approach towards, you know, dealing with communities both from a regulatory and a collaborative approach in terms of interagency partnerships. The next one is CAFOs, that came

through loud and clear, right. And then the last one is SEPS. And so those are some of the big ones.

And so I think, as a background for this, is not necessarily true -- these are big issues. It's not necessarily true that all these issues have to be addressed by the NEJAC. We can try and do it through other advisory committees and that's the really nice thing about thinking about this as a whole in terms of the federal advisory committees.

But the first one I think, you know, we've indicated a commitment to move ahead to establish a workgroup on the EJ and rule making. And this has a time -- you know, a real urgency to it because of the all the work that's been going on. And so what I think we should do is that you immediately begin to constitute that in terms of members. So what EJ will do is start to do that. Identify them and go through the process, you know, and to complete that as soon as possible.

The second part of that has to do with making sure that the right offices, the right groupings, and the Administrator is, you know, has a charge for you. And I have talked to Jim Jones, who is the Chair of the EJ Rule Making Workgroup about this, and we're going to meet on this.

Just so that you know all the parts of this, there

are is a DSW Rule, that's one part of this. But there's a, you know, EJ rule making workgroup that is working on the guidance. There's a technical guidance workgroup now that's been established, that is really going to -- work on developing methodologies and analysis and be of a support for ongoing efforts.

So, there are a lot of these things that I want to make sure that we all touch base upon.

And finally, you know, I have to broker the agreement to make sure that these are supported properly. And so --

So, we're going to move forward aggressively on this. And -- and, you know, we'll keep you in touch in terms of -- we'll report back in terms status. Any thoughts about that, any questions? Is that everybody -- okay.

(Committee members - nodding of heads.)

So, the second one, I think, is actually very broad. Having the interagencies activities. Now, one thing that has to come mind as we were talking, is the next meeting is in -- the NEJAC is in Washington, D.C. And it is a great venue then for a lot of federal agencies to come.

Now, there's a other of other things that we need to think through, but clearly one great way of really pushing this discussion, the dialogue among other federal agencies,

is to have, you know, as many of them come and dialogue with you and hear from the communities and really get engaged in that way. That's just one small step. But I think it could be pretty strategic. So ideas. Wynecta.

MS. YEAMPIERRE: Wynecta.

MS. FISHER: Actually I have two ideas. The first idea is that when we invite them to the meeting, we ask that they -- and I'll just use the term white paper, we ask that they come with a white paper. And showing how they're complying with Executive Order 12-898, giving us some concrete examples. And if they don't have anything that they're currently doing, how they plan to address is.

I also think it would be really great if the Administrator would request the President to actually look at Executive Order 12-898 and revise it. I think that no federal funds should be allowed to be used on a project if it's going to have an adverse impact on an EJ community. And we have an opportunity to that. That's all I am going to say for now.

Oh, actually no, one more, one more. And maybe we get a workgroup because I don't know that people of these agencies that are part of Executive Order 12-898 really know what NEJAC looks like for their department. For example, Department of Transportation, you're deciding on which

projects to approve. And for let's say light rail -- and most of the Park-N-Rides are located in an EJ community. Or you're going to build an expressway through an EJ community. You know, if you're just the box checker at Headquarters and you are like, okay, let's give them an issue.

So, possibly having a workgroup that actually shows the other agencies what EJ looks like. We cannot assume nor should we expect that everyone knows what EJ is. You can read a definition but how do you apply it to your job. Thank you.

MS. YEAMPIERRE: Wynecta, I just want to respond to that. I am fearful that if we reopen something like the Executive Order that with all the political push-back, I don't know what that means. But I do think that it is something that is worth including people in a dialogue on so that they can weigh in before we even make that recommendation so that we can get the thinking of the Environmental Justice community on how we should proceed. I would need the benefit of their wisdom to move forward on something like that. I don't know how you feel about that.

MS. FISHER: Well -- no, I do understand. I mean I wouldn't want it to -- to become a political battlefield. I just -- I am however concerned. I can only speak for where I am and how CDBG money floats everywhere. I mean everybody

gets that allocation based on -- you get the CDBG allocation based on poverty, you know, the demographics and --

MS. YEAMPIERRE: I agree. I completely agree. I just think that --

MS. FISHER: I just makes me -- but I understand what you're saying.

MS. YEAMPIERRE: Yes, I agree.

MS. FISHER: So I am going to defer that to those who have been in the struggle much longer than I.

MS. YEAMPIERRE: John.

MR. ROSENTHALL: If we got a -- we got a reevaluate the CDBG mind, then we should make the entire list available to small towns as well. Not just to the -- 50,000 and above. That's why I am here.

Getting back to the other issue though in the IWG, you know, having the benefit and pleasure working in Washington, D.C. you get a chance to see a lot of the federal agencies. And there is a lot of Environmental Justice work going on in most of the agencies. And the agencies actually work together on a lot of projects. And it's probably more so than you think.

I haven't read the Executive Order in a while but let me get back to your point about renewing the Executive Order, there's something that they can do short of renewing

the Executive Order altogether. I believe the Administrator issued a recommitment to Environmental Justice. The President could do that. He could issue a recommitment to Environmental Justice. And he could no doubt put some new language in there that may not be -- like when they sign bills, they put stuff in there that's not quite in the bill but it still becomes in effect the force of law. So we could certainly ask for something like that for him to do a recommitment to Environmental Justice.

Inviting IWG to meet I think is an excellent idea. And I think you will see a commitment of the people to come in.

As I recall the Executive Order actually gives the IWG the authority to request reports from various agencies. I don't believe you need to wait for the Administrator to request those reports. I believe that IWG and I would guess that Charles, as head of IWG has the authority right now to request reports.

MR. LEE: Well, I am not am not really the head of the IWG.

MR. ROSENTHALL: Oh, I am sorry.

MR. LEE: The Executive Order says that the interagency working group on Environmental Justice is chaired by the Administrator --

MR. ROSENTHALL: Right.

MR. LEE: -- of the EPA.

MR. ROSENTHALL: I just promoted you, Charles.

MR. LESS: And so the -- I kind of ill that role -- in absentia, right.

MR. ROSENTHALL: Okay. That's what it was.

MR. LEE: But the thing is -- now this is a serious discussion.

MR. ROSENTHALL: Sure.

MR. LEE: All right. Essentially for what 10, 12 years is the -- the interagency workgroup has been a collection of staff people.

MR. ROSENTHALL: Right.

MR. LEE: Very dedicated staff people from different agencies. And, you know, in order for it to perform it's originally mandated role, you know, there's got to be an examination of the elevation of the, you know, of the status of it, and I think conversations need to go on.

MR. ROSENTHALL: Yes, but the reports that are you are asking for can be requested from each of the agencies right now.

MS. FISHER: You're saying I can request them?

MR. ROSENTHALL: No. The IWG can, the head of the IWG. And since I just promoted Charles, I am going to demote

him right now back to his role as Staff Director.

MS. FISHER: And the final reason why I brought it up, I just thought about this, is all of the energy efficiency block grant money is all based on the CDBG allocation. But when you look at those applications and things, there's no mention of Environmental Justice. Just -- if you are you going to use the money, got to play the game.

MS. YEAMPIERRE: Langdon.

MR. MARSH: Yes. I just wanted to support the -- on screen but it's not green enough. I wanted to support the idea of inviting the federal agencies. But I think it would be useful in addition to any reports we may get from them, to have some structured discussion around some specific issues. For example, let's bring the DOT and HUD in together to talk about sustainable communities partnership and how they intend collectively with EPA to -- to promote Environmental Justice goals which are in the partnership agreement.

And for OMB, let's talk specific -- have them talk specifically about rule making and their role in supporting Environmental Justice throughout the entire federal agency rule making process.

So I think we can structure some questions for those individual agencies that would be good to have -- a report and a discussion about.

MR. LEE: Okay. A --

MS. YEAMPIERRE: I thought you had some other issues.

MR. LEE: Yes.

MS. YEAMPIERRE: CAFOs.

MR. LEE: Let me just go through. I am sorry, Omega.

MS. YEAMPIERRE: Omega.

MR. WILSON: I just want to raise this point and it's not a change or anything, I hope it dovetails with what Wynecta said and what John had said and who all were saying right here, is that we don't want to miss the point that the interagency activity we're talking about, we've been building and working on for so long, does not necessarily address the part that is closest to the communities that are impacted, which are states. And how the states work.

So, I am not sure how the agenda would be written because I am going to be -- out of NEJAC. But I just want to leave this on the table. In the vein of an agreeable agenda for all the agencies something needs to be looked at relative to how to create that connection between the interagency activities and the states.

We know that there is a huge amount of sensitivity around the word primacy, and state governments and state

agencies feeling like the federal government is cramming on something, making them do something they don't want to do.

So, I think that may be one of the top items that interagency agendas should address and how to make that work. Because -- regardless of what the interagency group decides or they may be 100 percent for something, but if the states don't agree or half of the states don't agree, then you wind up in a political battle. And you have something that looks very good at the federal level or the interagency level, but on the ground very little happens and the community groups are kind of caught, you know, in the shadow of all that.

So, I think that needs to be a major consideration for all the agencies involved in how to make that works. If that comes to what Wynecta said about the President's office priming -- to leave it -- on primacy or whatever term you want to use, I think we need to go back to that level that's she's talking about, back to that high administrative level to actually crack that and make that work or whatever you need to do to make that work. Because that is a major, major barrier for a lot of the issues we deal with.

MR. LEE: Now, you know these other four issues and there are probably a lot of other ones, there is a -- Jolene's, you know, proposal on the table. That, you know, that we need to considered in some way, shape or form. I am

not saying that we should do it today. But I am saying that it needs to be there. You know, the -- and I do think that that is one aspect of the larger climate change adaptation concerns that have been raised, you know, and we need to think about this thoughtfully.

I don't think -- I don't think -- my recommendation is that we keep these on the table and think about how best to proceed. I think some of these need to have some other piece come into place. For example, I mean just last month and yesterday, was the organizing meeting of a climate adaptation network at EPA, you know,, so we actually raised the idea of an interface with the NEJAC and, you know, and the issues about disproportionate burden communities.

So, we need to let those processes mature enough so that there's a real -- I mean you're providing advice to something that like Rafael says, you know, has some kind of real buy-in so that you can make a difference.

Now, some of these may become like -- maybe SEPS is a session with the NEJAC to provide more information and just dialogue and you don't need to create any kind of intricate processes. But I do think that this speaks to the importance of what -- what John raised about a good protocol committee so that you can be planning, you know, in ways that makes the most sense to you.

So, that being said, I will say we should old off here. I mean the two issues, rule making and interagency EJ activities are just huge, you know,, and each of those, particularly the second one needs to get some thinking in terms of how best to approach it.

I do want to say before I and -- with one other item, which is a -- (voice) -- yes, okay. Which is this. So I do want to make sure this is on the record. You know, these are some of the issues that Bob Bullard raised yesterday and so I want to thank Bob for, you know, raising this issue about insuring or strengthening or clarifying a focus on race and low income per Executive Order 12-898. I know this is a festering issue for a long time among EJ groups and among other people including very influential members of Congress. and so this is not an issue, you know,, that -- I think this is a very important issue. It's not an issue that is without complexities to it.

And so which is why I thought it would be very important and the commitment on my part yesterday was to bring this issue to the attention senior officials, EPA senior officials, for them to address. And that it needs to be addressed through-fully and comprehensively.

So that is the commitment and we'll get back to you on that.

MS. YEAMPIERRE: I do want to say that even though it's inconvenient, everything is inconvenient because of so many issues and we just keep adding on. And people may feel it's inconvenient because it's last minute, but I just want to make sure that the materials that Jolene distributed that we read them, and that by the next meeting we have our response of in terms of including. Because the issues of energy, issues of energy and green job, all the issues that we're dealing with that are so complex are going to manifest themselves differently in Indian Country. And it is not -- and we don't think about them that way because we come from different places.

And I just want to make sure that that conversation is not left to the last minute. And that it's an equal priority. So we're talking about climate adaptation and resilience and how we have to integrate that into Environmental Justice. And even when they were presenting on the EJSEAT, and talking about the future, and future projections, I was thinking about how adaptations is going to make a difference in terms of what that looks like.

As complicated as it is for us, it's also different and complicated for that part of our community and we want to make sure that we respect that. Tori is on the agenda.

MS. ROBINSON: I was really on the agenda to

participate in the discussion. But wanted to basically discuss in terms of next steps, where we're going for the next -- you know, for planning purposes.

Before I do that, I think, given the time and everything, Elizabeth and I have talked that the old business that deals with the liaison reports from Don and Elizabeth for the two groups that they liaison, too, that will be on the teleconference call that we have to do in basically in a month's time anyway. So that will save a little time.

We -- just so that you know when we get back next week we will be setting out e-mail notice to you regarding the next three or four major events for the NEJAC. One will be a public teleconference call that we want to try to set up the end of February. The very first week of March. Also another public teleconference call that will have to be set up to deal with the EPA Enforcement Initiative -- I am sorry, I am sorry, the Goods Movement Progress Report that they committed to providing to the NEJAC in mid-April.

We have the face to face meeting which will be in June. We're going to take a look at two possible weeks that we're going to actually look at. The second week of June and possibly the second week of July at the latest.

And when we're looking at Kansas City, Kansas or Missouri, I am not sure yet, for late October.

So, if you have any dates, don't tell me know, send it to me in an e-mail, when you're not available so we can at least get a sense of timing. So we've got to start booking dates and stuff like that. Okay. Thank you.

MS. YEAMPIERRE: So, I just really want to thank everyone for bringing in your history of struggle, your wisdom and your positive energy into these conversations. And I want to thank the members of the public who have been here and have stayed throughout. And for helping us shape our recommendations. And I would like to urge that you stay participating -- engaged and to continue to use us as a resource so that we can continue to deliver your message to the venues that we have access to.

And on the way out I just want to wish everybody peace and blessings. So thank you every much.

(Applause)

MS. YEAMPIERRE: Sorry, one more thing.

MR. RIDGWAY: This is in the spirit of our Chair, Richard Moore. He so often would end these meetings by thanking the staff of the hotel, the staff of EPA, the people who brought the food to us, from the ground all the way to here. We're very, very grateful for them as well as all the people who came to listen and make sure that we're doing what we're supposed to be doing. Thank you all.

(Applause)

MS. FISHER: This is because someone has asked me to do it. You know EPA has a standard or not just an EPA, but states have a standard when it comes to cleaning up contaminated land. But the request is that EPA does not allow certain types of facilities like schools or daycare centers to ever be placed on land although it's been clean up to a standard. So I have to say that so that it's publically on the record.

MS. YEAMPIERRE: Thank you

MS. FISHER: So that is something that I hope that you consider.

MS. YEAMPIERRE: Thank you.

(Whereupon, the meeting adjourned at 12:45 p.m.)

