

***National Environmental Justice
Advisory Council Meeting***

May 10 - 12, 2011

***Tuesday,
May 10, 2011***

National Environmental Justice Advisory Council

May 10, 2011

NEJAC Council Members Present:

Elizabeth Yeampierre, Chair
John Ridgway, Vice-Chair

Teri E. Blanton
Sue Briggum
Peter M. Captain, Sr.
Jolene M. Catron
Wynecta Fisher
Stephanie Hall
Savonala "Savi" Horne
J. Langdon Marsh
Margaret J. May
Paul Mohai
Fr. Vien T. Nguyen
Edith Pestana
Nia Robinson
Patricia E. Salkin
Nicholas Targ
Vernice Miller-Travis
Kimberly Wasserman

Victoria Robinson, Designated Federal Officer

NEJAC Council Member Absent:

Jodena Henneke

National Environmental Justice Advisory Council

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KEYNOTE: “ --- “ indicates inaudible in the transcript.
“ * “ indicates phonetic spelling in the transcript.

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

(9:13 a.m.)

Welcome

***by Victoria Robinson, Designated Federal Officer
Office of Environmental Justice
U.S. Environmental Protection Agency***

MS. V. ROBINSON: Good morning everybody. Good morning, just like in school. I would like to welcome everybody to the 39th public meeting of the National Environmental Justice Advisory Council also known as the NEJAC.

I am going to repeat myself on this, as most of you know the NEJAC is a Federal Advisory Committee of the U.S. Environmental Protection Agency that has been providing advice to EPA for more than 17 years.

This is the Council's second public meeting in 2011, following a public telephonic conference call that will be held in March and the first in-person meeting of the year.

My name is Victoria Robinson, I am a designated Federal officer for the NEJAC and it is great to be here in Brooklyn, Region 2 of the U.S. EPA and home of this Council's Chair Elizabeth Yeampierre of UPROSE.

As the members were talking yesterday we all found, most of us found a connection of some sort to New York and some specifically to Brooklyn, it was very interesting to see that.

I also want to acknowledge that as we speak the third annual or third Environmental Justice Youth Workshop that EPA sponsors is in progress in an adjacent room. About 60 students are representing over 20 schools and community based organizations are in attendance at the Workshop.

EPA continues to seek ways to engage and involve the youth in environmental justice and outreach efforts and we would like to thank EPA's Office of Environmental Justice Region 2 staff as well as staff of UPROSE who helped coordinate and get this Youth Workshop in action.

So, you may see students throughout the day coming out in the hallway, they are here to attend the Youth Workshop, which is a closed training workshop for them. So I just wanted to make sure you were aware that they were out here.

Now as in the past, we have a full agenda over the next few days. One of the focuses of this meeting is EPA's Plan 2014 and the Agency's implementation plans and we will hear several presentations on them. We will also be devoting time to discussing coastal ecosystem restoration efforts and hearing from the NEJAC's Gulf Coast ecosystem restoration workgroup and the draft report of advice and recommendations that they have prepared for the Council's review and deliberation.

We will review next steps associated with EPA's environmental justice and

permitting efforts and get an update from the NEJAC permitting workgroup. We will also get an update from the new Director of EPA's American Indian Environmental Office.

We are particularly excited about the EJ's successes in the Region and are especially grateful for the attendance and support of local and regional officials like U.S. Congresswoman Nydia Velazquez of New York's 12th District, Brooklyn Borough President Marty Markowitz, Mayor Lisa Wong from Fitchburg, Massachusetts and we will be hearing more about local Government priorities for environmental justice on Thursday.

Now, it has been a long time since we have done this but we are going to have two public comment periods scheduled, one for today and one for tomorrow beginning at 3:30. Today's public comment period focuses on getting feedback for how the stakeholders, you, the community, also feel how the NEJAC should advise EPA on its Plan EJ 2014 Implementation Plans.

Tomorrow's public comment period and time permitting today, the end of today's as well, will be open to general EJ issues.

To ensure that we respect the time of everyone in attendance, please familiarize yourself with the agenda and try to abide by the allotted times for each session.

In preparation for this afternoon's comment period we would like to also remind all the EPA EJ Regional Coordinators to be here if possible, we want to make sure that commenters can connect with the appropriate EPA regional folks.

Now for a few administrative announcements, if you want to give public comment you must sign up. We don't have people walking and cuing up in a line, it is difficult to manage that process and we have and expect a lot of people are going to be coming to speak.

Even if you have pre-registered and indicated that you want to provide comments, we are asking that everybody stop by the public comment sign-up table that is at registration out in the hallway, that way we know you are here and those who are on that list typically will be called first and we will have a 15 minute break before public comment starts but don't wait until then to check in. We just want to make sure you get on the list.

Restrooms are located out in the hallway, men's room is across the hallway to the left, women's room is a little beyond that, there is a sign.

We do have a Court Reporter and two note takers, this is from our contractor, you can identify them by their blue staff name badges. We also have an audio recording of this meeting, certain portions will be available via pod cast on EPA's website at a later date. There is also verbatim transcript and a written summary of the meeting.

So please remember when you speak, state your name clearly and speak audibly into the microphone so that the Court Reporters and the note takers can hear and for the members, once you have introduced yourselves the first time you speak you don't have to give your organization each time just say your name.

So let's get into the meeting, I am going to introduce Elizabeth Yeampierre and next to Elizabeth, she is our Chair, and then next to Elizabeth is John Ridgway our Vice-Chair. We are pleased that Judith Enck from EPA Region 2, the Administrator is

with us and we are going to hear from her momentarily as well as Cynthia Giles the Assistant Administrator for Enforcement and Compliance with EPA.

We are also going to warmly welcome Congresswoman Velazquez who will be providing opening remarks and so before we move to the opening remarks from Cynthia, Judith and Congresswoman Velazquez, Elizabeth will say a few words. Elizabeth?

***Comments by
Elizabeth Yeampierre, NEJAC Chair***

MS. YEAMPIERRE: (Speaking native language) It is a pleasure to welcome you to what we lovingly call the Republic of Brooklyn, we are so happy to have you here. It is really exciting that the NEJAC is gathering in Region 2. As you know, Region 2 is one of the most densely populated Regions. Our communities live in the midst of enormous environmental burdens.

In Brooklyn alone, we have two and a half million people. In one neighborhood like Sunset Park we have 125,000 people living right up next to the highway, power plants, sludge treatment plants, all of those things.

We have Superfund sites like the ones in Newtown Creek and Gowanus where we have communities that have cancer clusters, go up to the Bronx and still in Brooklyn it is not just the home to Jay-Z it is also the home to two and a half million people. You go up to the Bronx, the home and the birth of hip hop where you have the highest asthma rates in the nation.

So, we are really happy that the Advisory Council is here to hear from people in our communities about ways that we can address really complex problems. Our brothers and sisters across the river in New Jersey also dealing with very similar burdens and so this is a great opportunity to bring all of the communities in Region 2 together to share information with us so that they can inform and shape our recommendations as we move forward as an Advisory Council, so welcome.

The NEJAC is made up of people who come from all over the country that represent a variety of perspectives from industry to grass roots community organizations to NGO's, academia and all of us come together with a commitment and passion to addressing the needs and the issues that affect the most vulnerable communities in the country.

We come together as volunteers and we get our guidance, our support, our information from the public and from people who come and tell us how they think we should be thinking about and addressing the issues that affect their community.

So I want to welcome you, we have a huge schedule at the same time as Victoria mentioned our young people are meeting, most of you from this Region know that Environmental Justice organizations tend to be intergenerational. The young people are the backbone of our organizing. We believe that community is defined by having everybody at the table and that leadership is a continuum.

So addressing the needs and development of our young people is an integral part of Environmental Justice and we are very happy that they have joined us today.

I am going to turn to my left so that my Vice-Chair can introduce himself

and then we will go around the table. So welcome everyone.

MR. RIDGWAY: Good morning, I am John Ridgway from the Washington State Department of Ecology.

MS. ENCK: Good morning everyone, Judith Enck, Regional Administrator EPA Region 2 here in New York.

MS. YEAMPIERRE: I want to thank the Office of OEJ and a lot of the EPA staff that have been so helpful. I also want to thank Region 2 specifically Terry Wesley and Tasha Frazier who are always there for the EJ community in Region 2.

I also want to mention that we have with us, who is always with us, Lisa Garcia who is the Associate Assistant Administrator for Environmental Justice for the EPA Office of Enforcement and Compliance and she is also Senior Advisor to Lisa Jackson.

So, now I have the pleasure of introducing you to the Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance Cynthia Giles. Cynthia served as Director of the Conservation Law Foundation's Advocacy Center in Rhode Island where she drafted legislation to control greenhouse gases, influence the state to adopt stringent emission standards for cars and defended those standards in court.

She is the person responsible for Enforcement and we are very happy to have her with us and welcome us. Assistant Administrator Giles.

***Comments by
Cynthia Giles, Assistant Administrator, EPA OECA***

MS. GILES: Thanks very much, I don't want to take much time because I know everyone is looking forward to hearing from the Congresswoman. I just wanted to say welcome on behalf of EPA. I am here wearing two hats, I am the Assistant Administrator for Enforcement but I am also EPA's National Program Manager for Environmental Justice. So, I look forward to having some time to talk with you this afternoon about how we are using our Enforcement work to further the goals of Environmental Justice.

I hope you will find in the agenda today that the folks who have set this up have tried to be responsive to the comments we got at the last meeting about the need to have time for more dialogue.

So we want to have very brief presentations from some of the EPA folks about what we are doing and how we have responded to the comments we have gotten from the NEJAC so far, provide plenty of opportunity to hear from you and for there to be give and take so that we can learn from the comments that you are offering us and do better. So with that, I will turn it over to Judith Enck.

MS. YEAMPIERRE: Let me say a few words.

MS. GILES: I am sorry.

MS. YEAMPIERRE: It is okay. Our Regional Administrator Judith Enck is a tenacious environmental advocate. She was appointed Administrator of Region 2 by President Barack Obama November 5th, 2009.

She is responsible for managing a staff of about 900 from a variety of professions including engineering, hydrogeology, law, chemistry, biology, public affairs

and overseeing an annual budget of approximately 700 million dollars.

Previously, she served as Deputy Secretary for the Environment for the New York State's Governor's Office and was responsible for policies and operations of New York State's Environmental Protection Agencies including DEC, that is the Department of Environmental Conservation, Office of Parks, Recreation, Historic Preservation, Adirondack Park Agency, Agriculture and Markets and Department of State and others.

Her accomplishments in the field of environmental protection have been recognized with professional awards from the Attorney General's Office, the Sierra Club, Center for Women and Government, Citizen Action and other public interest groups. She was raised in the Catskill Mountains and is a graduate of the College of St. Rose in Albany. Welcome.

***Comments by
Judith A. Enck, Regional Administrator, EPA Region 2***

MS. ENCK: Thanks Elizabeth and I am sorry for the most boring, mind numbing bio in the history of the Agency and I am very grateful to be here with Elizabeth who is an extraordinary Environmental Justice leader not just here in Brooklyn but statewide and nationwide.

I am real happy to be here with my EPA colleagues, Cynthia Giles, Mathy Stanislaus, who will be here, Charles Lee, Lisa Garcia and of course the phenomenally talented Region 2 staff, they are scattered throughout the room doing the hard work every day.

It is particularly a privilege to here with Congresswoman Velazquez who has just been an extraordinary voice for Environmental Justice in the Congress and we seem to see each other almost weekly, which is fine with me compared to other meetings I do, I would much rather see the Congresswoman weekly.

So, as Elizabeth mentioned Region 2 is unique in many ways. We have the most densely populated state in the country, which is New Jersey. We have the largest city in the country, New York and happily within Region 2 we also have Puerto Rico, the U.S. Virgin Islands and we have eight very vibrant Indian nations all within the border of New York State.

New York City is particularly interesting, the New York City Public School System has students from 190 different countries, which I think is extraordinary and the real richness of New York City but also a challenge in terms of language and opportunities to collaborate.

So this diversity is a gift but it can also be a day-to-day operating challenge. Environmental Justice is the lens through which we view all of our work in Region 2. It is not a separate issue, it is integrated into all of our work so I am very much looking forward to the conversations today and we will talk in further detail about EPA's Region 2's work shortly. Thank you Elizabeth.

MS. YEAMPIERRE: Well, the Congresswoman's bio has been misplaced but I can do this. I have the pleasure and the honor of introducing Congresswoman Nydia Velazquez.

She is the first Puerto Rican woman to be elected to the U.S. Congress

and as a Puerto Rican obviously I am really proud of that. But more than that, I am really proud of the role that our Congresswoman has played in addressing Environmental Justice concerns throughout her District.

She has one of the most diverse Districts in New York City, she has Brooklyn, Queens, the Lower East Side, she has parts of Manhattan and she has a variety of people from all walks of life and every race and ethnicity. She also has in her District a lion's share of environmental burdens and has from the very beginning addressed Environmental Justice head on working very closely with grassroots organizers and in a way that has really advanced our ability to address these complex issues in our communities.

I would like her to say more about herself because she has a really high position within the U.S. Congress and I think it is important for her to share that. I am really excited to introduce our Congresswoman Nydia Velazquez.

***Comments by
Nydia Velazquez, U.S. Congresswoman***

MS. VELAZQUEZ: Good morning and thank you Elizabeth. I am very proud of your leadership and more importantly your friendship but your commitment and sense of justice for every American and the fact that every child deserves the right to have a life that will enable them to reach their full potential.

Judith Enck, I see her almost every week so it tells you how challenged my District is when it comes to environmental concerns but I am lucky and Region 2 is lucky to have the kind of bold leadership and commitment to Environmental Justice and to do what is right on behalf of our communities and to honor our pledge that everyone is entitled to fresh air and healthy drinking water.

The fact that she is so committed to clean up the site in Vieques, Puerto Rico is very close to my heart. I got arrested there getting the Navy out and I am very, very proud of the fact that pretty soon the children of Vieques will have an opportunity that is offered to every other child in America, what an incredible message are we sending to them.

To the Advisory Council, thank you for coming in to Brooklyn, this is one of the greatest places in New York City. People are saying that everything that is good is happening here in Brooklyn and this is not being said by the developers of real estate but it is being said by the people that live here and that choose to work and raise their families here in Brooklyn.

As I said about Administrator Enck, she is a dedicated public servant and great partner on a broad array of environmental challenges not just in New York but in New Jersey and Puerto Rico as well. As you know, we are facing a lot of challenges in Washington, one of which is to balance the budget, another is to try to de-fund some of the agencies so that they cannot perform their core mission.

My commitment to where EPA is that we have to make sure that EPA has the budget that will enable them to have the tools for the Agency to do its mission, to accomplish its mission, and that is one of my top priorities in Congress.

I know you have all come from around the country to discuss what you are doing in your local communities, but I would like to take a moment and recognize

Elizabeth Yeampierre and the group I am most familiar with, the United Puerto Rican Organization of Sunset Park or UPROSE.

This organization has worked closely with me during my time in Congress and has been a steadfast champion for Environmental Justice. Over four decades UPROSE has fought the good fight to raise the quality of life for families and children living in Sunset Park and we are succeeding.

In recent years, they organized a campaign that prevented a large power plant from being built in the community. It has advocated for Enforcement of fair share rules in deciding of ways to transfer facilities, in fact we defeated the attempt by the City to build one of the largest plants on the East Coast.

The group has led consensus building around Brownfield redevelopment, waterfront reorganization and a community greenway. I was pleased that UPROSE got a grant from EPA so that they can identify the environmental risks in Sunset Park and educate the community about Environmental Justice and environmental issues from the bottom up so that they could educate low-income communities in Sunset Park about the direct correlation between concentration of waste transportation in low-income communities and respiratory illnesses or power plants or a highway.

Engaging community stakeholders is always a key step to our reaching environmental solutions. There are so many positive steps being taken all around us. UPROSE is working with local businesses to reduce vehicle emissions, offering neighborhoods cleaner air.

I always say when we discuss energy independence and the green economy we are talking about small businesses, small businesses are not only consumers, but also they are the innovators developing new technologies to improve the air we breathe and the water we drink.

As some of you know, in Congress I served as the ranking Democrat on this how small business committee. On that panel we have heard countless stories of how small firms are leading the green revolution. UPROSE is also working with businesses in an area that the City calls a significant industrial maritime area, basically an industrial waterfront area. I have most of them in my District.

UPROSE has been instrumental in seeing that these areas are planned better and more resilient to sea level rise. If a power plant or other facility, housing, hazardous material were ever subject to a flood the result could be catastrophic.

But the point is that by working together we can be ready for this scenario and protect the safety of our neighborhoods. Never before was there a discussion about these possibilities and they brought it to the forefront.

They are also working with businesses proactively to reduce combined sewer overflows, this project will reduce storm water runoff helping keep waste out of our local waterways. As some of you may know, I recently supported designating Newtown Creek and Gowanus as Superfund sites and was glad to see that process move forward.

Believe me, as the saying goes nothing comes easy, there was a lot of push back, there was a lot of criticism, there was a lot of political attack against the designation of this two waterways especially one as a Superfund but I was glad to see that the EPA made decisions and that those decisions were dictated by fact and by science not by any special interest.

So, it may take time restoring the Gowanus Canal and Newtown Creek but doing so will provide thousands of New Yorkers with safer, healthier neighborhoods. It is not coincidence that Brooklyn residents living near Newtown Creek suffer from asthma, emphysema and bronchitis at a 25 percent higher rate than anywhere else in the City.

Like so many other areas remediating Gowanus and Newtown are not only environmental goals but public health priorities. As we fight to improve the local environment we must all work together. The private sector and business have a role to play. There must be coordinated leadership at the Federal, State and local levels but most of all organizations like yours will continue to be instrumental.

I am proud of all of you, every single one of you is helping to protect the planet and provide a healthier future for our children. Your accomplishments deserve our praise and I am honored to have been invited to have been here today. Thank you for having me and most of all thank you for your continued leadership.

(Applause.)

MS. YEAMPIERRE: Thank you so much for those kinds words. I just want to say to the members of the Council, UPROSE is a member of the New York City Environmental Justice Alliance and we do things collectively throughout the City. We have organizations in the South Bronx, the Pointe, we have youth ministries for peace and justice in Manhattan.

We have the Morningside Heights Coalition and we have Abuenta in Brooklyn and we all really work together to do big things, so our --- by itself, so I wanted to share that with you. We also work really closely with WHEACT in West Harlem, so thank you so much for coming and joining us and for those inspiring words.

Now, we are going to turn over to Judith Enck who has a dialogue with her, she is going to be doing a presentation on PCBs in schools, so Judith thank you.

Dialogue
with Judith Enck, Regional Administrator, EPA Region 2

MS. ENCK: Thank you, Elizabeth and thank you Congresswoman. So I was asked to give you an overview of some of the issues that we are working on here in Region 2, which I will do and then I am going to spend a fair amount of time talking about an issue that is emerging and perhaps has not traditionally been viewed as an Environmental Justice issue.

But I very much think it is, which is the issue of PCBs in schools and I am going to treat you to my first ever Power Point, so get ready. Can you believe it? I am 52 and I have never done a Power Point so I just want to warn you it could get a little shaky or we might just watch a movie, Norma Rae or something.

So there is a lot going on in Region 2. I picked a couple issues that you might not be as familiar with so I am not going to talk about Brownfields much, I am not going to talk about the Passaic River in New Jersey and our effort to create local jobs through that Superfund cleanup. I am not going to talk about my favorite topic sewage CSO pollution in New York or New Jersey. I have become known as the sewage queen, it is quite a distinction.

I am not going to talk about hydrofracking, which is a real concern for

Native American communities in upstate New York and I am not going to spend a lot of time talking about the iconic work of so many of the amazingly effective EJ groups that Elizabeth just mentioned, but I am happy to talk about any of that stuff off line.

So a couple things, we have a wonderful EJ showcase community here in Region 2, it is the north shore of Staten Island. We work with Beryl Thurman, the dynamic President and Executive Director of the North Shore Waterfront Conservancy of Staten Island. It is a very interesting part of New York City that not a lot of people visit.

It was the center for industry for a very long time, a lot of that industry has moved out and like many communities across our nation has left a legacy of pollution. EPA provided a modest grant to the community organization and then we asked the organization to identify priorities where EPA could work with them and they identified 21 sites of interest.

So what often happens or these are issues that are more appropriately dealt with by local Government or State Government and what we are trying to do is just get the right people to the table to address these pollution concerns, so we are looking at local Brownfields, redevelopment projects, we are looking at pesticide use in daycare centers.

So the list of 21 is really impressive and I can tell you we are not going to get through the whole list in a year, but this is a long-term commitment and a great partnership with Beryl and her organization.

I want to head south to Puerto Rico, many of you have probably been in the beautiful amazing parts of San Juan, nice beaches, hotels, tremendous history in Old San Juan. Well, if you go out of town just about two or three miles, there is a little known area called Martin Pena, which I strongly urge you to go visit the next time you happen to be in Puerto Rico.

There is some of the worst poverty in Martin Pena that I have ever seen in my life and some of the most hopeful and talented people that I have ever met in my life. Martin Pena Canal flows into the San Juan Bay Estuary, the Canal is literally in people's backyards.

Over the years, thousands of people have settled in these eight or nine neighborhoods, it is about 3,000 homes, very few of the homes are attached to functioning septic systems or sewage systems, there is essentially no water infrastructure there, so you will walk through the neighborhood and you often see hoses coming from people's homes where sewage is disposed.

Unfortunately it floods a lot so a couple times a year people will walk through their neighborhood knee deep in water that we know is loaded with pathogens and bacteria and for many in Puerto Rico this is a real symbol of urban poverty and environmental degradation.

At the same time, there is a phenomenal community group there called EnLace, they have provided real leadership, they have had over 800 community consultations talking to residents in Martin Pena of what do they want their future to look like, so we are looking at affordable housing and transportation and dredging the canal.

There is a lot of urban agriculture going on in these neighborhoods and the community planning process was recognized by the Harvard Kennedy School in terms of how you involve people in decisions about their future in a very low-income

area.

So there is progress there and EPA is very much relying upon EnLace to help guide the way and we are trying to pull in HUD and other agencies because there are very cross cutting issues, I mean it doesn't make a whole lot of sense for EPA to show up and start writing violations for sewage discharges, people just have no money, there is no infrastructure there, so it is particularly challenging.

The Congresswoman mentioned our work on the island of Vieques, which is really fascinating. For over 60 years this tiny island, which is only seven miles from Puerto Rico's mainland but a world away from San Juan, this island was used as a bombing range by the U.S. military and by NATO for 60 years, there were very important military exercises that took place on Vieques.

The military exercises stopped maybe seven or eight years ago due to amazing leadership from the Congresswoman and Bobby Kennedy, Jr. and residents of the island and lifelong Puerto Ricans. So the bombing stopped but it left a legacy of unexploded ordinance. So, two thirds of the island is a Federal Superfund site. So lucky us, we get to try to clean it up.

The technology for removing unexploded ordinance is not particularly sophisticated but the Navy is doing a very diligent job, very slowly and methodically removing some of these unexploded ordinances. The island has 10,000 residents, an unemployment rate of close to 20 percent and 65 percent of the island residents live below poverty.

So what EPA is committed to doing is two things, one is to accelerate the Superfund cleanup and try to get it as comprehensive and timely as possible but secondly, we need to see sustainable economic development on the one third of the island that was not used as a bombing range.

So President Obama convened a White House Task Force on the future of Puerto Rico. One of the major recommendations in the President's Task Force report was not only directing EPA and the Navy to accelerate the Superfund cleanup but also to launch this dynamic new initiative known as the Vieques Sustainability Task Force where we are bringing together the Mayor, the Governor, members of the Governor's Cabinet, various Federal officials, academics, local residents and stakeholders and we are developing not necessarily a plan, because there have been lots of plans, but a really ambitious to do list on how to help Vieques become a model for sustainable economic development.

The best opportunity on Vieques for living wage jobs is within the tourism industry, so how do we promote tourism? How do we get renewable energy projects going because Puerto Rico has the highest utility rates of anywhere else in the nation.

How do we protect the incredible Bioluminescent Bay? You haven't lived until you have swam in the Bio Bay on Vieques it is other worldly, I don't know if you know what a Bio Bay is but these little plankton light up at night and you are like swimming in stardust.

When we had our first meeting of the Vieques Sustainability Task Force, we brought 40 Federal and local officials swimming in the Bio Bay at night, people were skeptical but we won them right over in terms of the need to protect the watershed and reduce light pollution.

There are real problems with healthcare on Vieques, there is real

problems with ferry service, so we have this really neat collaboration going on and it is either going to be an enormous success or a disaster and I don't know which one but my sense is it is going to be an enormous success.

For one thing, the President has told us to do this so I take that seriously and there is some real excitement about how to turn the future of that island around and extraordinary leadership by the Mayor and local residents and we don't always agree on everything, there is a news flash, but we are very committed to rolling up our sleeves and working together.

Just a few words on climate change, you know this is not an issue we can brush aside. As many of you know 2010 tied with 2005 as the warmest year on record since they started keeping these records. When you think of the climate change issue a lot of people think about polar bears and melting ice caps and those are really important issues but I think of heat death in cities and I think of a devastated agricultural sector in New York State.

Agriculture is the number two industry and I think of flooding and how is the flooding going to affect low lying areas in New York, New Jersey, Martin Pena, all are at risk at sea level rise.

We know that the disproportionate environmental burden will be worn by low-income communities. So I know there are entire conferences on climate change that I try to always talk about Environmental Justice in climate change and it is something that on certain days it seems a little overwhelming and on other days other work that we do seems almost pointless if we don't figure this one out.

Finally, I want to make sure you all know at the national level EPA recently proposed really important air toxic standards from power plants. These standards could help avoid 120,000 asthma attacks and 17,000 premature deaths a year. The draft regulations are out for public comment, there is the hearing coming up in Philadelphia, Atlanta and maybe Chicago it is up on the EPA web page but I urge you to really take a close look at that.

I now want to switch a little bit and talk to you about the issue of PCBs in schools. This is the long awaited Power Point, I am used to dealing power plants not Power Points.

So I want to just go through a couple issues with you and I want to emphasize that this initiative that we have taken in New York City is very much a team effort, there are about a dozen of us who have been working diligently on the issue of PCBs in schools and I really appreciate the leadership of my colleagues, so if you could hit the slide.

(Slide)

MS. ENCK: What are PCBs? You know they are polychlorinated biphenyls, they are man made organic chemicals and there are a whole bunch of industrial and commercial applications because they are very good at reducing heat.

So I was most familiar with PCBs in places like the Hudson River and the Passaic River where PCBs build up in fish and therefore it is essential that you dredge the river bottom sediment so the ecosystem can recover.

(Slide)

MS. ENCK: PCBs were banned by Congress, however, they were allowed to stay in use if they were in enclosed devices like lighting ballast or

transformers on utility poles. They were banned by Congress for good reason, it is a probable human carcinogen and there is some very serious non-cancer effects.

They are a potent neurotoxin like lead, they affect people's and kids ability to learn. It is a reproductive toxin, PCBs pass the placental barrier and this is a concern in schools because I remember when I was growing up there were lots and lots of pregnant teachers and it also affects the endocrine system. Next slide please.

(Slide)

MS. ENCK: So before I arrived at EPA, a lot of parents in New York were concerned about PCBs in caulk, that white material around your windows and doors, and so EPA Region 2 staff very effectively negotiated a legal agreement with the City of New York to look at PCB in caulk and we indeed found that there are PCBs in caulk. The question is, are they becoming available in the indoor environment?

While we were looking at caulk, we also took a look at PCB lighting ballast, and Caroline please the next slide.

(Slide)

MS. ENCK: So this is what a lighting fixture looks like (indicating) and the little black box is the ballast and for many, many years these ballasts had PCBs added to them. We looked at three schools in New York City and found fairly high levels of PCBs in the air and we did a track back to try to figure out the source of the PCBs, next slide please.

(Slide)

MS. ENCK: We found that when you remove the lighting ballast the PCB in the air level in two out of the three schools that we looked at came down significantly and at that moment I had an ah ha moment, it was like oh yeah I know there are PCBs in lighting ballasts, we have known this for a long time. What we didn't know is as these ballasts get older they crack and the PCBs become available in the air and the lighting gets hot so the PCBs volatilize and the major pathway for exposure is inhalation of PCBs. Next slide.

(Slide)

MS. ENCK: This is very much a nationwide issue, which is why I am droning onto you today that this is not just an issue in New York City, it is an issue for every school built prior to 1979. Unless the lighting ballast has a little sticker on it that says, no PCBs present assume it does have PCBs in it and EPA has found evidence of leaks in Oregon, North Dakota and Massachusetts. Next slide please.

(Slide)

MS. ENCK: So this past December, EPA released national guidance on what to do about PCBs in schools, that is a photo of a ballast that caught on fire, which unfortunately is quite common, so we have heard stories of there being smoky fires, kids are removed from the school for a half hour and then brought back in, so who knows what they are breathing.

We have also heard reports of ballasts bursting and janitors, of which my dad was one for many years, with no protective gear just take the ballast outdoors, throw it in the garbage and who knows what gets on their skin. Next slide.

(Slide)

MS. ENCK: So, this national guidance went out this past December there was an article in the New York Times about our guidance and a teacher in Staten Island

who is a real heroine, I don't know her name I will probably never meet her, but she realized that she has been cleaning up this oily substance in her classroom for months and it was PCBs leaking from her light fixture and she just used paper towels and threw it out in the garbage.

So when she read the article she called in her principal, they called in the New York City Education Department and said there are PCBs staining on the floor, in the lighting fixture, what do we do? EPA was then called, we sent two inspectors to the school, the City tested the floor tile and the plastic cover and found a high level of PCBs on that material. That led us to decide to start some inspections. Next slide please.

(Slide)

MS. ENCK: Because we wanted to find out just how widespread a problem is this? We thought it was serious but we didn't have any hard data. So I just want to walk you through these inspections.

We sent out staff out on Saturday mornings because we did not want to disrupt the school schedule. We didn't do air sampling because that can often take a week and it is expensive and we didn't want to disrupt the school schedule so we did wipe samples, which is pretty easy to do.

We took 145 samples, 113 of the 145 exceeded the Federal standard of 50 parts per million. So two thirds or more of the samples were exceedences and please take me to the next slide.

(Slide)

MS. ENCK: Up there you will see the school on the left, the Borough it is in, and then look at those test results. So the number of samples we took, the number that failed exceeded the standard and then look at your far left, look at those levels.

So 50 is an exceedence, so look at the range particularly look at the bottom one in Bushwick, Brooklyn it is more than a million parts per million, so that is pure product of PCB hanging out in the bottom of the light ballast and every time you turn on the light it gets hot and it volatilizes.

So this one chart has had a real impact on our work. I think it is essential that we get PCBs out of our rivers, for instance, so PCBs in fish come down but this is inside our children's schools and what they are breathing. Next slide please.

(Slide)

MS. ENCK: Sometimes you can see what it looks like, these tar like globs but if you don't take the plastic cover off of the lighting fixture you won't even see this and of course it doesn't smell. Next slide.

(Slide)

MS. ENCK: But sometimes you can be a detective and put it together, you can look for oily stains, you can look for burnt ballasts, you can look at the ballast location and see if there is problems and you can talk to janitors, they know a lot. So next slide.

(Slide)

MS. ENCK: So I want to tell you a little bit about New York City's response to the leaking ballast. To their credit where we identified a problem they acted right away to remove the PCB lighting ballast but we very much wanted the City to do a City wide plan because effectively removing ballasts in 10 schools doesn't solve the whole problem.

So we had a fun little dance with the City for a couple of months and said that you really need a comprehensive plan to deal with all of the old schools. Next slide please.

(Slide)

MS. ENCK: So to make a long story short, the City did come out with a comprehensive plan. Remember, this is really hard for New York City, this is the largest school district in the country, they have a lot of old schools and I give them a lot of credit for stepping up here because a year ago they were not aware that this was a problem and they had their own capital plan to do list and you know school districts they are not really that flexible and a huge big city school district like this they have long term capital plans and it is hard for them to adjust when new issues come up, but adjust they did.

So they have come up with a comprehensive plan to deal with the problems in 772 schools. The really interesting thing is we asked them to do lighting replacement but instead they came back and said we will do lighting replacement but we also want to do a top to bottom energy retrofit so that is pulling out old boilers, which is really going to improve air quality, it is putting in insulation, it is putting in lighting sensors.

From a global warming perspective, this is fantastic, it is also consistent with a local law that the New York City Council passed a number of years ago. The only downside is when you take on the whole retrofit of the whole school, it is going to take much longer so their plan is over 10 years and I have a worry that 10 years is too long to switch out all of this lighting.

So we have asked the City to change their plan so they deal with the lighting first and then come back and do the other energy retrofits and we are still in discussion with the City on that. It is hard for them to do it because they have to change their contracting, it is probably going to be a little bit more expensive but I think when it comes to public health it is worth being inconvenienced in that a kid entering kindergarten shouldn't be in a school until 10th grade where they might be breathing in airborne PCBs. Next slide.

(Slide)

MS. ENCK: So I just gave you EPA's concern, I see the clock, timing and I just want to mention that the benefits of lighting replacement are immense. The first and most important is it will prevent exposure to PCBs. Secondly, it allows school districts to save money on their electricity bill and third it will create lots and lots of new jobs particularly for electricians.

On the saving energy piece, we know it is hard to find new sources of funding to do something like a lighting retrofit even though replacing your lighting with energy efficient lighting pays for itself in under seven years. We are not going to get a new chunk of money from Congress or the State Legislature to do this, but we don't have to.

There are these companies called Energy Service Companies, ESCOs and they use a financing instrument called contract performance, contract financing where they will come in do the energy efficiency retrofit and you pay them back based on the savings on your electricity bill.

A lot of companies are doing this with solar installations as well. Now, they are not 501(c)(3) charitable organizations, these are businesses so they make

money off of this. The City decided to use the ESCOs to actually do the work but they are going to finance it separately because they get a better bond rate if they float City bonds rather than have ESCOs finance it.

But this is an amazing situation, this is a win-win-win, we can save electricity, reduce the school's utility bill, prevent PCB exposure and create jobs. There are lots of public interest in this. Next slide.

(Slide)

MS. ENCK: There are 51 members of the New York City Council, 42 of them recently wrote me a letter saying, please get these PCB lights out within two years, not 10 years. The City Council recently held a hearing, medical experts testified about the importance of this and there has been a fair amount of media coverage. Next slide.

(Slide)

MS. ENCK: Within EPA our researchers are continuing to research this but we certainly feel like we have enough information to prompt action. Next slide.

(Slide)

MS. ENCK: So looking forward, my sense is we will have some kind of agreement with the City of New York and I think they have the potential to be a real national leader. I want to urge you to think about how this issue might be relevant in your own communities.

We very much want to work collaboratively with school districts, not necessarily in an Enforcement mode. Although every time, you remember the chart with all the violations, every one of those violations is a TASGA violation and there is a modest fine that goes with it. We are not interested in assessing fines against struggling school districts, the only thing we are interested in is preventing PCB exposure among the students and the staff.

When I sort of take a step back, I think this is a really important issue that everyone can play a role on, parents, teachers, Environmental Justice leaders and we know that PCBs and lighting ballast is also present in some public housing units. So what I worry about is children who may be exposed at home and at school.

So this is sort of the beginning of this issue and I would really welcome your feedback, your ideas, do you think we are completely off base here? Do you think this is important? How is this relevant in your community and any additional information that you have. Thank you very much.

(Applause.)

MS. YEAMPIERRE: Thank you Judith. Before we go to questions and comments from the Council, I want to acknowledge that we have one of our former NEJAC members in the audience, Hilton Kelley from Port Arthur, Texas. I want to congratulate you on receiving the Goldman Award.

(Applause.)

MS. YEAMPIERRE: Hilton is a grassroots organizer, extraordinary organizer in Port Arthur and his community is an EJ showcase community, so kudos, congratulations my brother and I am happy to see you here.

So, to the folks on the Council, any questions or comments - - Nicholas Targ has joined us. Nicholas to you want to introduce yourself a second?

MR. TARG: Can I get a question in there too?

MS. YEAMPIERRE: It seems like Paul's card was up first but I will take you next.

MR. TARG: I appreciate it. My name is Nicholas Targ, I am a partner with the Law Firm of Holland & Knight, it is great to be here with you. In a previous incarnation I served with the Office of Environmental Justice and it is nice to be here with friends.

MS. YEAMPIERRE: Thank you. Paul?

Questions and Comments

MR. MOHAI: Yes thank you, I found your presentation very, very interesting, very fascinating. I have two questions, one is have there been any steps taken to try to assess the actual exposure to the children in the schools where these problems have been occurring?

Secondly as you said, this is probably a nationwide problem. To what extent are the other Regions listening to your results in trying to do something similar?

MS. ENCK: So on the first question, I am not aware of any health studies of the impacts. We sort of became focused on this last August, it is pretty new and so I think there should be health studies but I also think we shouldn't wait for the studies because the precautionary principle gives us lots of guidance just to act.

In terms of other Regions, there is a fair amount of interest. We cannot sort of do retail regulation on this, we don't have the ability to go to school but we are in the early stages of working with our Office of Children's Environmental Health and I have been bending Lisa Garcia's ear on this and what we want to do is affirmatively outreach to school districts and teachers and PTA's and present this as a real opportunity.

There has been some good progress in Region 1 where they are dealing with a school in Massachusetts. Region 9, Region 10, Region 5, Region 5 is using some of the Great Lakes funds to address this issue in communities along the Great Lakes.

I also want to direct you to the EPA national guidance on our website. It is everything you have ever wanted to know about PCBs in schools but were afraid to ask. It is only 10 pages, it is riveting and it is very much modeled on some guidance that EPA Region 9 developed many years ago.

So this is sort of bubbling up and this is your chance to get ahead of the curve in terms of raising this issue in your communities. I think most people don't know about this and my naive self believes that once school officials and students and teachers are educated on this, a thousand flowers are going to bloom but it is just something that there has not been a lot of awareness on.

MS. YEAMPIERRE: Nicholas?

MR. TARG: What a neat program and particularly the elegant solution of using ESCOs to help both reduce potential exposure to pathways, put people to work and reduce energy all at the same time.

I have two questions here, one is regarding potential studies with respect to volatilization. The idea of an air freshener with PCBs in it is certainly disquieting. Have there been studies that your office has conducted to assess what the potential

exposure pathway might actually be? Also, is this a good candidate for a supplemental environmental project?

MS. ENCK: Well yes on the latter, this is a good candidate for supplemental environmental projects if you can find the nexus between the violation and I will maybe leave this to Cynthia who is more of an expert on this than I am.

I direct you to the work of Dr. David Carpenter at the Albany School of Public Health, he has done a lot on PCB volatilization and he testified at the New York City Council hearing along with doctors from Mt. Sinai and other hospitals. But I am not aware of actual studies that have been done of kids in schools and if your kid is in an old school and let's say they are there from kindergarten to sixth grade, that is a pretty long period.

I want to emphasize that we don't think there is an imminent risk, we are not suggesting that schools close or that parents keep kids out of school one day, you know one week, one month is different than 10 years.

But my mind also goes toward the teachers who are often in the same classroom year after year after year, so I think there is great potential for health studies in our Office of Research and Development is going, they are not looking in health studies per se but they are looking at exposure pathways.

MS. GILES: I just wanted to add that there is some information on the known science on this topic posted on our website and Office of Research and Development has been looking into the exposure question, so on the EPA website there are some reference to what does the science indicate? Are the exposures of concern and the pathways?

MS. YEAMPIERRE: Thank you, Vernice? Sue?

MS. BRIGGUM: I will let Vernice go, her comments will be better since she did the school project. But I just want to say I am stunned at the importance of what you are doing. I am an old Superfund lawyer so I am used to seeing levels at 54 and oh where does it have to go? So to see levels like that and to see not questionable pathways but direct exposure to children in their most vulnerable phase as well as long term exposure by workers and to not be constrained by the fact that there is a lot of legal authority.

For example, for Superfund it is really easy to make people dredge a river but boy does this have direct impact, so the resources you are spending are extraordinarily important it seems to me. I also thought it would be wonderful to have it better understood in terms of the green jobs that you talk about because this is really authentic green jobs.

These are accessible but highly skilled well compensated jobs that really bring out entrepreneurial spirit, you know people figuring out ways to make it cheaper and safer to get these bulbs out of schools and to address the remediation and do the financing, so I would just say the more people know about this the better.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Thank you. This was really frightening Judith, thank you, and I want to say Dr. Carpenter and I serve on the board at Healthy Schools Network, which is an organization you know well based in Albany and there are just so many issues that come to mind but one is that often when teachers bring these environmental problems that they uncover in schools to their school districts and school

boards they are vilified for doing it and they suffer great retribution from trying to move those environmental issues.

So if there is something that EPA Region 2 can do to give them a more protective space to bring those environmental issues and conditions that are in so many schools to the fore I think they would greatly appreciate it but some of them have lost their jobs over advocating about environmental problems in schools here in New York and New Jersey and across the Region.

Secondly, with numbers like pure PCB I cannot imagine that the children in that school have not been harmed in some way, so some kind of health assessment is going to have to be done and I agree with you sometimes it can take a really long time to look back to that but because you have David Carpenter, maybe Dr. Carpenter can help figure out some more immediate things.

Lastly, there is a partnership here in New York City between Local 32 BJ, the Janitors Union have asked me and the New York City School Board and the Healthy Schools Network and the AFT to really look at these environmental issues we first worked on removing toxins out of the school cleaning products, that is something that I know you were engaged in Judith, but you already have a partnership there and maybe you can bring this issue to that collaborative to get more direct action and all the different parties working on it.

MS. ENCK: Yeah thank you Vernice, all really good points and I should emphasize that I think the only reason New York City as agreed, well not the only reason but one of the reasons New York City has agreed to spend money addressing this is because of the partnership. We have worked very closely with the Teachers Union and they have been amazing.

At one point, the Mayor said if he had to do what EPA was recommending he would have to fire 15,000 teachers and I thought, oh boy now we have lost the Teachers Union but just the opposite, they really stepped up and said, we don't believe the fuzzy math, the math didn't make sense at all and we want a safe workplace and certainly this is not the only environmental hazard in schools.

So I think the challenge is how do you prioritize, however, what is so amazing is there is a funding source for this. So often EPA says, here is an asbestos problem, you need to spend a lot of money fixing it, you have lead, you have inadequate drinking water, we don't have a particular funding source for you but here utilizing the ESCOs is really a win-win, 32 BJ has been part of this, a lot of the parents groups.

I give credit to New York lawyers for the public interest in RDC, this is really emerging. But I also think we are sort of at a point where it is the community groups that are going to carry this. I think EPA has a role in terms of data, inspection, science and we have an obligation to put that information out there and now it is up to communities to decide whether or not they are going to act.

The thing that was so powerful was the handful of EPA Region 2 inspectors who very kindly agreed to work on Saturdays and would show up with ladders and just go up and take the wipe samples and that can happen in any school. Schools can do this themselves, it doesn't have to be EPA. So I think this only works if there is a partnership.

MS. YEAMPIERRE: John?

MR. RIDGWAY: Thank you Madam Chair. Judith, very good Power Point

presentation I want to start with that, that was not too much on the slides, good pictures, I like pictures so thank you.

Kind of welling up on what Vernice brought up and that is the topic of collaboration. I am interested if EPA is working on this topic in trying to engage Department of Education, Department of Energy in recognizing that these ballasts are in all sorts of facilities around the country not just in schools, they are everywhere.

So is there any thought about expanding this to other places where obviously there is people in exposure dynamics involved.

MS. ENCK: Yes, thank you for the compliment on the Power Point. All the praise belongs to Caroline Newton who put it together.

Yes, this is a big issue and we have had really good conversations with you as Department of Energy and Department of Education to a degree. This is going to be led by Peter Grevatt, our children's environmental health guru who has great contacts at DOE and I think for DOE and for local education agencies they first have to get over the shock of this and the high price tag of relamping. But remember, if you relamp it pays for itself in under seven years.

But Department of Energy has been terrific and the other thing to keep in mind is there is this whole cottage industry of energy efficiency people out there who know how to do this and they tell me it is a no brainer. This is not the cutting edge, never been done before, my goodness it is relamping, how many consultants does it take to change light bulbs (laughter)? So, sorry.

So there are energy efficiency experts out there at the ready who can help with this but your point is excellent, education and energy are key and here in New York I have been talking to other State agencies to try to get them involved and to get everyone owning the issue.

But the reality is, I think it is going to work when the leadership comes from the grassroots and comes from EJ voices and parents and teachers because educators and school administrators are really, really busy so we have to get their attention.

MS. YEAMPIERRE: Lisa?

MS. GARCIA: Hi everyone, good morning. I just wanted to quickly add to that that two weeks ago right after Earth Day, Secretary Duncan and Administrator Jackson announced the Green Ribbon School Initiative and so I don't have the information here but your question reminds me of it that through that effort.

It is an effort to try to incentivize greening schools and one of the things that we are discussing with CEQ and the Department of Energy and Department of Education is how to make this PCBs awareness and education initiative part of it so that as the schools are thinking of energy efficiency and retrofitting and greening their schools that they also look at this reducing the potential impact or leaking ballasts, so that is just a part of that.

Once again, I think it is important to understand we are taking this on as really trying to inform and educate many of the schools that it is not like an Enforcement action and it is not an Enforcement initiative so I just wanted to make sure we were clear.

MS. YEAMPIERRE: Judith, I have a few questions. First, I want to thank you for your hard work and I am really pleased that you are working with New York

lawyers for the public interest.

For those of you in the audience that don't know who they are, they really have an exemplary community lawyering model and work very closely with Environmental Justice communities throughout the City and really are an example of how you do that in a way that is respectful. We have tremendous respect for them.

I just have a few questions, you had mentioned that partnering with community groups is important and I wanted to know whether in this initiative you are working with Environmental Justice organizations, you mentioned Bushwick for example, you know where we have one thing we have make the road and I also wanted to know in terms of accessing funds whether you approached NYSERDA and whether or not funds from RGGI, RGGI is the Regional Greenhouse Gas Initiative.

We believe that the Regional Greenhouse Gas Initiative funds, which is New York State's Cap and Trade Program should be used to offset pollution in the most burden communities in New York. So I just want to know if those resources were also available.

MS. ENCK: Well, the RGGI idea is brilliant and I had not thought of that given the fact that I have spent a couple years being tortured on RGGI issues, I cannot believe I didn't think of it so thank you Elizabeth I am glad I came to the Marriott to get that great idea.

We have been speaking to NYSERDA and they couldn't help us with New York City because the power provider is New York Power Authority and NYSERDA there is a systems benefit charge that NYPA doesn't pay into, NYPA is interested in doing more.

In terms of the community groups, we haven't but we should and we want to and it is a matter - - we respond to individual concerns from parents, EPA staff did an amazing job speaking at very tense public hearings, meetings in Staten Island but we are available, we need to reach out more, we are available for incoming questions and I think especially EJ groups that are looking at greening neighborhoods, you know schools are a great place to start.

MS. YEAMPIERRE: Thank you. It is really one of the great things about the EJ groups is that they are working with young people and parents and they also have relationships with schools, so it is a real asset. Thank you so much. Any other comments or questions for Judith? Nicholas?

MR. TARG: Sorry, I cannot help but go back to the Enforcement aspect of this as well. I guess a couple of questions, it sounds like this is purely on a compliance track rather than an Enforcement track.

One question is, however it has obvious Enforcement implications and I have to imagine everybody is attentive to that and it helps everybody keep focus on putting together a plan in a timely way. Ultimately, is that plan going to become part of an order too?

MS. ENCK: Yes, so that is one of our challenges in terms of where we are today with New York City. We are debating the time schedule and also we want a written agreement with the City because the next Mayor could decide this is not as much of a priority so we are trying to get a document that everyone signs and we are not quite there yet but it certainly is important.

MR. TARG: And a form of that document ends up, it becomes an

Enforcement or an enforceable document?

MS. ENCK: It is still under discussion.

MR. TARG: Got it.

MS. ENCK: Thank you Counselor (laughter). So, I don't want to eat up more time. I want to give you my phone number 212-637-5000, call me anytime I am really interested in this issue and would like to provide support to other communities in the country who might want to tackle this and again the work really was done by my EPA colleagues from Region 2, many of whom are in the room today and it was their hard work that is really having us poised for success here in New York City and as they say, if you can do it in New York City you can do it anywhere.

MS. MILLER-TRAVIS: Excuse me Judith, can you give your phone number?

MS. ENCK: Sure, I am always there 212-637-5000 and my email is Enck.Judith@epa.gov and I would be happy to talk to anyone about this.

MS. YEAMPIERRE: Thank you, Judith. John?

MR. RIDGWAY: What is the chance that your counterparts in the other Regions will pick up on this as a priority over the next couple of years while they are in that position?

MS. ENCK: I think half the Regions are really, really interested and the ones that aren't, you know they care about kids health they are just buried with lots of work as we all are. But, I think this is going to trickle out and I think the other Regional Administrators have heard me drone on about this since August, so I think just to get me to stop talking they will probably agree to do a couple school districts.

The RA's are great, they are very talented and they know how to leverage resources and we are going to be relying a lot on Peter Grevatt who knows so much about children's environmental health and Lisa Garcia and whether she knows it or not Cynthia and it is not a one size fits all.

But what I really want to do is get some good success stories on the books, models that other school districts can learn from.

MS. GILES: If I could add to that, Judith has shown a great deal of leadership on this question so thank you to Judith for making sure that we are all aware of it.

One of the things that makes this an incredibly optimistic story despite the big problem is there actually is an answer here and it is one that doesn't require allocation through political bodies, well school districts I guess are political bodies, but there is a way to get a win for the school district in its economic bottom line at the same time that they are doing something important to protect teachers and kids, so I do think that as people become more aware of this issue that people will seize on this.

There is a lot of work out there about energy efficiency already and there is a lot of groups that are promoting that and it is something that we could add to the portfolio who are out there selling energy efficiency is a good thing to do, that you have these additional benefits.

MR. RIDGWAY: I am going to just follow-up in that I think that this is a topic that the Council given its national venue here may be able to help with if you are seeing some resistance, that is part of our job is to help these lessons and positive ones in the context of a solution to spread throughout the country, so keep that in mind.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: I would be remiss if I didn't chime in on behalf of the School Air Toxics Monitoring Workgroup of the NEJAC and joint partnership with the Office of Air Quality pollution standards that one of our general critiques about that process, which we thought was an excellent process was that it stopped at the schoolhouse door.

So many of the ambient environmental issues that impact school children everyday and teachers and staff are the things that happen inside the school buildings, so in this time of restrictive budgets and budget limitations, I don't know where the money would come from but we need to do a Phase 2 of that School Air Toxics Monitoring Initiative that looks at the indoor air environments in schools and not just the outdoor environments of schools.

MS. YEAMPIERRE: Thank you. So in closing Judith, I really want to thank you. We are concerned as members of the community about the fact that we are living in times of limited resources, the urgency of climate change, the fact that on top of all of that there is a health crisis in our communities and there are tremendous health disparities.

So recommendations that make it possible for people throughout the country to benefit from really makes sense and developing the kinds of partnerships that make it possible to advance these issues it is also important. Communities really need to be treated as partners because they are on the ground.

They are front line communities and they can give you knowledge that you might not necessarily have access to, so how we figure out where those resources come from is going to be the challenge but it should be coming from a variety of places and as mentioned, I think it was by John I am not sure who, we need to also look at a number of agencies, Department of Energy, Department of Education, all of them. Thank you.

MS. ENCK: So I just really want to thank you for your time, it was very exciting getting on your agenda and great meeting you all and I now assume you are all part of the team, so thank you and really good feedback I appreciate it.

MS. YEAMPIERRE: This is great, we are doing great with time. So, now we are going to turn our attention to Plan EJ 2014 and if you are in the audience you have gotten multiple emails about Plan EJ 2014, you have had an opportunity hopefully to have read the draft on the website and we have a group of folks that are experts on this Plan who are coming to present before you.

We are joined by Lisa Garcia who is Associate Assistant Administrator of Environmental Justice, let me read her bio for you. We are also going to be joined by Charles Lee and Mathy Stanislaus.

Lisa Garcia currently serves as I mentioned Associate Assistant Administrator for EPA. She is Assistant to Senior Advisor to Administrator Lisa Jackson. She joined EPA after serving as the Chief Advocate for Environmental Justice and Equity at the New York State Department of Environmental Conservation where she developed statewide Environmental Justice initiatives to tackle critical environmental challenges and served as the Co-Chair of the Governor's Environmental Justice Interagency Task Force.

I could read a number of things about her but for me I remember Lisa

working to stop the siting of power plants in low-income communities and communities of color as we organized against the siting of all of those in all of our communities and had tremendous victories. Lisa, thank you for joining us.

EPA Plan EJ 2014: Overview of Implementation Plans
by Lisa Garcia, Associate Assistant Administrator for Environmental Justice,
EPA Office of Enforcement and Compliance Assurance (OECA)

MS. GARCIA: I don't know if I need this, hi everyone. So, Mathy is complaining that I am sitting next to him, we are one EPA (laughter). Good morning everyone. So, it is great to be here obviously it is great to be in Brooklyn. It is kind of strange for me to stay in a hotel in my hometown (laughter). But I went outside and I got my bagel and coffee from the corner guy across the street from Brooklyn Law School so I am feeling at home.

Anyway, so I will speak quickly we really want to get to the part where we have a dialogue about Plan EJ 2014. As you recall, this was introduced last July really to serve as a road map for EPA on how to implement Administrator Jackson's priority on Environmental Justice and expanding the conversation on environmentalism.

We have a Power Point, I don't know if someone is going to do for us, and we opened it up for public comment last July and so obviously the first round of comments from the NEJAC were really helpful and then we set out to create the implementation plan for the subject matter in Plan EJ 2014 and so I just really want to thank everyone, Kim for leading the workgroup through the NEJAC and everyone who has put in time to really help continue to give us feedback, to help working with us.

As we said all along, this document is a living document, it is supposed to move forward through the years until we get to 2014, which everyone knows is the anniversary of the Executive Order on Environmental Justice. If you could go to the first slide.

(Slide)

MS. GARCIA: So just to remind everyone, the goals for the Plan are to protect health and communities that have been overburdened, what we consider overburdened, by pollution and other burdens whether it is economic or crime or other issues and health issues.

The second is to really try to empower communities to take action to improve their health and environment and I think we have all heard over and over again that capacity building and technical assistance is still really important to communities.

As much as we have improved our work on Environmental Justice those are still really the mainstay issues for many especially grassroots groups that EPA still needs to work on those fundamental issues of capacity building and technical assistance for communities.

And then the third is establishing partnerships with local, State, Tribal and Federal organizations and also some of the private entities and I think that anytime you see any success story coming from an Environmental Justice community or overburdened community you really see those partnerships were a part of it and they are essential to really that success and to moving forward. Next slide.

(Slide)

MS. GARCIA: So the framework we set out was the cross agency focus areas and that is where you see much of the work going on at EPA, and I really have to thank everyone at EPA I know they are not all here but really the staff at EPA has been incredible in taking the lead and really working on the implementation plans and actually doing the work. So like I said, it is a living document but it also the work is going on as we move forward.

The second area is the tools development area, which we will talk about a little bit and then the program initiatives and I am sure some of you obviously you can see in Region 2 the PCB initiative speaks to a lot of the issues that we have in overburdened communities.

There is the Radon effort by Office of Air and Mathy will talk about some of the efforts in OSWER. So it has really been a great collaborative effort through EPA. Next slide.

(Slide)

MS. GARCIA: So these are just reminders, this is the cross agency focus areas, EJ in rule making, EJ in permitting, compliance and enforcement and Cynthia will actually speak about that this afternoon about the work that is going on there, which is really great and Mathy is going to talk to us about the fourth one, support and community based program and the fifth one is fostering administration wide action on EJ, which is moving forward in several different areas, so it is definitely exciting. Can you go to the next slide?

(Slide)

MS. GARCIA: This is the tools development areas, science, law information and resources and then the next slide.

(Slide)

MS. GARCIA: So I just wanted to put this up here, I think this is important to see. One of the things that everyone has always talked about is Environmental Justice to truly be successful needs to come out of the Office of Environmental Justice that it really needs to be integrated throughout the Agency.

I think that this table just set it up nicely to really show how we are EPA is definitely collaborating through different offices, different programs, different Regions, each one of the implementation plans or the area of focus has a lead program and then a lead Region and then they have created workgroups and on each of those workgroups you have other members from other Regions and from other programs.

So I just want to highlight this because I think it really speaks to the effort that is going on at EPA and really to the Administrator's priority on how we are making sure that we continue with these implementation plans and looking toward the outcomes and deliverables that I know that everyone has really been looking forward to.

So I am going to turn it over to Elizabeth or Charles? We are going to go into a little bit more detail on where the implementation plans are and then Mathy is going to speak on community based action but then we are going to get to some of the recommendations and have a good dialogue on where we are.

MS. YEAMPIERRE: Let me introduce Charles for a second. For those of you who might not know him, it would be hard to find someone who doesn't but it could happen, Charles Lee is widely acknowledged as a true pioneer in the area of Environmental Justice.

He has been a prime mover in most of the major events that cause Environmental Justice to emerge as an issue of national importance including the now landmark report Toxic Waste and Race in the United States in 1987. The establishment of EPA's Office of Environmental Equity now the Office of Environmental Justice in 1992 and the signing of Executive Order 12898 in 1994.

In addition to toxic waste and race, he has written extensively on the issue of Environmental Justice. Mr. Lee joined EPA in 1999 during which he served as the Officer of Environmental Justice Associate Director for Policy and Interagency Liaison and OEJ's Director.

He is now Deputy Associate Administrator for Environmental Justice in the Agency's Office of Enforcement and Compliant Assurance. Charles, thank you for joining us.

**Comments by
Charles Lee, Deputy Associate Administrator for Environmental Justice, EPA
OECA**

MR. LEE: Thank you Elizabeth and if you get an introduction like that everything is down hill from there (laughter). So I too want to begin by reiterating what Elizabeth said about thanking everyone at EPA who has worked on Plan EJ 2014. If you see that chart up there, if you look at that chart up there that really represents a lot of people.

So there is real effort and real momentum around Plan EJ 2014 that is really exciting to see. There is a saying that it takes a village to raise a child and Mathy says it takes a whole agency to raise Environmental Justice. So why don't we go to the next one.

(Slide)

MR. LEE: I am going to go into the specific implementation plans and just point out a few highlights. The first one is rule making incorporating Environmental Justice into rule making and those are three, there are three major strategies associated with them.

Let me just say that these implementation plans are built around clear goals and then strategies to accomplish those goals and then actions and deliverables with clear milestones.

So there are three here in rule making. The first is to implement, as you know the rule making guidance was issued last year and to implement that guidance and up there are just three examples of rules in which EPA has been incorporating Environmental Justice.

The second is to develop technical guidance around rule making and we expect to have a first draft by the fall of this year. Lastly, is to finalize the guidance that was issued in interim form last year, the EJ rule making guidance, by the end of this year. So next slide.

(Slide)

MR. LEE: The next is considering Environmental Justice in permitting and those are built around developing and implementing tools and recommendations to do two things, to enhance meaningful involvement, meaningful community and participation

and to assist permitting authorities to incorporate Environmental Justice in the permitted decisions themselves.

One of the I think real hallmarks of this Plan, the implementation of this Plan, is community engagement, the stakeholder engagement and as you know we will be talking about this later, there is the establishment of a NEJAC workgroup around EJ and permitting is one example of that.

There are going to be community and there is going to be stakeholder dialogues with communities and business and industry and with states that are now planned. Next slide.

(Slide)

MR. LEE: The third one is advancing Environmental Justice for compliance and enforcement and Cynthia is going to be talking about this later, so I would just say that there are five strategies, EJ and the National Enforcement Initiatives, EJ and targeting, EJ and geographic initiatives, remedies and enhancing communications with communities. Next slide.

(Slide)

MR. LEE: Supporting community based action programs, Mathy is going to talk about that in the last half hour of this session. There are five strategies, he will go into those in much more detail.

The first one has to do with working with states and Tribal Governments, 2) incorporate EJ principles in what is called NEPPS, which is short for the National Environmental Performance Partnership System and this is very important because these are the commitments to EPA.

The second one, around aligning community based programs and identify scalable replicable program elements to operationalize Environmental Justice I think is very important.

They identify 27 community based programs at EPA and some of those like area wide planning, which are grants that the Office of Solid Waste recently issued are things that have real importance looking long term for Environmental Justice communities.

Want EPA presence to better engage communities, fostering community based programs modeled on CARE, which is the grant program, Community Action for Renewed Environment and then looking at local land use and informing or assisting local decision makers to incorporate land use in Environmental Justice into their land use decision making. Next slide.

(Slide)

MR. LEE: It is something that you talked about a lot, fostering administration wide action. There are four strategies there, which is to assist the other Federal agencies to incorporate Environmental Justice through the Interagency Working Group on Environmental Justice, which was reconvened last year in September. There was a White House forum on Environmental Justice and is now moving forward.

Two important activities are holding a regional stakeholder dialogues and then working with the other Federal agencies to redevelop or issue new environmental agency Environmental Justice strategies. The second area has to do with NEPA, the National Environmental Policy Act and Title VI of the Civil Rights Act.

The third one has to do with working with Federal agencies to address

healthy and sustainable communities through things like the urban waters initiatives or partnership for sustainable communities. Lastly is to make sure that communities have access to Federal agencies. Next slide.

(Slide)

MR. LEE: There are four tool making areas, two development areas that Lisa talked about and I would just highlight that the science implementation plan is extremely strong and Bill Sanders will be talking with you about that later in this meeting and it envisions real new areas of research around cumulative risks particularly from a community level and then also a sustainable and healthy communities research program.

On the information front, EPA is pushing forward to develop a nationally consistent EJ screen. Next slide.

(Slide)

MR. LEE: How you will get more information on Plan EJ 2014. I want to make two points in closing. First is to thank the NEJAC for your input advice and recommendations, I think they have been really helpful and the fact that there has been these detailed points with clear deliverables and milestones with real attention to accountability and transparency results from some of your recommendations.

These areas around permitting and science and community partnerships in particularly interagency collaboration are things that you talked about consistently and I would note that Plan EJ 2014 also has action items around equitable development and land use.

There are areas that we need to have more progress around and we are working towards that, areas like climate adaptation and the second point I will make is that as we are dialoguing with you and moving to finalize these Plans, the more important thing is implementing them, that EPA's emphasis is not about plans but about its execution and actions and I think you will see through what I just said and the discussions you will be having that that is the real emphasis of ours. Thank you.

MS. YEAMPIERRE: Thank you, Charles. Now I have the pleasure of introducing you to Assistant Administrator Mathy Stanislaus. Mr. Stanislaus began his work as Assistant Administrator for EPA's Office of Solid Waste and Emergency Response in June 2009.

In his role, Mr. Stanislaus is responsible for EPA's programs on hazardous and solid waste management, hazardous waste cleanup including RCRA corrective action, Superfund and Federal facilities cleanup and redevelopment, Brownfields, oil spill prevention and response, chemical accident prevention and preparedness, underground storage tanks, emergency response and good humor all in the process (laughter).

So prior to assuming this position, Mr. Stanislaus co-founded and co-directed New Partners for Community Revitalization, which seeks to advance the renewal of New York's low and moderate income neighborhoods and communities of color through the redevelopment of Brownfield sites. Welcome Mathy.

**Comments by
Mathy Stanislaus, Assistant Administrator,
EPA Office of Solid Waste and Emergency Response (OSWER)**

MR. STANISLAUS: Thank you. It is great being back here and visiting with you, I always enjoy the NEJAC having been a former NEJAC member it is particularly also kind of apt to be back in New York City, which is really the reason why I am on the job today and it is very apropos that I am leading the supporting community base action programs in Plan EJ 2014.

Just a little bit of background, I have worked with many of the communities and Sunset Park and in Harlem and Melrose, Mounthaven, Hunts Point throughout New York City and what I have seen is the power of communities if you can provide the tools to them.

A combination of an organized community, technical assistance can go a long way and I have seen the power of communities beating back not just uses like incinerators or power plants are poorly sighted. I have seen the power of communities working with local Government to establish parks in communities that have never had parks for a long time.

I have seen the power of communities working with businesses to establish sustainable recycling facilities. So, one of the things I have been trying to do in my leadership of this component of Plan EJ 2014 is take those successes and try to build that into this initiative.

I am going to go through that a bit of detail and as Lisa said we continue to want to learn, so if there are things that we need to kind of improve let us know. I am a pretty blunt person so I expect you all to be blunt with me as well. I don't have to say that to Father Nguyen, do I? (Laughter.) So I will go through each of the strategies in better detail, then we can take some questions.

So the first strategy in support and community based action programs is advance EJ principles through the FY 2011, National Environmental Performance Partnership System and National Program Managers Guidance, it sounds like a lot but it is really about the commitments of EPA working through the Regions, the commitment of EPA working through states to integrate Environmental Justice in a real way, to really operationalize Environmental Justice in the decision making and the daily activities of EPA, the Regions and the states.

So it is a very important way of operationalizing kind of Environmental Justice. So we identified that, identified already in the National Program Managers Guidance aspects of Environmental Justice.

So one of the things we want to do this year is as part of our agreements with State and with Tribes integrate components of that Environmental Justice in terms of various ways the states and EPA can commit to achieve Environmental Justice. So we have a series of workgroups to kind of figure out to best do that.

Another part of the strategy is to develop language for Title Vi guidance for inclusion into the FY 2012 National Program Managers Guidance and the NEPPS guidance.

Strategy 2, which is the to align community based programs to provide funding and technical assistance to build capacity, address critical issues affecting minority low-income and indigenous and other underserved communities.

So under this program, there are various EPA programs by funding and technical assistance to build community capacity, come together and coordinate these

efforts. So what we wanted to ensure is that one we are not duplicating these efforts but most importantly focus our funding on community based strategies to address Environmental Justice issues.

As an example and one of the things I initiated when I first came into this job is the Brownfield area wide plan grant program, which was really developed by Environmental Justice advocates in New York City and it was developed to provide a tool to answer the question, how do you rebuild the community that has been disinvested and - - - infrastructure history of those kinds of actions and you cannot do that by looking at individual property, you had to provide the tools for communities to figure out the kinds of needs that can be served by redeveloping these properties.

But more importantly, looking at redeveloping the context of community, looking at the various kinds of improvement in the neighborhood if you are really going to revitalize those communities. So we have 23 pilots right now and in the proposed 2012 budget we have identified another 20 pilots that we hope to, knock on wood, if that budget gets passed the way it is we will have another 20 pilots, 20 area wide planning pilots.

So again, this is to provide dollars and expertise at the community level to plan the rebuilding of their neighborhood. Not only is it going to do that but I believe provide a build kind of community capacity.

Strategy 3 is how do we really operationalize one EPA in the way that we do work? So, as we all kind of mentioned we are really working on improving communication between EPA's officers to make it more effectively but one of the things we really want to consciously do in our public presence, when we attend conferences you shouldn't just have a Superfund presence, we shouldn't have an air presence, we should really have a multi-media presence at each of our conferences so that we can be responsive of the issues of how communities see their world.

The communities don't see their world just as a Superfund issue, an air issue, we need to be able to provide a multi-media, multi-program presence at conferences, that is something that we care consciously committing to do that, to be kind of really responsive to communities.

Strategy 4 is to foster base community based programs modeled the CARE Program, which many of you I think have been involved in it, I think it is one of the more successful community based programs that I think EPA has.

So one of the things we are going to try to do this year, I mean we are all limited by our budget so we cannot increase the CARE budget at this point, so less bathrooms (laughing). But we can look at other ways of taking the CARE model and look at other kinds of resources to expand it.

One of the things we want to pilot this year is to see whether we can use a CARE model with EPA's presence being at the table to use non-Government or at least non-EPA resource to advance their CARE Program, philanthropic resources, private business resources, to really look at problem solving at the local level, use that CARE model.

So that is something we are going to pilot this year and so if you have any thoughts in that regard please kind of let us know.

Strategy number 5 is explore how EPA funding policies and programs can inform and help local decision makers to maximize benefits and minimize adverse

impacts from land use decision making, planning and siting, I think we may have to shrink the titles of our strategies but anyway.

So what we really want to do is figure out our role and the intersection of EPA's role and local land use decision making. Again, this is not about displacing the right for local decision process and a home rule but it is about how can we kind of advance the issues of the intersection of Environmental Justice, land use decision making and EPA decisions in various ways that we would like to explore.

So I have had meetings with Mayors, City Planners and various State departments of environmental agencies. Now, there is a lot of interest, I would also say there is a bit of trepidation that EPA may be overstepping its line and so one of the things we want to collectively figure out is how can we explore the intersection of Environmental Justice and land use with a focus of EPA's role.

I know that many of you have kind of really have highlighted to me in the past about needing to take on this so we want to kind of slowly figure that out. So, that is a kind of brief snapshot of that and I look forward to hearing from you on your thoughts on this draft Plan and actually seeing the results of the Plan when I am here to come back in 2014. Thank you.

MS. YEAMPIERRE: Thank you. I really want to just take a moment to express my heartfelt gratitude to the three of you for your lifelong commitment to Environmental Justice and for working so closely with us to create a roadmap that will operationalize transformation in our communities, that is pretty much how I see it. So I really want to thank you.

I also want to, in the public because I am aware that community people are coming in, I just want to know how many people are here from New Jersey? You can put your hands up.

(Show of hands.)

MS. YEAMPIERRE: Okay, welcome and welcome folks from New Jersey Environmental Justice Alliance. New York City?

(Show of hands.)

MS. YEAMPIERRE: New York City Justice Alliance, welcome and to all those of you that are out there that represent grassroots organizations that are struggling for Environmental Justice, I know how hard it is for you to give up a day, two days, three days from organizing, from addressing those issues, from fundraising to come in but your engagement, your meaningful engagement, is absolutely essential to this process, so saluto and welcome and we are really happy to have you here.

Questions and Comments

MS. YEAMPIERRE: I am going to turn my attention to one of the members of the Council who under her leadership we have been able to come up with Plan EJ 2014. Kim Wasserman is with Little Village Environmental Justice in Chicago, our sister organization in Shy Town.

Kim, the question that I want to ask you is what do you want to see as the strong points of Plan EJ 2014's implementation plans? That is the first question.

Second question is, what are some areas, which can be improved and what suggestions do you have to do so and you may also want to introduce members of

your committee before you answer those questions. Thank you.

MS. WASSERMAN : So, first and foremost thank you very much for the presentation and on behalf of the subcommittee and NEJAC thank you very much for taking what we put on paper and really coming back with some great answers, I would think more importantly coming back with some teeth, which is what I think we were asking for from the beginning.

I don't have the list in front of me and I apologize but if folks who are on the subcommittee wouldn't mind raising their hands real quick, I can quickly go around the room.

We have Lang Marshall, Savi Horne, Stephanie Hall, Wynecta Fisher, Jolene, I cannot read your last name from here, Catron, thank you, Elizabeth Yeampierre, Nicholas Targ, thank you sorry I am horrible at names I apologize. So thank you guys very, very much.

MS. YEAMPIERRE: Just a second, I am sorry, just as a point of information the document is in your folder if you want to look at it while Kim is talking. Thanks.

MS. WASSERMAN: So you asked two questions of the strong points and suggestions, so I am kind of going to blend both of them together if that is okay because I don't want to be all over the place.

Starting with supporting community based action programs, I was really excited to see a lot of the points that the subcommittee had covered in this area and one of the recommendations that I have is to really take some of the guidance in here and kind of share it with the other cross agency areas, particularly the question of partnership with EJ principles. I think that is incredibly important not just for community based action programs but it is incredibly important under permitting, under fostering administrative - - action.

I think all the cross agency areas really need to see the partnership of not just stakeholder groups of local impacted folks but I think it really has to be a question of partnership.

The other thing that I was very excited to see here was the question of local decision making. I think again that cannot just be limited to community based action programs, I think that is a really important question in regards to permitting and in regards to enforcement and so I would really recommend seeing those in the other areas.

I thought the promoting of one EPA presence when you talked about having different offices available, I think that is the best way. I think for community organizations one of the difficulties is if we are dealing with for instance with a coal power plant and we are only talking to Department of Air, we know the Department of Water has to be there because they are dumping into the local river, we know that there is land that has to be there and so it is incredibly frustrating for us to only deal with one department at a time.

So I think it is phenomenal to be able to allow community members to dialogue with all these groups at the same time is going to be really instrumental for us to move forward as communities.

Coming down into the question of Title VI, and I know Vernice will probably touch upon this subject, I think it is incredibly important to tie Title VI not just

within both of these groups but really strengthening up within the legal tools is going to be instrumental.

I think that is one of the ongoing issues that you will hear from this NEJAC body and we have talked about perhaps taking that on as an issue and I think that that is something that is incredibly important to our communities, to our groups and something that I would like to see kind of expanded on within this document.

One of the other, I have three more things to say, within the community based action programs I saw a reference to the community involvement conference. I had the luxury of going once or twice and I think as a community organizer I think that that is a space in which our groups can have some real impact particularly having dealt with Superfund managers, having dealt with Brownfield managers, having dealt with folks who really don't understanding community organizing perspective and what it means to outreach to a community.

I think that is a space in which community partners could be instrumental in helping moving the EPA forward both under the question of one EPA but really getting true community involvement, I think that is a space in which we could be instrumental.

Lastly, under permitting and I know this is something that will be presented later, I just wanted to mention that I think in talking about stakeholder dialogue we need to be very strategic in making sure that those stakeholders are folks who have been on the ground dealing with these issues for a while. It cannot just be a question of, well it is going to economically benefit me so the economic development folks are going to be there.

We really have to be strategic to make sure that folks who have been dealing with these issues for a long time are the ones that we are engaging specifically.

The last thing I would say is that I would really encourage the EPA to continue to have a dialogue with NEJAC if at all possible around the development of this Plan. I think it is important for us to not just from the get go have input but I think as this continues to grow and expand, and as you said is an organic document, I think it is important for us to continually provide advice on this document and kind of help lead its growth as a body.

So I would invite the EPA to come back on a regular basis if possible and I would love to help with that if possible to really provide feedback to this process if at all, so thank you very much.

MS. YEAMPIERRE: Any comments you want to make to Kim's response?

MS. GARCIA: Well first of all I would like to thank Kim and the workgroup for continuing to work on this to reviewing it as we put it out and coming back timely to be able to have this dialogue.

I think many of the recommendations are definitely something we can take back and we are definitely looking at improving some of these things already like the community engagement conference, maybe Mathy will mention something like that, and Title VI I guess before Vernice goes I can definitely give a quick update on the Title VI issues, but we will definitely take those comments back.

We also, just so everyone knows, we also did receive a lot of written comments on the implementation plans and so we are also reviewing those comments, there is actually a lot of people here from EPA who are sifting through the comments

right now and hoping that as we finalize this and move forward that we will be able to take your comments and others.

But I think overall, I think it is really important to just highlight that. Plan EJ 2014, the items in it was kind of born from the listening sessions and the roundtables that we had with community groups and so it is just really great to continue to see that, at least the focus areas are the right ones and how we improve our work on that.

So we will definitely take that back and continue to work with you and I really appreciate your support in continuing that dialogue because it will be important moving forward even after we finalize them, so Kim we will take you up on that offer. I think Mathy wants to - -

MR. STANISLAUS: I will look into this community involvement conference and see what we can do about that. Okay, thanks.

MS. YEAMPIERRE: Before we open it up to the Council for comments, I would like to ask the following question to the following Council members, it is going to be directed to Savi, Jolene, John Ridgway and Sue Briggum and the question is, what suggestions do you have to strengthen stakeholder engagement and outreach? So, we will begin with Savi.

MS. HORNE: That is a particular concern to us in North Carolina as the state is trimming drastically most draconic measures to deal with its State budget and its support for its own environmental quality programs.

In terms of speaking to the North Carolina Environmental Justice Network, one of the things that percolated up was to figure out whether under Plan EJ 2014 whether the EPA would consider incentivizing local governments that receive monies either from grants or programs or just permitting to keep track of their engagement with CBOs and report that back to the Agency.

As for example, in North Carolina as they trim the budget it impacts their EJ coordinator and their accessibility to the communities we would like to hold their feet to the fire and for there to be some kind of accountability.

MS. YEAMPIERRE: Thank you, Savi. Do you have any response to Savi's comments?

MR. STANISLAUS: Yes, in terms of grants and accountability one thing that I am doing in terms of Brownfield Grant Program is specifically require and follow-up the engagement of communities in the execution of grants in a more rigorous way than it has been done in the past.

MS. YEAMPIERRE: Thank you. Jolene?

MS. CATRON: Jolene Catron of Wind River Alliance. When you talk about Tribal outreach and community level outreach in Tribal communities it gets really complex as you are well aware. There is no one size fits all certainly and some of the things that come to mind from working in a Tribal community at the grassroots level, number one is the public accessibility to the National Tribal Operations Council and the Regional Tribal Operations Council does not exist so we do not know at the community level what their talk and our talk are talking about.

So because of that, a lot of times we don't know where Tribal environmental agencies what their priorities are and how they are planning to outreach to our Tribal communities. Also, the one EPA concept is good and I was real excited to read about that working on a CARE grant myself that was one of the issues that I really

felt strongly about was I felt like the onus was on me to know what EPA had to offer and instead of EPA knowing what they have to offer.

So it was really confusing but I think that it cannot be overstressed the importance of the Tribal Regional Coordinator as a liaison to Tribal communities and I think that is really important. There is also, from what I understand, an EJ coordinator in each Region and I think those two need to be working the Tribal coordinator and the EJ coordinator need to be working and dialoguing on a regular basis.

My perspective, formal non-profit organizing and community based groups in Tribal communities is a relatively new facet in Indian country. We don't have a lot of community based organizations that are popping up all over the place and when you work in a Tribal community where the Tribal Government and environmental agency is building their environmental program to the point of enforceability of environmental quality standards, the last thing you want to be doing is weakening that process.

So as an example, in the community I work in the Tribes are applying for treatment of state for air quality standards and we know that there are air quality issues in the area because of natural gas and coalbed methane production. But we don't want to be coming across in the community as challenging the authority of the Tribes to develop their own quality standards for that.

So it really is important to be building capacity and making available in every program or in all of these strategies the capacity for communities to understand those environmental laws.

As an example in the CARE project, unless the project manager for that CARE project has really put a lot of thought into building community capacity around environmental law then you have to write additional grants to bring in that money and a lot of times you don't get the funding for that.

So, I think it should just be a given in any of those programs that that is one of the things that you are working on is building capacity in the communities to understand those environmental laws.

MS. GARCIA: I can just answer, thank you for the comment on the NTC and the RTC because one of the things that we have been talking about is figuring out how we can continue to do outreach and awareness on not only Plan EJ 2014 but many of the components continuing to move forward and we did think it would be great to do a presentation to the RTC and NTC so that point that you made is crucial to our understanding of it, so thank you.

But also just to mention that you will be meeting JoAnn Chase, well you know her, but you will be meeting her Thursday she will be coming here and we have definitely all of us collectively tried to figure out how we really continue to engage our Tribal partners across the board regardless of reservation or indigenous or just across the board, so I just want to thank you and Peter and the others for continuing to guide us and really help understand how we improve upon that especially as we move forward with Plan EJ 2014.

MR. STANISLAUS: In terms of consultation outreach, the consultation policy recently was finalized I think this week, so clearly we need to continue to maintain Government to Government consultation but also separately outreach as it relates to EPA's decision and it is found in the consultation policy that distinction.

So one of the things I am doing for example Superfund decisions, you

know unique pathways on Tribal lands making sure that it is built into our decision making process. In trainings that we have, one thing that I am trying to do is kind of both convey that consultation needs to happen early but also outreach needs to happen to the local residents that are affected by EPA's decisions.

MS. YEAMPIERRE: Thank you. John?

MR. RIDGWAY: Thank you. For those who may not know I am here to represent State and local Government and there is a big distinction between the two in a lot of the topics here so working with State Government I have a little more of a background than representing local Government.

So a couple of my thoughts on this are in general I think this is outstanding to see a comprehensive list of plans with specific and/or general directions to shoot for in the next three years and I think it is overdue but it is based on a lot of work that EPA and a lot of you individually have done in the past and so I want to just say overall kudos and keep it up.

I also think that this is good for the State and local Government thought I cannot say I have a large sign-up list to document that (laughter) and that is because it is new. Coincidentally, I have been assigned to oversee the performance partnership agreement for our state and I am right in the middle of that right now and this is an interesting nexus between the general policies and the guidance that has come up, for those who don't know there was very good guidance that was provided by EPA about six months ago I think it may have been more on how to look to incorporate Environmental Justice in those agreements.

It has been a mixed assignment, so a couple lessons I observed is these documents that are signed by the Regional Administrators and the respective states in those Regions for the two year contract in essence for the states that have delegated authorities in various programs.

It has in the past been an exercise of bureaucracy for the most part, there hasn't been a lot of public engagement and now that there is guidance to specifically and comprehensibly address Environmental Justice in such agreements, there is a learning curve that is going on by me and the counter parts of my Agency and I can only assume across all the other states and these agreements don't all happen at one time, they happen at different times for different states and Regions but they are for a two year period.

So, it is my understanding that all of the states are going to get into this over the next two years and there is going to be a learning curve there.

It is handy that I have a strong background in Environmental Justice then taking that and talking with my counter parts in these programs to say this is okay, don't worry about this as much as you might. A lot of the reactions I have gotten have been in general, well is EPA going to pay us money to do this? I have to say no not really it is part of the work that has to be incorporated into everything we do.

So there is not going to be necessarily an Environmental Justice budget allocation in all these programs, it needs to be embraced throughout and that is an easy answer to give as much as it may not be what they want to hear.

So one bit of advice is as you EPA Regions are working with your respective states you need to find out who those people are that are putting those agreements together and make sure they understand the general goal here and they

need to be supported by their agency directors to be sure that the leaders of the various programs as well as a person who is negotiating, or multiple people, these agreements understand why this is a good thing to do, what some of the challenges are and engage those kinds of dialogues to the extent possible.

Sometimes this task gets kind of passed on to whoever is perceived to have the time or the experience of doing it in the past whether or not they have much of an Environmental Justice background I can presume a number of states do not have an Environmental Justice coordinator.

So there is a challenge right there as to how to help the states recognize whether or not they have such a person by official title they need to be well versed in what Environmental Justice can mean as far as those agencies and working with EPA.

In terms of working with local Governments, not only on the land use issue but again on how the states are going to implement, the general theory is first EPA is figuring this stuff out and trying to put it to work and then the states are going to have two roles there. One is, they are going to be subject to this effort from EPA and they are hearing that right now in these proposed plans and the states then need to implement this and the local Governments are going to say, what is this all about or what does it mean specifically?

I want to encourage the Regions to do everything possible to get the State Directors to support their staffs, to look at these issues and how they are going to be implemented because the next step is the delegated states are going to have to take this on and I would hope we can get to the point where they look forward to taking that on as part of the grants that go to the states.

So there needs to be I think active support and guidance for the states on how they are going to implement this after we see the effort from EPA to initiate this. So, I think we have a little more time and we are going to have a learning opportunity here while working with EPA but it is certainly not too soon to say to the states and my advice to you is invite the states in to this new effort and the learning opportunities so that they can understand what it means and not necessarily have an adverse reaction before they have a chance to see.

I expect there are going to be some challenges involved here but nonetheless the states should be repeatedly invited into this process to help the Regions implement this, there is the national level at EPA Headquarters and they are trying to disseminate this through the 10 Regions but then you got the 50 states and the territories and et cetera, never mind the thousands of communities and it has to percolate down through all of those if it is really going to have a lasting effect.

The last thing that I will note here is that I think it is not too soon to start referencing how you are going to check to see if it is working, I mean it is early but that needs to be I think also crafted in such a way that there is a very open assessment available to everybody across the country as to how well is it going, whether it is regarding compliance or permitting or tools, legal et cetera. It is not too soon to be thinking about that.

I hope that this is a long range strategy that is going to cross over multiple administrations and you are doing the right thing now to get it established but there is going to need to be some sort of I think a long term strategy for checking in and seeing how it is working and making this more of a permanent rather than a period of EJ

support that is reflected in this Administration and I invite my counter parts in other states and local Government to help that assessment happen and to help it be successful. So, I will leave it at that.

MS. YEAMPIERRE: Thank you, John. As John is talking I got this feeling of dread of how much time this is all going to take and the one thing that a lot of people in our communities don't have is time. But if you can respond to his comments I would appreciate it.

MS. GARCIA: Well, I will just touch briefly on a few - - I think there is the theme here that throughout this Plan we definitely should think about who the stakeholders are for every single implementation plan and so I think that for everything and then the point on - - and just to back up, we have been doing some outreach to some of the states and to local Governments and we have been thinking about how to improve that and we have also been talking about bringing in some of the industry and other folks.

So there is that conversation but I appreciate all the comments on how we can really focus in on the whole Plan but also talking about accountability and so just on the accountability part, once again I will thank all of you for kind of touching on it and what it means for each stakeholder I guess and so we will definitely think of that going through the implementation plan.

But I do think some of the recommendations that have come in have been really helpful. When you talk about the NEPPS, you know the State partnerships, the grants, talking to the states early on and doing it as you mentioned now beginning to think so I appreciate that.

MS. YEAMPIERRE: Thanks. Sue?

MS. BRIGGUM: Thanks. I am beginning to think after amusing on this a really long time that the most important way of engaging the business community is to make Environmental Justice predictable, that it is going to come up all the time.

It is not something that happens every once in a while, the one company one place or one sector at one time but it has to be a routine consideration and if that is true then the Plan is an enormous step forward because when I went through all the documents the one thing that sang to me was, wow this is real, this is really important, my colleagues are going to have to pay a lot of attention to this now because it is like everywhere.

I agree with John that that makes it really important to follow-up with the reporting because you have the Plan and it is important to have the iteration routinely to show progress so that those who are involved in this very difficult organization that is EPA that is so decentralized have some mechanism to show that they are on the page and this is becoming predictable.

In order to do that I also noted that for example the legal component of the Plan was the shortest one and it seems to me for the business community it would be great to really have a hard hitting you know this is the law and this is why and this is why every time you have a facility this is going to come up and it is going to be part of the process and it is going to be part of our policies and you need to use the tools that are out there for you to understand your operations better and respond better.

Within the bowels of the Agency people that we never talk to have been doing astonishing stuff. The information that you have now to take Environmental

Justice from just what business people sometimes will assume would be conclusions and where is the evidence?

The evidence is there now, you can be really, really specific in terms of what facilities are where, what the health conditions are, what other factors are. You can make that a really precise discussion that goes to actual risk and that really speaks to business people when they have facts.

So I think you know leveraging that information in order to have very concrete dialogues that aren't about summaries but are about and this and this known right in your community will help enormously at sites.

The one thing I worry about again with the one EPA and the training program is that my experience with Regional staff not at the political level but at the civil servant level is that there is crying need for some training and appreciation of the goals and the purpose for doing this, not just that there is a new document because it is really depressing to hear about a new initiative and then to have someone in the Region say, I know you know the political guy thinks this is really important I am going to make you do something really stupid now, I don't understand why you would but you know you just have to.

There really isn't, forgive me this actually happens quite frequently, there has to be buy in, you know people have to understand that there is a goal, there need to be rewards for that. So I think doing that and also emphasizing to people the point is not that EPA imposes new things on people but this is really a new approach following from CARE and the collaborative method that you are talking about a dialogue in which you can have a win-win, show people that you can do better and that as a consequence you can function better in the system.

On the policy thing, I think it is getting together on the policy side to have some specific discussions with business, don't bring them in once and think you will get anything useful whatsoever. You need to have a chance for people to feel comfortable that their positions can be rational and there is a reason to want to hear about and to try and problem solve and that they are going to get to talk a few times with the important people in the Agency.

You have unbelievable power to attract the business community fascinated to talk to the senior people about their concerns and try to make things practical. So I would say if you could figure out another back up but try to get yourself ultimately to having the NEJAC spirit and kind of fuse a lot of your interactions with the business community where you start with them and then you bring stakeholders together so you can have a lot of honest conversations.

We do extraordinary work I think over the years and if you could try and make a bunch of mini NEJAC like opportunities in specific topic dialogues that would be great.

MS. YEAMPIERRE: Thank you, Sue. We have about 25 minutes and six people on the queue, just a little time check.

So Vernice, do you want to talk about Title VI?

MS. MILLER-TRAVIS: Kimberly, thank you so much for highlighting it and raising it up in the work of Plan EJ 2014 Workgroup. First I want to say to the Agency what an extraordinary step forward this is. You are going to be building and adding things to it over time but I think this is what President Clinton and Vice President Gore

had in mind when they issued the Executive Order on Environmental Justice.

It has taken us 17 years to get to this place, but you have only been here for two years and in two years you have done what 17 years worth of previous administration and work was not able to accomplish, so I just want to lift you up for stepping out there and you are going to get lots of bricks back from all quarters for having stepped out there, you know the one that steps out in front is the one that gets the bat upside the head.

But you did it and I just want to lift you up for having done it and we support you for what you are doing and we are your partners, so we will be working with you on that.

I want to ducktail on what Sue said about the legal implementation plan being the shortest, it was three pages including the cover page and I was a little taken aback by that because there are some fundamental issues that the legal side of EPA has got to address in order for these things to go forward.

What John just talked about, what Sue just talked about in terms of finality and clarity for State and local Governments, Tribal Governments and for the business community is dependent on two fundamental things that we just cannot seem to move off the dime about.

One is finalizing the Title VI guidance but not just finalizing the guidance, walking those delegated entities through what the process is. Title VI of the Civil Rights Act has been around since 1964 and yet both the Agency as well as other Federal Agencies go about their business as if the Civil Rights Act doesn't apply to them.

It is a travesty and it has to stop and the way you make it stop is to be clear with people and give them guidance about what is expected of them and that it is not optional. Title VI application and enforcement is not optional though everybody has been operating as if it is.

It is an offense to communities who have filed Title VI grievances and asked for clarification from the Agency that there are complaints that are languishing in the Agency for 15 and 18 years, it is just extraordinary.

So you guys gotta move forward on that, that requires the whole legal community of EPA, the Office of Civil Rights, the Office of General Counsel, OECA and your various other legal bodies. You have to move this process forward, you cannot ask communities to bear this burden any longer than they already have.

Secondly, the issue of clarifying existing legal and statutory authorities to address Environmental Justice for all the delegated entities. For me in a state like Maryland, which is a very progressive state that really vigorously believes in environmental enforcement and protection, they take the position that they cannot address Environmental Justice in a permitting arena or any other arena because they do not have legal and statutory authority to act. I think it is insane that they say something like that but they can say it because they have no guidance from EPA.

So, I think the legal piece of this in order for you all to be successful at what you are doing there has got to be clarification of where they have legal and statutory authority to act to address Environmental Justice based on existing Federal law and statute and until we do that they are going to continue to say to communities, we cannot do these things that you want us to do because we don't have the power or the authority to act.

That is not the case but they can hide in that space because they don't have clarification from EPA and perhaps the Department of Justice on their front. So, I just wanted to put that forward but I just want to lift you up again for sticking your necks out and doing what folks have been asking you to do for so very long, I am just so honored to be here at this time to witness this process.

MS. YEAMPIERRE : Father Nguyen?

FATHER NGUYEN: I don't know what kind of tension specifically that you have with the State and local Government in dialoguing with them. But one of the things that we at the community base level whenever EJ issues or environmental protection endeavors have been pushed forth, the communities the EJ communities, are painted as anti-development especially anti-economic development.

So we are out there bearing that brunt and a lot of times we don't have the capacity to respond to that, don't know how to respond effectively to it. So in terms of building capacity it might be something to that effect that would be very helpful to the communities so that we would be able to respond until that day when Sue is envisioning where everyone is holding hands, we are going to need some help from that perspective.

My other concern is that there are invisible EJ communities that we have not seen, so if there might be ways which we help to identify them or that we open the access road so that they can reach EPA easier so that they can be assisted that would be appreciated.

MS. YEAMPIERRE: Father Vien, can you share the community that you are coming from? There are new members of the public that weren't here this morning.

FATHER NGUYEN: Yes, I am from the Vietnamese American community in New Orleans East, that was one of the places where we were hardest hit with Katrina and then the aftermath of dealing with the landfills and all that afterwards and then the BP disaster. A third of our people were fishermen, are and still waiting for the opportunity to return to sea again.

THE COURT: Thank you. Edith?

MS. PESTANA: Hi, Edith Pestana, State of Connecticut. I just want to echo what Sue and John and Vernice have already stated that there is a need for clear laws, the states need a clear law. They also need a definition, I am not kidding you, of what an Environmental Justice community is.

I was on a recent call and with a number of states and they did not know what an Environmental Justice community is because although many of us have been doing this for 20 years, you have a lot of new administrators in State Agencies that don't have an understanding.

They are also finding these plans very complicated. They don't understand them, so we are going to need to develop something that is very clear with some clear definitions and it has to be kept really, really simple. Thank you.

MS. YEAMPIERRE: Thank you. Patti?

MS. SALKIN: Good morning, I want to echo everybody's accolades to all of you and all of your colleagues as well for the work and I want to focus on two points. One on the legal implementation, not to repeat what has already been said, one more thing is I urge you to work from the start not later on with DOJ. There are some great synergies staff from DOJ has spoken to NEJAC in the past.

In our record, again I don't want to rehash what we have said before, but there are a lot of deals and strategies that have been put on the table and I think that you would find them a good partner at the beginning as opposed to consulting them after which is in step 4 in the legal implementation plan.

The second area I want to just focus on quickly is, all right not so quick, the land use aspects and thanks to my colleague Edith, I have been working with a working group being staffed out of Region 3 to look at some of the land use issues and just to put some concrete ideas on the table in a couple of different areas.

One of the things we have been talking about is developing some sort of online clearing house that would potentially consist of planning tools, legal tools, articles or links to articles that are already available out there and maybe more importantly sample language from existing community comprehensive plans and zoning ordinances that would be illustrative for other communities as well as writing up some case studies or finding case studies that others have written to put out there to demonstrate that this is taking place, that this is not something that is novel except that more people, obviously more communities need to join on and recognize this.

There is also another thing that we might take a look at in New York State, DEC and the area of climate change developed a pledge for local communities called the Climate Friendly Community Pledge that then local governments could bring up to their local legislative bodies and adopt it like a resolution.

We ought to do the same thing for Environmental Justice, put a model pledge, a model resolution, a model executive order that can be adapted to the needs of the community on the EPA website whether it is this clearing house or something else to start to get the ball rolling so that local officials can take ownership where it directly ties into land use.

Another aspect of what we have been talking about is doing training and outreach to lots of different constituencies in the land use arena, to the CBOs but to the local officials and then to the people that the local officials rely on like professional planners and the attorneys and don't assume that they know what we are talking about either, but the elected officials are often taking their lead from the paid professionals and the same thing for the members of Planning and Zoning Boards.

In the interagency working group area, again focused on what you might get out of them in the land use context. I urge you to have them look at existing grants and new ones that might be coming on board for anything in their jurisdiction particularly in transportation, in housing, in disaster preparedness, there is probably 8 or 10 Federal Agencies that provide funding for communities that impact land use, have them require an EJ element in those requests for proposals and/or use the care and stick approach, if you have an EJ element you get extra points in the review of that grant.

So it is not requiring new money, it is just reprioritizing the requirements for these existing grants or other grants that come online. I urge you to continue to do outreach to the states and to Tribal Governments with respect their influence on local land use planning and zoning, at a minimum get into state statutes that already exist, a small edit that would have optional element of putting an EJ element in a local comprehensive plan.

Just about every state lists elements that ought to go into a comprehensive plan, some states are mandatory like California, most states are not so

just in an optional listing it doesn't cost any money to suggest to local governments that the next time they update their plan they ought to consider putting in an EJ element, we are not telling them what to say about it so we are not crossing over the mandate line we are just suggesting this is something you ought to think about and in our clearing house we are going to have some examples of how you could go about doing this.

And then in the outreach to the states, I think we have to get beyond the talking to the environmental commissioners because a lot of where the land use and community development work is done is in a different State Agency for most of the states. It might be called the Department of Community Affairs, the Department of State, it might be in their Housing Agency and so we are susceptible to a disconnect if we just rely on our relationship with the environmental agencies.

Lastly, in our training and outreach in addition to going right to the CBOs and local governments, we need to also get to the national NGOs that represent the local officials that represent the planners that represent the lawyers because one of the things from at least the academic community that I see, the more people that you can get writing about this, the more people you can get putting it in their newsletters and putting technical assistance memos up on their websites I think the more activity we are going to see and the more widely accepted it is going to be.

Other people have said it, we cannot forget that we know what is going on and we know how to do it because we are sitting in this room but the tens of thousands of people that we want to get the message to don't know what we know, don't read the things that we read and so we have to get ourselves in front of them in a way that they get their information.

MS. YEAMPIERRE: Thank you. Lang?

MR. MARSH: Thank you. I do also want to join Kim and others in saying what a great job you have done at listening, which is something that we advocate a lot and you obviously have and incorporated it into your plans, so kudos for that.

I was very pleased to see in several places the notion that the community becomes an organizing principle for your work, that is a very powerful statement and I think it should be even highlighted further because it resounds very well.

I wanted to talk very briefly about resources because it had been mentioned a few times here the CARE Program is flat lined if that and other Federal resources are also not likely to increase.

I would like to see a little more emphasis in the Plan in weaving together the resources of all the Federal family, for example you have mentioned it in the interagency working group but I think there are several opportunities that I have pointed out and some comments I filed that you could put in more emphasis on including the resources of other Federal Agencies.

For example, where you talked about aligning community based programs across the Agency, think about aligning them across the entire Federal Government because you know well that is where a lot of the money is.

On the CARE Program also it is evident that that is a very successful program, it needs to be replicated, doubled, tripled across as many communities in the country as possible. That cannot be done with Federal dollars or at least EPA dollars, so I would like to see some emphasis on experimentation with ways to weave together under some kind of Government structure all of the State, local, private business

resources available, potentially available to a community either through a SEPPs initiation or through one of the community based programs, 27 programs.

Try out some projects that are focused very deliberately on engaging all of these other folks not just in being part of the solution process without actually raising the resources to do the things and I know there are plenty of examples of that, I would just like to see more emphasis other than the Plan.

One final suggestion is to kind of following up with what John and Edith have said is to engage the states and the Tribes where they have the resources in putting together opportunities for communities to be able to work with the entire Government family, Federal, State and local in doing projects that engage all of their attention, technical skills and resources.

So, generally I just want to again say I think you have done an outstanding job, I think we have a big challenge in terms of how we increase the resources available to communities in this time of physical restraints, so I think we need to be very innovative and inventive in how to do that.

MS. YEAMPIERRE: Thank you. Nick?

MR. TARG: First turn on my mic, that is really part of the issue is how to be heard clearly, how to communicate the issue clearly, how to make sure this Plan is an ongoing document that is implemented across the Agency is devolved to the states and goes forward from one Administration to the next.

I would suggest that there are a couple of elements that could be added, some of them have been discussed and that is outreach to the business community, outreach to the states, create that kind of clarity, create the champions who will actually carry it forward.

Right now the Environmental Justice program is a discretionary program, it is a nice to have program and without those kinds of champions going forward with building that buy in from states for business industry, from the Environmental Justice and the mainstream environmental communities I think challenges will be encountered downstream.

Another issue that will help with the sustainability of the program, I believe, will be to identify specific outcomes. Presently there are goals and deliverables and time frames, which are certainly very useful, those are markers of things done and that is essential.

But to be able to quantify what the expectation is, what those outcomes are really creates the goal to shoot for. In addition to that creating the metrics and then backing up into the metrics creating the tools that allow for measurement and Assistant Administrator you have been one of the really great leaders of the issue of Environmental Justice and you have a 20 year history of dedication probably more to the issue of Environmental Justice.

The Inspector General came out with the report asking where has the stimulus money gone? Has it gone to low-income? Has it gone to people of color communities? I think based on the IG's report the answer was the Agency doesn't know and doesn't have the infrastructure to be able to describe where those funds have gone.

Without having either the outcomes to be measured or the metrics to go forward to measure them, it is going to be difficult to know when the goal of

Environmental Justice is going to be advanced. Similarly in going to Sue's point, it creates a reporting out opportunity, this is what we have done and this is how we can make it better and this is where the emphasis should be and this is where the goal has been achieved.

So again, I compliment you on what is a truly difficult challenging and rewarding task that you have embarked on.

MS. YEAMPIERRE: Okay, Teri? We are doing really great, we have three minutes to go so Teri you are our last speaker and then we will take some comments from you if there is something you want to - -

MS. BLANTON: So, I echo everyone else in thanking you about this and the work and I think that things that jump out at me the most from an impacted community was building strength in the technical capacity of agency scientists on conducting research in partnership with impacted communities and translating research results to inform the change in the communities to help the communities understand the science a little bit better and therefore they can participate better in the permitting process.

If they understand the science then the couple pages before that was to enable disproportionately burdened communities to have full access, full and meaningful access to the permitting process and to develop permits.

So I think for the communities to better understand the science and what is going to happen to them and how this permit will affect them is one of the most important issues on these pieces of paper because the permitting is very important and for them to understand what they are going to be exposed to and how it affects their everyday lives.

Also one of the most important things is the non-compliance and what do we do about non-compliance? Do we allow companies to continue to pollute communities and most of the time they would rather not follow the law and pollute communities and pay a fine rather than to pay for the expense of doing things correctly.

So I think to think about non-compliance and Environmental Justice in non-compliances is a very important issue and educating the communities about what they are being exposed to and how they can participate because lots of times when permitting or rule making is going to happen in my region of the country then you have the powers that be in the media talking about how this rule changed or the permit will actually destroy their jobs when in fact that is not the reality and the communities being impacted are not learning the truth about what exactly these rule changes or permits will do for them.

So I think helping the communities that is being impacted understand the science and to take it on for themselves is the most important issue about all of this. Thank you.

MS. YEAMPIERRE: Teri, I believe that Assistant Administrator Giles is going to talk about compliance when we come back from lunch and can you share for the benefit of the public the community that you come from?

MS. BLANTON: Well, I come from the Appalachian Mountains and we are dealing with mountain top removal and existed strip mining for 1.2 million acres of some of the most diverse hardwood forest in the world have been blown up and reduced to rubble and in my state alone over 2,500 miles of streams have been impacted by

mountain top removal and valley fields, which is leeching selenium and manganese and other heavy metals into the drinking water.

Just looking in the past couple of months, looking at some non-compliance fraudulent DMRs, Discharge Monitoring Reports, over 30 some thousand Clean Water Act violations in just in my state alone.

MS. YEAMPIERRE: Thank you. So, any comments Lisa?

MS. GARCIA: Yes, so I will quickly try to address a few of them but first of all I guess we collectively at EPA will say thank you for all your thanks but we are going to move on from there.

We wouldn't be in this business I think if it were easy or simple, so we recognize that it is a challenge, we recognize and to the Administrator's credit she has basically challenged us to continue to work with communities and the NEJAC and everyone to really get through some of these tough questions and just to say that obviously we do need those champions that you have all kind of mentioned either on the states or in the communities to continue to support us and work through these issues and educate us on some of the solutions that are out there.

I think we have gotten some great comments on the pledge, on the outreach, on these partners and champions so we will definitely take that back and then speaking of one of the challenges, I think if the Administrator were here she would agree that the Title VI Program is broken and that is a serious concern of hers.

She has tasked her senior staff, her senior leaders, us, to fix it, to find a way that we can, and I know Vernice and Nicholas and others have met with us, but to really figure out how we tackle the serious issue of the cases that have not been addressed and the - - I guess I will just say it but like the dysfunction throughout the office.

So we are looking at the Title VII issue, the Title VI issue, basically all of the Office of Civil Rights and there was the Deloitte, it is an independent study done by Deloitte or assessment I guess, that is up on the web so we are being transparent about the process but we are moving forward.

I think we have committed to certainly continue to work with some of the stakeholders out there like the American Bar Association, we have heard from them, and others to really help us grapple with some of the legal issues but also some of the real concerns from communities that maybe were highlighted in Title VI petitions and how we collectively as EPA begin to work with those communities and address some of those problems. So anyway, we would agree with that that this is a serious issue and we need to address it.

Then just quickly on the legal issues, I think that Cynthia, Mathy and I and if Scott Fulton were here we also take the comments on the statutory and legal authority seriously and we are looking at that and I think there is a real commitment from all of us to continue to address that and beef up that section as you are all mentioning it is only three pages now but we are continuing to work, don't take the three pages as a lack of interest or a lack of dedication to get through that once again challenging question and issue. So I just wanted to say that quickly.

And then we take the comments on simplicity, we also want it to be simple for the states that I came from DC and trust me it worked when we dealt with things in a more simplistic way, so I appreciate those comments.

Once again on the challenging side really getting to the invisible communities and helping to educate them and work through the many issues, they don't call it Environmental Justice they may call it all of our children have asthma or there are many polluting facilities in the area and so there is a real commitment once again from the Administrator and from all of us to continue to challenge ourselves and get out to the communities and Father Vien you were certainly a huge help in assisting us with that certainly during the BP spill and so we will continue to work on challenging ourselves and getting to that point where we have improved. Thank you.

MS. YEAMPIERRE: Mathy?

MR. STANISLAUS: I will just quickly add, you know I want to thank you but as you all know a change in Government requires you to - - - I think we need to collectively work on the measurement of success because I think you all hit the nail on the head, unless we have the measurement of the success it is not going to survive into the future and we all know the budget times where we are so we have to collectively work on how do we measure the implementation of success of what we are trying to do here.

Also, we have done some outreach to states in terms of this, we do need to do more on that I have done some outreach to some of the business groups but we need to get either buy in or criticism frankly from those sectors if we are going to be successful.

So my commitment is kind of continue that kind of outreach because it doesn't happen unless those key stakeholders are at the table and either appreciate what we are trying to do, so thank you.

MS. YEAMPIERRE: Thank you. So before we break to lunch just a few things before anyone steps out, how many people in the audience are at a NEJAC meeting for the first time?

(Show of hands.)

MS. YEAMPIERRE: I just want to share with you that under previous Administrations you didn't see Assistant Administrator Giles, Assistant Administrator Mathy Stanislaus, Lisa Garcia, top ranking EPA officials at every NEJAC meeting.

There is a commitment that is coming from the top to integrate Environmental Justice into permitting and to rule making, making sure that all the other agencies are also engaging in Environmental Justice.

So for those of you who are doing it for the first time you may get a little spoiled and think that is the way it is, it hasn't always been this way, it is a major change in shift in really addressing the needs of low-income communities and communities of color, communities that really have been burdened for so many years and really need a lot of attention.

So I want to share that and I want to thank you again a heartfelt thank you for your commitment, for your passion and for your integrity in always providing us with up-to-date reports on how things are going in terms of how you are addressing our community.

In terms of some things that I need to remind folks about, if you haven't signed up for the public comment period please do that. I also want to remind you that the Federal Interagency Working Group Stakeholder dialogue is scheduled for Thursday, May 12th at 1:00 p.m. it is in the ball around the corner.

If you know anything about me is that I am compulsive about being on time and we are already late, my husband is in the audience he can tell you I am crazy like that, so we have an hour from now to come back and so see you in a few. Gracias. Come back at 1:30.

(Luncheon recess was taken.)

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

(1:45 p.m.)

MS. V. ROBINSON: We are going to introduce our next speaker.

MR. RIDGWAY: Good afternoon everybody, thanks for coming back and I hope you had a good lunch. I am going to allow our Chair enjoy a lunch since she was working throughout the lunch period and we are going to get started with our session on Plan EJ 2014 regarding Enforcement and Compliance Implementation.

We have with us Cynthia Giles, the Assistant Administrator for the Office of Enforcement and Compliance. Just a quick review of Cynthia, prior to her confirmation as the Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, Cynthia served as the Director of the Conservation Law Foundation's Advocacy Center in Rhode Island where she drafted legislation to control greenhouse gases, influence the State to adopt stringent emission standards for cars and defended those standards in court.

In her 30 year career, Ms. Giles has prosecuted violations of Federal and environmental law as an Assistant U.S. Attorney led the Bureau of Resource Protection in coordination for EPA Region 3 in Philadelphia and Ms. Giles has a B.A. from Cornell University and a J.D. from the University of California Berkeley and an M.P.A. from Harvard Kennedy School of Government. Cynthia welcome. Thank you for coming.

Plan EJ 2014: Enforcement and Compliance Implementation Plan by Cynthia Giles, Assistant Administrator, EPA OECA

MS. GILES: Thanks very much. It is great to be here, I finally got my chance to talk with you about the many things that we are doing in using enforcement to advance Environmental Justice and I wanted to thank you in particular for the comments that the NEJAC sent to us on Plan EJ 2014 and the comments particularly on enforcement and compliance work and I hope that you will see a lot of the questions that you raised in those comments answered here.

This is I think you will find a tremendous amount of synergy between what we do in Enforcement and the attitude that the NEJAC brings to the work because one of the things I took from your comments is we want to see action, we want to see Environmental Justice in results as well as Environmental Justice in process and at Enforcement we are all about action.

So my plan here today is to give you some examples of specific things that we have done in specific communities as just examples, by no means can we give you the whole lay of the land of what we are doing in Enforcement. So, next slide.

(Slide)

MS. GILES: I always start with the Administrator who is setting a high bar in encouraging us to be addressing issues on Environmental Justice because it is the right thing to do and advancing Environmental Justice also helps to support the economic resiliency of communities. Next slide.

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MS. GILES: Just to put this in the context of Plan EJ 2014 we talked about earlier today, the five cross cutting focus areas of that Plan accelerating compliance and enforcement is number 3, so that is what we are talking about here today. Next slide.

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MS. GILES: There are four areas that we are thematic focus areas within Enforcement that we are doing that I want to run through with you today. They go from one end, the selection of the big picture, the selection of the work that we do nationally through how we target our individual cases, how we deal with the cases that we do have, the enforcement actions that we do bring and address Environmental Justice through those particular cases and a little bit about community engagement.

So on the selection of work from priorities talking about both our National Enforcement Initiatives and some regional focus areas that we have around the country in targeting, that is within a topic area that we decided to work in, how do we decide which cases to bring? Where do we look for the violations that are most important and that will help us advance dealing with the problems of differential burdens from pollution?

And then within the cases what are the appropriate remedies? So what are we expecting the facility that has been in violation to do, how are we going to address the burden that the violations have placed on the community in the past and then what additional things can we request and work with the facility to do that benefit the community.

Finally, doing a better job in the enforcement arena, engaging with the community in all three of those areas. So I am going to run through this quickly and then I am interested to hear your thoughts, comments and questions. Next slide.

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MS. GILES: So, I am going to go through these each quickly so starting with the selection of work and priorities. This probably goes without saying but let me just reiterate that the enforcement and compliance work starts from a violation, so there is plenty of environmental problems that are very important to communities, that the enforcement and compliance effort is not principally designed to deal with, so we deal with violations of the law and how those are affecting communities.

There is lots of other work, regulations, permitting, community engagement, lots of other things that EPA is doing to address environmental problems that don't necessarily involve violations, but the enforcement work starts from that. Next slide.

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MS. GILES: One of the principle areas that we looked at in figuring out how to advance Environmental Justice at the national level was thinking about which work that we would select as National Enforcement Initiatives would help us to achieve that.

So you may recall we had a teleconference with the NEJAC when we were selecting these National Enforcement Initiatives, this was well over a year ago now so the NEJAC had a teleconference where we got input from you as well as many other community folks who weighed in.

We selected six areas of focus for our enforcement work and how we picked those it needs to be an area where again where we think there is significant non-compliance and that that non-compliance is causing a serious health or environmental problem and we need to believe that we can through a national focus make a difference on this problem. So, we are looking for places where we can have large impact.

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MS. GILES: The National Enforcement Initiatives as you can see up here (indicating) I am just going to touch very quickly on those and the input that we got from you and from community groups in selecting these.

Under clean air, the largest sources of air pollution that effect so many communities nationwide, these are not usually just local impacts these are wide spread impacts, so coal fired power plants, cement, acid, glass manufacturing, these collectively account for a huge amount of pollution that affects heart disease, asthma, responsible for quite a number of premature deaths nationally. So that is an area, those are big facilities, big resources and we think we can make a big difference there.

Illegal emission of toxic air pollution, fence lined communities, which we talk a lot about here, this is something that I hear about all the time when I am out talking with minority groups is the concern that communities have about the emissions of facilities that are nearby, so a second area of focus toxic air pollution.

In clean water, keeping raw sewage out of the water and related to this is keeping raw sewage out of people's basements and streets, so these are places where people can be significantly exposed to pathogens and with serious health implications and animal waste likewise, we spend a lot of money in this country trying to deal with the issues of human waste, we have a long ways to go but we have made a lot of progress.

Animal waste we have three times as much animal waste as we do human waste generating in this country and nothing like the kinds of controls and systems for addressing it. So, that is another area that we are focused on and was one of the things that I recall with the NEJAC that was emphasized to us especially rural communities and often poor communities are concerned about the potential impacts of their drinking water from these very large industrial scale animal facilities.

Clean energy, to remind us all that clean energy does not just mean CO2 that as we developed our domestic sources of energy, which we need to do for a host of important reasons, we need to make sure that it is done in a way that is in compliance with the law and protects human health and perhaps the environment.

This National Enforcement Initiative is focused at this point on land based gas extraction, which is a topic of a lot of national dialogue now and we are looking at ways that we can through out enforcement authorities make sure that those practices are done in a way that protects health.

Finally, mineral processing operations and making sure that those are done in a legal way. This is primarily, although by no means exclusively, an issue in the Southeast portion of the United States. If you have never seen photographs of some of

these mineral processing facilities, the scale is stunning. These large, large holding ponds of hazardous waste frequently over drinking water aquifers and the potential is there and we have seen instances of sink holes developing in these and the hazardous waste going directly down in a fantastically huge volume into drinking water aquifers.

So this is an area that we are for protecting drinking water sources also an area of national focus and then we have some regional and geographic priorities, which I would be happy to talk to you more about. So an example of - - next slide.

(Slide)

MS. GILES: In addition to the National Enforcement Initiative, an example of a regional focus initiative where enforcement and compliance plays a big role. The 710 corridor in California this encompasses the area that services the L.A. and the Long Beach Ports, which are two of the largest Ports in the country.

The communities that live across this transportation corridor are predominantly low-income and have been burdened not only with the transportation waste but many other sources of pollution. So, EPA working with the State and work in local governments targeted this as a geographic area of tremendous EJ importance and the enforcement component of this is we have partnered with states and local governments to go out and take a look at some of the largest facilities and some of the most significant facilities and see if they are in compliance.

We have been looking at metal finishing facilities just to pick one example where there can be a pollution burden to local communities. Some of you may have heard about this as the bus tours that the various levels of Government went on with community groups in this area to go around and have the communities tell the Government folks what are the polluting facilities of concern, what do you know about what is going on in these communities and help us identify the targets that we should be looking at.

So more than 70 facilities inspected as a result of this effort and 13 enforcement cases to date. Next slide.

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MS. GILES: So moving onto after we picked an area to work, a geographic area to work, a topic area to work how do we target and figure out which facilities we should be looking at. Next slide.

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MS. GILES: What we do here is take a look at the data that we have available about where the burdens are the greatest, what we know about the violation status, which is not always complete and taking a look at using those tools together, what we know about environmental burden, what we know about the demographics of the communities effected, where are some places that it makes sense for us to look.

So one example of an area in which we are doing this is in the RCRA Corrective Action Program, which for those of you who don't know this is sort of a corollary to the Superfund cleanup so it is the number of hazardous waste sites in conjunction usually with operating facilities where there is some risk of exposure to the community and we are working to try to get those facilities cleaned up.

There are quite of few of these nationally of these sites to look at and we are looking at Environmental Justice as part of our targeting effort there to see where

the potential impacts are greatest so we can focus our efforts there first and likewise with Federal facilities doing the same thing. So an example - - next slide.

(Slide)

MS. GILES: This is a map to try to show you sort of before and after of some of the targeting efforts we do and what the impacts can be. So if you can see here there are quite a few refineries in this vicinity and the blue that you see there is the SO₂ emissions that are over the standard as you would see there in the left corner and you can see there are quite a few residential areas to the south of the facility. Next slide.

(Slide)

MS. GILES: What you can see here is - - unfortunately the scale of these is not, maybe you can go back one, so if you go back one slide, back, one more, there you go. So, the orange outline that you see in the middle of the blue there, that is what you are going to see on the next slide.

This is an example where we try to say, well where do we see emissions that could be affecting health that are of concern and how can we reduce those after the conclusion of an enforcement case? So you see that there are residential communities covered by that blue area and the next slide hones in on this to show you how significant the reduction is of the area exposure as a result of these resolutions to the enforcement cases, so substantially reduced. Next slide.

(Slide)

MS. GILES: Substantially reduced there, so effected area no longer includes in this case the residential community. Next slide.

(Slide)

MS. GILES: Another example where there was a industrial facility, a food company that was discharging wastewater into the sewer system and the sewer system could not handle all of this flow that they were getting from this industrial operation.

As a result of which the sewer system failed and that resulted in lots of significant discharges of raw sewage into the rivers because the sewer system was completely overwhelmed with the wastewater that they were getting from that industrial facility.

So the Shawnee Tribe had pointed this out to us that they had observed this untreated sewage flying past there and what a significant concern this was. So, one of the things that happened as a result of this targeting this enforcement action because of concern about the particularly the impacts on the Tribal area and recognizing that the Tribe used this stream for fishing and concerned about what the health implications were there both cleaned that up and required the facility to come into compliance so that the sewage treatment plant could operate as was designed.

But also to pay as part of a step in that case for a restocking of fish so that the stream could then be used as the Tribe had been using it before and working closely with the Tribe as part of our outreach to make sure the fish species and the approach that we were using and the company was using made sense. Next slide.

(Slide)

MS. GILES: So once we have identified the topic areas in which we are working and we have targeted the facilities that we think are contributing most to public health and environmental impacts, how do we handle the actual case itself? So, next

slide here.

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MS. GILES: So, three different categories if you want to put it that way into which this work falls. The first is, and sort of seems like goes without saying, the first thing is come back in the compliance of the law, okay, so that is like a fundamental that of all of our enforcement cases you have to comply with the law and that is part of the injunctive relief.

Secondly, one of the things that we are increasingly focusing on as a part of our injunctive relief, now this is not as part of a voluntary agreement with the company, this is part of the what can the Court order you to do is figuring out some ways that the violating facility can take action to compensate for the pollution burden or risk that they have imposed on the community as a result of their violation.

So getting companies to do more than is come back into compliance but to take some action that recognizes the reality that for the last five years, 10 years they have been polluting the air, polluting the water in a way that is not allowed by the law.

So to take further action to clean up, to reduce their emissions below the level that would otherwise be required you can never go back and undo the pollution that you have imposed upon the people who live there but we can try to do something to help compensate for it.

The last thing, which we know we have a lot of discussion about here is the supplemental environmental projects. I did want to emphasize that supplemental and environmental projects, SEPs as those of you who are in the lingo talk about is not the only way that we have to deal with community burden. So, I just wanted to emphasize that we are trying to focus more on mitigation and required injunctive relief to address community burden and not just on SEPs, which are of course strictly voluntary.

So we can work with the facilities who are violating to encourage them to do SEPs and to engage in the community about that, but we cannot inquire those although it is an opportunity for many facilities to do something worthwhile for the community and we encourage that but we also have these other tools.

Secondly, in our criminal cases we do both civil and criminal enforcement in our office. We have a comparable thing and the crime victim is right to act in looking at ways to compensate the community for the past violations.

And then we are also working with other Federal Agencies and Governments as we do our enforcement exercise, we frequently with states and partner with states and are co-plaintiffs with states in our enforcement cases and they often use penalty monies and other things to do community projects.

We also to the point that was raised earlier, we do work with DOJ all the time, Ignacio Moreno who is my counterpart at DOJ in environmental enforcement is a huge advocate for and ambassador for the need to use enforcement to advance Environmental Justice and we work very closely with DOJ on these Federal cases. Next slide.

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MS. GILES: So a couple of examples here, you may have seen a supplement that EPA announced about three weeks ago now, this is an example of big, big huge cases that can effect lots and lots of communities at the same time.

The Tennessee Valley Authority is a big energy company that operates in

multiple states, lots of coal fired power plants and this settlement that we announced with them a few weeks back, they have agreed to undertake pollution controls and some plant retirements and some repowering in the range of three to five billion dollars of investment by TVA to accomplish this to dramatically change their air pollution profile in this region.

This is going to affect millions of people at the same time and the amount of pollution that is going to be reduced from this, hundreds of thousands of tons of serious pollution every year is going to be taken out of the air as a result of this.

In addition to that, TVA agreed to spend 350 million dollars in environmental projects to benefit the community, so investments in energy efficiency, which saves people money and especially they are focusing on low-income communities for these efforts.

It saves people a lot of money, as we were talking about energy efficiency to many it is a win-win-win all around. Those are power plants they don't have to build because the tower that they don't need, air pollution that never happens, savings to the community and to the consumers from those projects.

And two of those are going to be what they are calling extreme energy make overs, so they are going to go in and do every energy efficiency thing they can think of and these two low-income communities can really have a dramatic effect on energy consumption and then lots of other projects are included in there including some clean diesel and electric vehicles and many other things.

Here is an example of one of the big, big cases that we bring that effects lots of communities at the same time. Okay, next.

(Slide)

MS. GILES: Another example, Cleveland on the clean water side. This is a recent settlement that we had with the sewer district that runs the sewage treatment system for the City of Cleveland and they are undertaking a lot of work here to reduce the amount of untreated sewage, which has regularly discharged in that city and is going to have a lot of environmental impact.

One is that there is a beach that is used by some low-income communities, in that vicinity that has been heavily impacted by these repeated sewage overflows, so either they cannot use the beach or people were exposed to things that they shouldn't be and now that problem should be taken care of.

The other thing that is interesting about this settlement and I think also reflective of the new attitude about engaging with the community and coming up with creative solutions that we see in the enforcement arena is looking for abandoned properties in the City of Cleveland that were previously blight on the city's social and economic structure and turning those into storm water treatment areas so that we reduce the amount of pollution, we do so in a way that is energy efficient and we create economic drivers in greenspace for communities.

So again, looking for the examples of multiple wins at the same time. Next one.

(Slide)

MS. GILES: One other quick example air pollution in Northern Indiana, again a large coal fired power plant system and they are spending about 600 million dollars to implement this project to reduce pollution and come into compliance with the

Clean Air Act but they have also agreed to spend 9.5 million dollars on projects for the communities.

This is an example of a kind of thing I was mentioning earlier is that looking for the things that can be done in the community that have significant health impacts and that the company is willing to pay to address, so clean diesel retrofit eliminates a lot of particular pollution, which we know is a very important source of health concerns in the community, wood stoves is another one, wood stove change outs can have a dramatic effect on the community.

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MS. GILES: And then lastly community engagement. We are trying here to in the enforcement contacts is a little more challenging than I think some others in terms of being able to engage with the community because there is court confidentiality issues that we need to be sensitive to but we can do more than had been traditionally done. So, next slide.

(Slide)

MS. GILES: So we are working here on figuring out ways to engage the community about what kind of relief is needed and what kinds of projects or mitigation efforts we should be engaging in. Here I want to emphasize again how closely we are working with DOJ.

So DOJ represents us in court when we go into Federal Court and we are working with them about ways we can include the community and some of the remedy design questions as well as provide some information to the community so that people can know what is going on. Next slide.

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MS. GILES: So an example is a recent case that we did with DOJ for a large company that operates refineries in two states. We talked here with the community about what are the things that they are most concerned with over and above of course the fundamental thing coming back - - - with the law that is the baseline that we have to have in all of our cases.

What we heard from the community here was concerns about what is in the air that they are breathing? How do they know the facility is complying? So one of the facets of this agreement, which was new and which was a great idea was an agreement by the company to put an ambient air monitor in the community, not on the facility property but in the community and to maintain and operate that monitor and then post the information on the web so that anyone can see what is the ambient air quality in this community and they are also having regular meetings with the community to explain what this data means and to answer questions. Next.

(Slide)

MS. GILES: I just want to touch on quickly, not everybody is aware that we do criminal enforcement as well as civil, so I just want to emphasize that we are thinking about these things in our criminal enforcement work too. Next slide.

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MS. GILES: We are thinking about this both in terms of targeting of where we focus our criminal efforts, we are looking for the things that are the most serious health and environmental impacts as well as some people call it the lying, cheating and stealing that is criminal.

We want to make sure that people don't lie about the kinds of pollution that they are releasing into the environment and so we are always quick on it when we see evidence of that because the integrity of the reporting system is really central to both protection of health and community confidence and what is going on at the facilities.

Criminal cases are important for deterrent impact because people always talk about the concern that fines and penalties can be passed along to consumers or customers, prison time cannot be passed along so if you are a company executive and you go to jail, you do that yourself, nobody does that for you.

So criminal cases can be very powerful incentives to have facilities comply with the law and in our criminal world we are also very much encouraging communities to contact us, we have a website for people to report violations or concerns that they see and we often hear from people about this. Next slide.

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MS. GILES: Example case, this is something as an inspector you hope never to see when you go into a facility. This was actually on the wall in one of these McWane facilities when we went to look two of the inspectors helped.

So this was a very, very serious problem that we saw across this whole company's many, many facilities very serious criminal violations of air, water, RCRA and other laws. So we got convictions on these cases, five separate cases, which involved as you can see there two fatalities and these are very serious violations.

So, there was a considerable amount of imprisonment, jail time that was done there and a significant amount of fines but we had a parallel also a civil matter in which this is a company who invested in environmental management systems to turn their corporate performance around as well as agreeing to spend money on projects that benefitted the communities in which some of these facilities were located. So, next.

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MS. GILES: So the criminal program we followed the same principles that I just outlined for civil as part of our Plan, EJ 2014 Implementation Plan that you have seen is making sure that we are focused on the most important cases, looking at ways to return to the community when we find criminal violations ways in which the defendants can attempt to redress some of the impact that they have had and using the Crime Victims Rights Act to increase restitution.

So I just wanted to touch quickly before closing on the state oversight, next slide.

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MS. GILES: Because that topic has come up here quite a bit. Next one.

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MS. GILES: Of how we are working with states and to advance Environmental Justice through enforcement. Let me just say first that one of the important ways that we do this is it is important that the state have overall a strong and vigorous enforcement program.

So if they are out there doing the enforcement job across the board that is to the advantage of all citizens and everybody in the whole state, so one of the things we focus on is doing the oversight job and making sure that the states do have a strong and vigorous program.

Having said that, we also are working with them states, which are in a very quite a bit in how far along they are in thinking about Environmental Justice issues. We are engaging with states through the Performance Partnership Agreements and other ways to help states and to learn from states who are far ahead on this how we can do a better job on targeting and designing remedies and working with communities, like the enthusiastic community that is next door.

MS. YEAMPIERRE: Those are actually our young people just making a joyful noise.

MS. GILES: That is wonderful, glad to hear it. I was surprised actually, I thought well - - . The strength and oversight is a big part of what we need to do in enforcement programs so making sure that the states have vigorous enforcement programs and we are not of calling the question on that.

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MS. GILES: And then lastly, the last slide is things we are doing and the transparency side of things that help both improve results and communicate better to communities and give communities the information they need to take their own future into their own hands.

One of the things that we are doing is moving towards, as a whole Agency but we are doing this enforcement in particular, in moving towards electronic reporting and I know when Teri was mentioning earlier about the concerns she has about compliance and mining and Appalachian and the issues that we have certainly seen there.

One of the reasons that we have gotten to the past that we have on those issues is that the reports that were filed by mining companies about their compliance of the Clean Water Act were filed in paper believe it or not up until the present day 2011.

People are filing these reports that are required on compliance on paper and we have gone into some State offices where there are big stacks of paper in the corner of these reports that have been filed and some cases self-reporting, years of violation and EPA didn't know about that because we have to go out into these individual field offices and read through these stacks of paper to find this.

So as an entire Agency we have to get into the current century, at least if not the current decade and move towards electronic reporting because it does two things, one is that it enables us to know what is going on and to be able to see readily what is going on. Facilities know we can know what is going on, so that makes a big difference in facility compliance.

The other thing it does it enables us to post that information, so we can put out there what we need, what the facilities are reporting so that the community watchdog groups can know what is going on with the facilities in their own community.

The other thing we are doing is posting more information online that we already have available to us within EPA's data system, so we are about to go live in I think two weeks with a new tool for drinking water compliance. So what we have drinking water compliance nationally is going to be available to the public and searchable database online.

We have also done a lot more with putting stuff out, that little map you see there of the country with different colors on the states, we have a state dashboard where you can go in and take a look at your state, how many water facilities do they

have, how many have they checked for compliance of those, how many were in violation and of those what happened if anything and the states really vary in the degree of vigor that they apply to these programs. So you can online and take a look at how your state is doing. So in summary, last slide.

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MS. GILES: That is the quick world wind tour through what we are doing in Enforcement and Compliance and Environmental Justice is permeating throughout the work that we do from the highest level of what work should we be doing as an entire agency and what strategy should we be pursuing to, how are we going to deal with this particular case and the resolution of this matter in a way that acknowledges the burden has been placed on this community and attempts to redress that.

We have both in our Enforcement portfolio in addition to civil and criminal cases, we have on the civil side both judicial and administrative cases. So the judicial cases are the ones mainly that I talked about here, the really, really big cases that we worked together with DOJ on.

We also have lots more administrative cases than we do judicial cases and we are looking at both of those for ways we can advance Environmental Justice.

I just wanted to end with so that you can see how Government wide the interest in environmental enforcement is becoming, this past fall we had the first ever, first ever in the country a meeting of all of the U.S. Attorneys in the country met together in Washington to talk about environmental enforcement.

That had never happened before, so it was a great day, we were very excited, the Attorney General was there, the Administrator of EPA was there and the 94 U.S. Attorneys were all present and we spent the whole day talking about civil and criminal enforcement of the nation's environmental laws.

I was thrilled, I guess it is in the category of be careful what you wish for so now there is all this demand I am getting from the U.S. Attorneys were are the cases, we want more investigators so we are doing our best to respond to that.

So we have learned a lot about how to incorporate Environmental Justice and we have a lot more to learn. So, I look forward to your comments, questions and thoughts.

(Applause.)

Questions and Comments

MR. RIDGWAY: Thank you, Cynthia. Questions from the Council, I don't see any cards up. Oh Sue, number one go ahead.

MS. BRIGGUM: This isn't a question but it is a comment, I remember the conference call we had when you laid out the enforcement priorities and we had an awful lot of input and I have to admit I am kind of overwhelmed at the degree to which you clearly really listened to us.

That was so enormously reflective of a lot of the input that we gave and that we received in the years you have been coming to the meetings and staying to hear public comment, just a congratulations you are an obviously incredible listener and then you implement.

MR. RIDGWAY: Thank you. Stephanie?

MS. HALL: Thank you, Stephanie Hall with Valero Energy. I echo Sue's comments entirely and just one question, I am really excited about the interagency, the work of the interagency groups and just the cross agency collaboration.

You mentioned a reference, fence lined communities, when you were giving your presentation and one of the things I thought about, I was taken aback to the many instances when we have public housing along the fence line of industrial operations.

I was just curious if you are seeing any movement or discussions or efforts to deal with that situation, which reaches into HUD and other more land use type discussions, I don't know if you are seeing any momentum in that regard because that to me seems like a very complex delivery that requires a lot of parties at the table.

MS. GILES: Yes, I would second that I am very complex but yes we are talking to HUD and I think Lisa Garcia was just meeting with HUD actually this week or last week to start talking about some of these challenging questions.

I would be interested to hear your take on how EPA can do a better job engaging with companies that operate in close proximity to communities and working on ways to find solutions that make sense for the company but also do a lot to reduce the pollution burden in the communities. I would be interested to hear your take on that.

MS. HALL: Certainly. I think it is much of what you said in some respects to thinking outside the box and at least in my experience Environmental Justice has been more about investing in the community, investing in the quality of life for the people that live in the community.

I think that there are to be operationally compliant is a given, it doesn't always happen but it is certainly something I think every company should strive for. But once you do that I think that there are things that you could do beyond that to actually invest in that fence lined community and it takes communication between both the community and the company and to have the Government interject in that can be a good thing.

In my experience we have had a lot of success in dealing directly with the community and it is good to have an identifiable leadership in that community that you can reach to, I think it is important to make that alliance because those are the individuals that can best identify for the company what the needs are in the community.

So, we have seen a lot of success in that regard. I think sometimes companies may be a little bit fearful of the Government coming into that equation for fear that it may bog down the process of moving forward with some creative solutions and so I think if you have everybody come into the table with an open mind, a willingness to listen and to be proactive because really it is something I think Environmental Justice is something that has to be taken on head on and there is still a perception out there that you just want to shut us down.

So, if we can somehow overcome that and again take some creative solutions but I think we are on the right foot, it is just making it an inviting platform for business and industry as well because I don't think that is the perception that all businesses have that it is an inviting platform of open communication to work towards some creative solutions.

MR. RIDGWAY: Lisa, go ahead.

MS. GARCIA: Thanks. So I just wanted to add we did have a meeting

with HUD in Washington, DC and started talking about one actual situation that came to us from an area in Texas in Port Arthur but talking about public housing and that HOPE VI does retrofitting but then there are other tracks that they are beginning to look at.

They are looking at community grants so that a Mayor or municipality can begin to do planning on what would either retrofitting the public housing or also moving, I know that there is a big issue with fence lined communities moving and so we are talking about getting that information out.

We didn't know that Mayors could actually on their own ask for assistance, so there is a lot of information out there that we are going to try to make sure that we get to communities working with HUD and other agencies on what issues can be done, so I wanted to mention that.

Adolfo Carrion who is the Regional Administrator for HUD here in this area will be at the meeting here on Thursday, the Interagency Working Group for Environmental Justice and that is one way that we are trying to reach communities and get that information out there.

MR. RIDGWAY: Thank you. We will have Savi and then Teri and then Lang and then Judith. Savi, please?

MS. HORNE: Hi Cynthia, I just want to commend the EPA for including as part of its national enforcement looking at the animal waste and its impact on the nation's water but coming from the Southeast we are still very disappointed that the Agency hasn't really moved more aggressively, I am just using words cautiously, to look at CAFOs under the Clean Air Act, which is a source of contention for our communities as well, not just clean water.

I think by not doing so you have left the door open for some states to consider composting and incineration of animal waste as part of their renewable energy platform, which to us further compounds the problem, so I mean I would just like to see some movement on the CAFO question because I am calling it a question because it is hanging out there.

MS. GILES: Well, there was as you are probably aware an effort a few years back to try to figure out what the air pollution issues are associated with CAFOs and an agreement was struck to get more information from facilities and have them agree to have the Government come in and do sampling, et cetera.

So we have just collected that data so I am hopeful that pretty soon the science folks are going to come forward with what they have learned from that sampling and what that means for what EPA should do going forward.

MR. RIDGWAY: For the benefit of the audience, CAFOs are Concentrated Animal Feeding Operations. Teri?

MS. BLANTON: So, Mark Twain just said if the end of the world came he wanted to be in Kentucky because it would be 20 years later (laughter). So, you know considering we aren't up-to-date and we have all these Clean Water Act violations and our people are being subject to poison water not only from their own wells but also from the municipal water system.

Knowing that we have all these Clean Water Act violations and then we also have all of the run offs from the valley fields, how do we protect the communities and how do we keep the communities from drinking this poison water and how do communities or low-income communities, actually, access clean water while these

companies are in non-compliance and no one is helping them or no one knows about it?

MS. GILES: Well, there is a number of different things that we are working on now and I think that one of the things that the act of citizenry and Appalachia has succeeded I think in doing is getting the attention of State Governments as well and we have seen a lot of increased focus and attention on the issues of Clean Water Act and Drinking Water Act compliance in those states.

So, EPA is doing its own number of investigations in those areas and the State Governments are really doing a lot more, which isn't to say we don't have a long way to go but I think more attention is being brought to bear on this question than had been.

As we have talked about before, Teri, also is about the with respect to the mountain top mining efforts and this is wearing one of my other hats is in addition to EJ and Enforcement I also have NEPA and in NEPA and in the Clean Water Act arenas EPA has been looking very carefully at how those facilities are impacting communities and what we need to do in terms of setting standards and expecting what kind of analysis we are expecting under NEPA for other Federal Agencies to undertake.

So, there is a lot of things on their way, we are by no means are we all the way there but I think there is a lot of work going.

MR. RIDGWAY: To follow-up on this point Elizabeth?

MS. YEAMPIERRE: I just want to mention that Special Assistant to the Region Director of Region 4, Brandi Jenkins is here if you could raise your hand and also Denise Tennessee who is the Acting Director of OEJ in their region, okay.

These two people cover Tennessee and Kentucky, no I am sorry, Kentucky and North Carolina so I just wanted you to know who they are so you can talk to them later.

MR. RIDGWAY: Thank you. Lang?

MR. MARSH: Thanks. I was very glad to see the attention paid particularly in your presentation on the goal of the states and enforcement around issues effecting EJ communities.

I know it is complex and challenging and I just wondered if you and Judith, I wanted to give a shout out to my old friend Judith, would you speculate a little bit about what further things might be done to encourage states to become more engaged in enforcement activities around these communities?

MS. GILES: Well a couple of things on that, one is that as I mentioned before I think that just having states do the enforcement job in general is important, so every community needs compliance with the facilities in their community and we need to make sure that the Governments are paying attention to that.

Secondly, we are having a lot of conversations with the states about how to do this. One of the things that EPA can do is to be a little less rigid about the expectations that states do certain things in a certain order at a certain time because that has driven states especially in area of declining resources to feel that they have less discretionary authority to address some of the bigger health issues because they feel like their grant commitments are that they do certain things now.

We want to make sure that they are doing adequate amounts on these other topics though, so the challenge to hit the right balance there but we also want to be able to have the State and Federal Governments address the most significant health

threats. So that is another area that we are working on.

And then thirdly I would say it is engaging us with states on the Enforcement Plan, so if the Regions sit down with the States to say, well what are your biggest environmental problems and let's look what the data shows and reach an agreement between a State and Federal Government about who is going to do what to address those problems and have those be reflected in the annual plans that we do with the states.

MR. RIDGWAY: Thank you. Judith?

MR. MARSH: Thank you.

MS. ENCK: So Lang to your point, it is great to see Lang Marsh we met like 25, 30 years ago and I was in awe of his work back then. I am quite concerned about the budget cuts and how it is affecting states. I think the states and EPA are getting to a good place depending on the state to be honest on how to coordinate Environmental Justice Enforcement.

But New York DEC for instance has lost 20 to 25 percent of their staff in the last three years so that is a stunning reduction in as they say boots on the ground in a short period of time. So we are going to be very challenged across the board and particularly how to get a focus on what has often been marginalized communities where grassroots groups don't have the money to hire their own lawyers, their own technical experts organized in the media, et cetera, so it is a real challenge.

I wanted to ask Cynthia a leading question, if you could speak to EPA's enthusiastic new commitment to green infrastructure in the context of CSO enforcement and also what it means in terms of livable communities and how you are marrying those issues like you did in Ohio. Thank you.

MS. GILES: So you mean more like a softball question (laughter)? As Judith points out, I would say green infrastructure is the water equivalent of energy efficiency.

So as we have talked about in the air arena, energy efficiency is a way to reduce pollution, save money and create jobs all at the same time, green infrastructure is the same thing in the water side.

What green infrastructure means is that we have historically approached these problems of dealing with all the rainfall especially in an urban environment where it is very congested and all the sewage and the reality that in some places in the country that the piping systems for sewage and storm water are the same system and so that when it rains even more than a little bit you get discharge of raw sewage in best case into the waters, worst case into the backyards and basements and homes.

So green infrastructure is saying let's take a step back and re-envision this, instead of thinking about how are we going to build the pipes and hardware to think of our storm water as waste let's re-envision that as a resource and to think of building places where we can recharge storm water into, instead of just shipping it out into the ocean or we can recharge it into the aquifers that serve for drinking water, we can take it out of the storm water systems that result in sewage overflows and we can do so in a way that is much more energy efficient.

So, many people are not aware that one of the most significant energy consumers in any community is the pumps that move the water around. They are giant, giant energy consumers. So if we can find ways that reduce the amount of water that

we have to pump around both for drinking water and for clean water we can save a lot of money and a lot of air pollution that is associated with generating that power.

Not to mention which instead of all underground pipes and systems that people are largely oblivious to except when they back up into their home we can create green space that are community amenities and jobs that cannot be exported because they are about building these systems right here in your own community.

So green infrastructure is definitely a way, it is not the complete answer to every problem but it is a significant part of the answer and I think more and more communities are embracing this as a way that they can save money, save energy and have a much cleaner environment.

MR. RIDGWAY: Thank you. Nicholas?

MR. TARG: What a great overview and what a lot of work you and OECA has been doing over the time. I was really impressed by the examples of both geographic initiatives that you are undertaking, subject matter initiatives around subject matter that typically impacts Environmental Justice communities and also the examples of relying on information that comes to the communities that really just about rounds it out.

Similarly, the example of Corpus Christi of being able to show what the actual on the ground impact is from the injunctive relief was really instructive and interesting and I applaud you for that.

I have a couple of questions, which I hope will be pretty straight forward. One is with respect to EJSEAT and if you could give us an update on that. The other is with respect to enforcement of the 1018 lead base paint rules and typically in the report out on enforcement we hear about that and I am wondering if that is continuing to be a priority or if it is non-inclusion was simply because you had so much other good stuff to talk about.

Finally, I know I said a couple is with respect to restitution in the criminal context and that is a really interesting creative use of lawyering that I would love to hear an example of what that might entail.

MS. GILES: Sure, on EJSEAT your first point, EJSEAT is I am sure all the folks around this table know is the targeting tool, for lack of a better term, that was developed some years back for enforcement so it is a combination of environmental data that we have air toxics information, national emissions inventory, some other things with demographic information.

So it enables us to take a look at where there are communities that are affected by pollution burdens and communities that may have less resources to address the pollution burdens that they have and also issues of resiliency and access to health care and other problems.

NEJAC gave us some recommendations I guess it was about a year and a half ago now about some things to change in EJSEAT. Some of those changes I think have already been made, some of the more far reaching policy questions that were raised here, which were by the way really an excellent report, I thought that the NEJAC comments on that were very thoughtful and insightful and a great combination of technical knowledge with practical good sense.

So that was very much appreciated and we have really relied on that so we are making some of the changes. The Agency is moving towards as part of the

information tools that we flashed by in a second this morning is developing a nationwide EJ screening tool that we would use for all programs and people are relying a lot on EJSEAT but also taking a look at the NEJAC recommendations about what the structure of such a screening tool should include and all the programs are participating and thinking about what that should be.

So, we have decided not to do the major changes to EJSEAT that you recommended although I think everyone agrees with them in favor of having that be part of the conversation for the EJ screening tool that is underway now.

On the lead paint point you are absolutely right it wasn't included only because there were an unlimited number of examples I didn't want to drone on forever about all the things that are going on.

In lead paint, the 1018 sort of a notification requirement is a 1018 but we also have the lead paint repair and renovation rule that has more recently become effective and we are doing a lot more on the enforcement side of looking at that rule so we are doing a number of inspections and you are going to see some enforcement cases coming on that.

And speaking of transparency and the new media, there is a YouTube video of violations of the lead renovation rule so if you want to check this out, YouTube video violations of law just type in lead paint Rocklin's name and somebody very helpfully filmed another contractor violating the law and helpfully put little captions on there too, things like notice they are dry sanding, notice that there is no plastic on the ground, see the lead paint chips lying around.

This is a new tool for the future for us for enforcement, so YouTube if you know a violation large or small go film them put them up on YouTube and we also have a number you can call to report violations to EPA, but posting them on YouTube is also a helpful way to draw attention to problems.

On the criminal restitution, this is an area we are trying to explore more because I think there is a lot more space there than we have taken advantage of in the past and the courts do have a substantial degree of discretion in imposing fines and restitution for criminal defendants.

So, we are trying to take a closer look at that, something that is more comparable it is not the same as SEPs because there are different constraints under criminal law but more comparable to ways in which criminal defendants can attempt to make restitution for the violations and the burden that those imposed on the community.

MR. RIDGWAY: Thank you. Sue?

MS. BRIGGUM: The mention of EJSEAT makes me think of putting in a plug for our work group, which is no longer in service but could certainly come back as a Hail Mary, if we could be helpful.

I know that EJSEAT is important and the concepts behind it are important for things like EJ and permitting. For example, I know that there is technical guidance going out, there is a Science Advisory Board Committee being constituted and it might be helpful to you as you look at this also get some reflections from the work group that worked on the EJSEAT report just because we spent a lot of time on scientific issues but we also had some value judgments about the importance of making sure in the technical dialogue that the crucial issues of Environmental Justice particularly with regard to discrimination aren't lost in terms of the way that technical decisions get made

so I am sure I am looking at Paul he would love to be part of that too.

MR. RIDGWAY: Not seeing any cards I am going to ask a question here for a moment Cynthia or did you want to respond to Sue? Okay, you noted an example in one of your slides of the Murphy Oil Company and part of the agreement is to have fence lined monitoring or monitoring right in the community and then that data becoming available and resources as well from EPA it sounded like to help the communities understand what that data is about.

I am a big fan of that concept. I think that it provides an opportunity to build a little more trust between the community and the facility never mind the regulatory agencies in between if it is permitted or otherwise that they can see real empirical data on what they are breathing as opposed to what the permit says or as opposed to whether or not they are in compliance relative to the Agency.

So the question is, how long after the data is collected before the community sees it?

MS. GILES: Well let me just correct one thing is that that is the company that is doing the monitoring and providing the information to the community not EPA and I don't know the details.

My understanding is that the data is posted pretty quickly and the company is also committed to regular meetings with the community to go over the data, so to explain what is going on and to answer questions, which I think is hugely important.

Let me just say that your question raises we have an enforcement of course whereabout combines the law so we start from a confrontational posture, so you don't start from a let's work together posture most of the time but one of the things that has been our experience is that we can move from that confrontational posture to a much better place and I think some of these examples show how that happens.

So enforcement is about you have to comply with the law and it is not whether you agree with that or not, you have to do that but in the course of the conversations about how are you going to do that many, many companies have seen the wisdom and the merit of moving to a good neighbor approach to how they deal with the communities in which they are located and that the confrontational posture, which we have the ability and willingness and intend to do.

If we need to do that we would certainly prefer to see companies that not only meet their legal obligations but understand the value of engaging with that community to provide information and to go beyond what might be required under the four corners of the law because that is going to build us both a good corporate responsibility posture but it is also going to build a much better relationship with the communities in which they operate.

So, lots of facilities have seen the wisdom I think over the course of the arch in a relationship that we have in an enforcement context but sometimes the willingness to engage with us on that comes from the reality that we could make you engaged because that is what the enforcement of the law allows us to do and what the judicial system presents the format to do.

MR. RIDGWAY: Thank you. Any other questions by the Council or any summary wrap up that you want to make Cynthia, and if not we are setting a new surprise that we are actually a little ahead of schedule and that is not a problem, that is

great so my kudos to people who set this agenda up that is a foresight that we haven't always seen in the past, if not good luck. I will pass it over to our Chair.

MS. YEAMPIERRE: So if there aren't any comments and I think we get to this point on the agenda where it is around 2:30 and everybody has lunch and the energy is low in the room and we can feel that, so what it means is that we need to shake things up a little bit, you need to move around.

So let me make two announcements and we are going to take a break that is just a little longer and I am going to ask you please be back on time since we are having a long break, which is a very unusual thing, 3:25 is that cool with everyone, 3:25 we can all be back at 3:25? Okay.

So let me just tell you, I want to remind you again that tomorrow - - thank you Cynthia, thank you it is always a pleasure and I really appreciate all the hard work it is unbelievable, it really is unbelievable and your commitment is unquestionable. Thank you.

(Applause.)

MS. YEAMPIERRE: So I want to remind folks that the Federal Interagency Working Group Stakeholder Dialogue is scheduled for Thursday, May 12th at 1:00. This is extremely important folks because we are not just talking about Environmental Justice anymore, right, we are talking about climate adaptation and community resilience and the fact that there is a need to have DOT in the room, FEMA in the room NOA in the room, agencies that don't have a history and maybe not even a track record of working well with communities.

I need to really learn from EPA how to do it better and really need to learn that we can be partners in developing relationships that can actually make a difference in our communities. So I would urge you all to be there and to make sure you put that on your calendar. It is going to be in the ballroom around the corner.

This evening we have the community EPA dialogue on proposed mercury air toxics from power plant standards. It is co-sponsored by UPROSE by the New Jersey Environmental Justice Network and by - - - Environmental Justice is going to be Salon S. 5:30 to 8:30 p.m. and so I will see you back here at 3:25, okay? Thank you.

(Whereupon, a break was taken.)

MS. YEAMPIERRE: We are back everyone. This is one of the most important parts of the NEJAC process, this is the opportunity to hear from the public something that we always look forward to.

We know that, and those of us who activists know that often times people go before bodies of Government and they are checking cell phones, talking and not listening, we are here to hear you and your comments, your recommendations, your perspectives, your struggles really informs us and shakes the recommendations that we give to EPA.

So I want to thank you for staying throughout the day, I look forward to seeing you tomorrow as well and the next day. So we are going to get ready to start calling presenters.

The first person up is Arturo Garcia-Costas from the New York State Department of Environmental Conservation, Arturo welcome.

Focused Public Comment

MR. GARCIA-COSTAS: Good afternoon. On behalf of the New York State Department of Environmental Conservation its Office of Environmental Justice I would like to thank Elizabeth Yeampierre and the other members of NEJAC for their service and leadership over the years and for this opportunity to provide comments on Plan EJ 2014.

Like the NEJAC members this morning, we whole heartedly endorse the Plan as a ground breaking effort. Further, we applaud Administrator Jackson for making Environmental Justice such a high profile priority for the Agency and more importantly for devoting the time, tension and resources necessary to transform lofty rhetoric into concrete reality.

As we know, all too often when it comes to sustainable development and environmental protection action plans a significant gap develops between the aspirational goals and rhetoric they contain and the on the ground implementation or the lack of on the ground implementation. Effectively and consistently bridging this implementation gap is a perennial challenge.

Thus, we believe that Plan EJ 2014's emphasis on developing transparent feasible implementation actions and activities will prove critical to the overall and lasting impact of the effort. However, to echo something Mathy Stanislaus said this morning, it is absolutely necessary to include metrics to measure progress and milestones and any implementation plan and we look forward to the inclusion of that element in Plan EJ 2014 as it develops further.

With respect to the draft implementation plans we are particularly supportive of the attention being paid for the development of tools and guidance that can be used by a wide spectrum of stakeholders and also we are particularly supportive of finding innovative and creative ways to increase EJ related technical assistance to states, localities, Tribes and communities.

After all an EPA grant was approved, provided rather, critical support for the Office of Environmental Justice in the early days of its existence and the potential Environmental Justice area designation, which is now widely used in New York State by a range of policymakers was based on a tool that was pioneered in EPA's Region 3.

We were excited by Assistant Administrator Giles' presentation earlier. OECA's efforts over the past year mirror a new program that our office has been piloting in several West Chester County Environmental Justice communities over this year.

Operation ECO-Quality, which represents a partnership between DEC's office of Environmental Justice and our Division of Law Enforcement focuses on how to more strategically use the over stressed resources that Regional Administrator Enck mentioned this morning to improve the quality of life and address environmental health impacts and overburdened communities.

As part of this program, DEC's law enforcement personnel meet with community leaders in an overburdened community, they find out from those community leaders what some of the priorities are, what some of the concerns are. We then work with those community leaders to see whether there are any compliance assistance might be needed.

The program focuses on a variety of regulated facilities. We look at large

regulated facilities, we look at truck traffic issues in a particular community, we also look at small businesses, small regulated business in the community and that is where the compliance assistance component comes into play.

I had a brief opportunity to talk to Assistant Administrator Giles on her way out because it seems likely that this is an area, the compliance assistance area might be an area where DEC could partner with EPA in this enforcement effort since there are lots of parallels.

So for example, in Peekskill, New York, Mayor Foster one of the community leaders with whom we met indicated that there was a concentration of auto related businesses in her community and many of those businesses had become Latino owned only in the last three or four years.

So she was concerned that those businesses did not have a strong enough awareness of the regulatory framework regarding their particular operations, so we worked with the Peekskill stakeholders and we did a couple of educational forums focused on compliance assistance and the final step in an operation equal quality effort in the community is to do what we call community patrol.

Our environmental conservation officers will come in and they will visit the small businesses and they will generally focus on giving assistance, giving information. If there are violations they will give a warning and then we will return in several months time to see if the business was able to address that issue.

I think that this is a very important thing for NEJAC to consider and for OECA to consider as they implement the enforcement and compliance aspects of Plan EJ 2014 because often times Environmental Justice communities, they are not even aware of the enforcement action that has taken place nor do they understand how that enforcement action impacts them or improves their lives.

So closing that loop, consulting with them at the beginning and then telling them afterwards what happened and what effect it had for them is critical. Thank you very much.

MS. YEAMPIERRE: Arturo, don't step away yet. Do any of the members have any questions for Mr. Garcia-Costas? Okay, Lang?

MR. MARSH: Yes, thank you Arturo for a very splendid presentation and I just wondered in terms of what Regional Administrator Enck said about the constraints that DEC is now under, how that effects some of the EJ outreach efforts that you will be hopefully undertaking?

MR. GARCIA-COSTAS: Well, part of the approach to make a strategic partnership between OEJ and our divisional law enforcement is for example for New York City we only have 17 environmental conservation officers to handle the entire City and to enforce environmental conservation law in New York City.

So it is absolutely critical for us to figure out how to use those resources more strategically and more effectively. At the moment the Cuomo Administration has indicated that Environmental Justice remains a priority for them and I can tell you that the Governor's Office has expressed particular interest in Operation ECO-Quality because I think they recognize it combines some of the elements, meeting with communities, responding to community concerns and opening a dialogue with communities to more effectively use these scarce resources.

MS. YEAMPIERRE: Thank you. Arturo, I know that you came to testify

about Plan EJ 2014 but as a New York City person on the NEJAC I just want to ask a few questions if I may.

First I want to thank you for the hard work that you have done and I had the opportunity and the pleasure of working with you in the Climate Action Plan and I know how tirelessly you worked to integrate Environmental Justice into all of the policies and I really enjoy working with you and I saw how principled you were and how concerned you were about vulnerable communities all over the State of New York.

My question because you mentioned that Environmental Justice is priority to Governor Cuomo is we haven't had an opportunity to meet to talk about what our priorities are in terms of Environmental Justice and so we are concerned that we are being told what the priorities are and we are not informing the Governor what the priorities are and we know with the BOA Program, for example, the BOA Program is an example of bringing together communities, developers, creating the kind of partnership that drives local initiatives.

Is there anything like that on the radar and what about the Interagency Task Force on Environmental Justice, will we be hearing that that has been re-energized? If you can just give us an update that would be helpful.

MR. GARCIA-COSTAS: Sure. We are still very much in the process of transition within DEC. As Judith mentioned, we are sort of still addressing some of the resource impacts from the last Administration.

But I think that things are going to change quite dramatically, their new head of the office I think will soon be announced and at that point there is going to be an effort on a variety of fronts from the energy state. The energy plan to the Interagency Task Force to reinvigorate dialogues, ongoing dialogues with EJ stakeholders in New York State.

MS. YEAMPIERRE: Just one last question, given the budget cuts that the State is going through right now, any discussion about using RGGI funds to address the localized impacts in communities of color Environmental Justice communities?

MR. GARCIA-COSTAS: There hasn't been any direct discussions that I am aware of but that doesn't mean they haven't taken place. It is an ongoing issue as to more creatively access different sources of funding.

In our comments for the Plan EJ 2014 we particularly talk about that there should be greater money put into the Small Grants Program and that is the levels that are enjoyed under the Clinton Administration because that is one way of providing direct resources to communities.

OEJ is always interested in figuring out how to stretch a resource as much as possible particularly to provide technical assistance to communities and to help them better engage with the Agency.

So Elizabeth all I can say is that OEJ would be very open to that possibility and would work with UPROSE and the other EJ stakeholders in New York State to have that dialogue with the RGGI decision makers.

MS. YEAMPIERRE: Thank you.

MR. GARCIA-COSTAS: Thanks.

MS. YEAMPIERRE: The next presenter is Jo Anne Simon from the Gowanus Expressway Community Stakeholder Group. Jo Anne? I don't see her, okay, Lori Johnston?

Lori Johnston is with the Southeast Indigenous Peoples' Center in Eatonton, Georgia. Welcome.

MS. JOHNSTON: Thank you all for the opportunity to work with NEJAC to protect sickened ecosystems that endanger marginalized peoples especially indigenous peoples whose Governments are impeded by U.S. aggression.

Southeast Indigenous Peoples have been prioritizing sustainable development in our Government for thousands of years. We have been struggling these last 24 generations to protect and access the benefits of our ecosystem because European Governments ignore international law that protects our original rights to govern human activity with our winds, waters and land.

These blessings and their dependent peoples suffer as oceans rise and grow more acidic, our rivers watering great grandmother earth grow more toxic and our winds carry more GHGs up to deplete the ozone.

While Southeast Indigenous Peoples pursue legal remedies, NEJAC can work with us to protect Southeast's ecosystems by identifying the appropriate channels and programs for ecosystem protection and sharing information directly with Southeast Indigenous Peoples about how we can work more productively with the U.S.

I bring copies of correspondence with U.S. Agencies concerning ecosystem issues that outline our priorities. SIPC cannot report to Southeast Indigenous Peoples' opportunities for working with the U.S. to both plan the protection of our ecosystems because the U.S. currently has no such opportunities.

Presently, the U.S. installed controllers in the Southeast, use Southeast Indigenous resources to promote the concept that climate change is not occurring, is not a threat or should not be mitigated and that ecosystem health is irrelevant to Government.

U.S. Federal Agencies use indigenous resources to work for the extermination of indigenous peoples and the destruction of our winds, waters, lands, cultures and Government. How can NEJAC address this?

On coastal issues, NEJAC can help the U.S. to provide data, modeling and the means to interpret climate changes and project their impact especially on the Coast, provide opportunities and means to access information to make and implement decisions in accordance with international instruments guaranteeing our right to safe, healthy and permanent relocation from sinking and disappearing lands and rising waters.

Provide means and opportunity to work with the U.S. to mitigate and adapt the climate change, provide means and opportunity to participate in decision making and planning concerning coastal development including tourism and extraction industries.

When we face U.S. cause ecological disasters such as increased storm impact, drought, fuel spills or sea level rise we also encounter the sacred sites and fraud of a maze of U.S. Agencies. For example, after the BP three month long discharge the U.S. said it wanted to sacred site, so coastal indigenous peoples surviving climate change, ecological disasters shared information about sacred sites.

The U.S. now refuses to share information about what it is doing to these sites or how the information has been or will be used. Also we have learned that extremely elevated levels of cadmium and oysters have been found after the BP

discharge into the Gulf, cadmium and other contaminants contribute to bioaccumulation in marine and human life and hurts our ecosystem for years to come.

But the U.S. will not discuss ways indigenous governments can work with the U.S. to mitigate such contamination or to plan long or short term remedies to the current situation.

The Savannah River suffers from U.S. radioactive poisoning. The U.S. has poured so much toxic waste into God's river that it kills fish and marine mammals and the U.S. has promoted the destruction of the Mobile River to the point that it has become a toxic cesspool, all of which floats to the sea.

The ocean grows more acidic and fisheries and migratory channels are war zones that bombard and choke off aquatic life causing more deaths in the U.S. - - aggression. The U.S. is warring to prevent indigenous governments from managing human interaction with our ecosystems but the U.S. does not seem to realize if we can't enforce indigenous laws the U.S. life span is shortened.

NEJAC can include indigenous governance in its Southeast planning and work with Southeast Indigenous Peoples as proactive governors of human society interacting with our ecosystem instead of just as passive victims.

Environmental Injustice is currently promoted by claims that the U.S. has the right to poison indigenous ecosystems who are in fact protected by U.S. aggression by the laws and conventions, original nations and our treaty organizations.

NEJAC can promote Environmental Justice by supporting the rule of law, recognizing original nation sovereignty and encouraging the U.S. to comply with the U.N. charter declaration of human rights, declaration of rights of indigenous peoples, the commission of - - - diversity and Kyoto Protocol.

We look forward to working with NEJAC to draft recommendations for extraction utility and manufacture industries especially along the Coast. NEJAC can help indigenous people find the proper channels to share our good governance practices with the U.S. for the benefit of all humanity especially marginalized peoples left disenfranchised by the U.S. corporate interpretation of original American democracy.

MS. YEAMPIERRE: Thank you, Ms. Johnston. I just want to mention that tomorrow the new Director of EPA's American Indian, oh Thursday I am sorry, the new Director of EPA's American Indian Environmental Office will be presenting to the NEJAC in the morning and it would be great for you to be here and have an opportunity to talk to her.

Her name is JoAnn Chase and at this time I would like to know if there are any members of the Council who would like to make any comments or ask any questions of Ms. Johnston. Jolene?

MS. CATRON: Thank you, Jolene Catron. Thank you Ms. Johnston for coming to the NEJAC we had talked on the phone previously so I am glad to see you here and follow through.

There are just a couple of things that I wanted to share with you and that the NEJAC is any kind of regulatory or rule making body so we craft and we craft advice with input from you and from the public and so that is what helps us, these public listening sessions is what helps us do that.

I think you provide a very unique perspective in that the term Federally

recognized Indian Tribes are the ones that apply for funding and have the regulatory ability to create and enforce environmental standards on their lands and so being non-recognized, non-Federally recognized Tribe to use the term as it is used really creates a difficult situation and to just kind of borrow the words from Father Vien this morning he talked about those that are, I wrote it down, those that are the invisible EJ communities and unfortunately you come with a very strong voice from of those invisible communities.

We at the NEJAC are aware of the complexities of the non-recognized Tribes especially in the Gulf Coast issues and I am not on the work group that is dealing with the Gulf Coast restoration but I would encourage you to talk with some of the other NEJAC members who are on that work group.

MS. YEAMPIERRE: So Ms. Johnston, have you submitted written testimony? No, I just didn't know if you had anything in writing. We just want to be able to give it to JoAnn Chase in advance of her presentation on Thursday.

MS. JOHNSTON: We will be able to do that, right?

MS. YEAMPIERRE: Okay, thank you so much. Next we have Nicky Sheats with the New Jersey Environmental Justice Alliance and the Thomas Edison State College. Welcome Nicky.

MR. SHEATS: Good afternoon, thank you Ms. Yeampierre. So with my five minutes, which will go fast I want to address a specific area of EJ Plan 2014 and that is the part about considering EJ and permitting.

Let me read you the goal right now in the Plan. It says, "To enable disproportionately burdened communities to have full and meaningful access," I am talking fast I only have five minutes I am sorry, "To enable disproportionately burdened communities to have full and meaningful access to the permitting process and to develop permits that address Environmental Justice issues to the greatest extent practicable," I didn't pronounce that right, "the greatest extent as is practical under existing environmental laws."

I want to suggest to you that is good as far as it goes but it needs to go further and it needs to be more specific and let me give you two specific areas that I think it needs to incorporate or at least needs to reference an address.

One is cumulative impacts, I think the issue is dear to all of our hearts we need to address that and we are trying to do so in New Jersey and we are going to the New Jersey EJ Alliance is going to develop very specific suggestions on how to incorporate cumulative impacts into our New Jersey DEP permitting process, so maybe we can work on that together and the other issue if I have time I would like to address is Title VI administrative complaints.

So cumulative impacts, what needs to be done with cumulative impacts? Well, in a permitting process the concept of cumulative impacts needs to be incorporated in such a way that two things are accomplished.

First, new sources of pollution in overburdened communities the cumulative impact needs to be incorporated in such a way that those permits can be denied if they are going to bring additional pollution into the community. So you need to protect overburdened communities from new source of pollution.

Second, cumulative impact needs to be incorporated in such a way that when polluters when polluting facilities come up for permanent renewal, the amount of

pollution that they admit can be ratcheted down. So in that way if you use cumulative impacts in that way over time in these overburdened communities the amount of pollution in communities will decrease.

Now I know we want to be careful because I know people will say, well we don't want to stop new industry and new jobs from coming in. Well look, these communities are already overburdened, people already die in these communities, we can set a goal and say once we have reduced pollution to a certain level then if a new industry wants to come in that is going to admit some more pollution maybe we will consider it.

Or, we could say and this kind of goes against my EJ intuition but we could say, if you want to come into the community and you are going to admit some pollution and you are not going to be zero polluting then we may consider you coming in if you will create some type of offset of pollution in the community.

But if you are going to offsets two things, it has to be in that community. You can't come to the south ward of Newark and say we are going to offset in Indiana, that won't work. If you are going to do offsets I would say you have to offset more than you are polluting so the amount of pollution goes down in the community.

How are you going to identify overburdened communities? Well there are several nation tools out there, one is in California, - - - from Berkeley has worked a lot on this and we do have a nation tool in New Jersey actually the RVP has started to develop because we have raised such cane in New Jersey over the years.

The second issue I want to address are Title VI administrative complaints. I am going to assume everybody knows what those are, if you don't during the question period maybe I can explain more, but basically under Title VI Civil Rights Act residents in the EJ community should be able to bring a Title VI administrative complaint if they believe their State DEP is issuing discharge permits in a discriminatory fashion.

So if a State DEP is giving out too many permits in a community of color, black or Hispanic community you should be able to file a Title VI complaint and it should be taken seriously. There is a rub over the years during the Bush Administration and maybe before there was a backlog of Title VI complaints.

Administrator Jackson said she is going to fix that, we believe her, we don't see progress so far even though people have been hired. So the fix here is that to include this EJ Plan 2014 so the residents can have confidence when they file Title VI complaints it will be taken seriously and they know that it will go through a process in a timely fashion and it was put in the Plan then there is some accountability, EPA can be held accountable for what is in the Plan. I made it in five minutes.

MS. YEAMPIERRE: Yes, thank you Mr. Sheats. Any comments or questions for Mr. Sheats? John?

MR. RIDGWAY: Thank you very much. A couple of quick comments, one is that tomorrow in the agenda we will be hearing from the EPA leads on that particular permitting plan. So if you do have a chance you may want to come and hear the presentation and the discussion.

If you don't, and that is certainly understandable they are planning, I am not with EPA but I am working with them quite closely to conduct public hearings around the country starting the end of this month, it is coming up quickly so do check with EPA and/or you can give me a call and I can help you find out what the dates and times are

for those. I don't think there is going to be more than probably a handful, but nonetheless anybody can submit these comments in writing directly to that office that is going to be working on it.

It is looking at permitting across the programs, so I appreciate your comments very much, they are very timely, you are not missing anything here by bringing this up and if you can't make it tomorrow you can count on me and/or others on our work group to carry that message onto EPA, so thank you.

MR. SHEATS: Great.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Thank you. Hi Nicky.

MR. SHEATS: Hi Vernice.

MS. MILLER-TRAVIS: Thank you for coming to join us all the way across the water, across the Hudson River. I want to ask you about this Title VI idea you put on the table and ask you to flush it out some more.

So the frame as I understood it was that if you have an already overburdened community and the State environmental regulatory agency continues to issue permits to allow facilities that pollute to continue to operate or expand their operations you want that community to be able to file a Title VI complaint based on, now elaborate on that for me.

MR. SHEATS: Actually for Title VI, I am not even referring to overburdened communities, it is just that Title VI if a State DEP is giving out permits in a discriminatory fashion then you can file a Title VI administrative complaint and you have that remedy now, the problem is nothing is happening with them or nothing was happening with them.

People were filing complaints and they were not moving through the system and so for example the U.S. Attorney in my District had a meeting with us several weeks ago and said, which is good, and said hey how can we use environmental laws and I brought up Title VI and I said, look we have not considered it for years because we knew the complaints weren't moving so there was no need for us to think about doing it in New Jersey.

So that needs to be remedied, Administrator Jackson knows about it, she hired I don't know how many people to address that, Department of Justice has hired actually some very good people to address it but I think what needs to happen is that I think by mentioning this in the Plan it sends a message to everybody that this is a high priority area and that it needs to happen sooner rather than later because we haven't seen, and here I am going to switch we's, I am also the primary organizer of an EJ attorney's group, which spans four states, Pennsylvania, New York, New Jersey, Rhode Island and we were just talking yesterday and none of the attorneys were more knowledgeable than I am because I don't actually practice anymore have seen any movement in Title VI complaints.

So they were saying, where is it? When is it going to come? We need this and they said Nicky you have to say this tomorrow and I said okay.

MS. MILLER-TRAVIS: So Nicky I am still trying to get clarity because I want this captioned in notes and I want it reflected in our further thinking about it, so as an entity that receives Federal funds and therefore has to be compliant with Title VI the entity that receives those funds if they continue or give permits to allow pollution to

occur in communities, that in and of itself you are saying is a Title VI violation?

MR. SHEATS: I am glad you pointed that out Vernice, yeah so most State Departments of Environmental Protection all of them probably receive money from the Federal Government, so they can't discriminate and Title VI says if you give money you can't discriminate so if they are discriminating when they are giving out discharge permits.

So say for the waterfront south community in New Jersey a Title VI complaint was filed and one on the merits because New Jersey the DEP was found to be giving out complaints in a discriminatory fashion because they were giving out too many discharge, I say complaints, too many discharge permits in communities of color.

If you think that they are giving out too many permits in communities of color and they are discriminating against communities of color by doing that then you can file a Title VI administrative complaint and while I am specifying administrative complaint is because you can no longer file a suit in court, that ability has been wiped away some people want to pass legislation so you can bring that ability back but you can still file administrative complaints.

The other piece is, under Title VI we filed administrative complaints you don't have to show intent, you don't have to show that the person intended to discriminate or the State Department of Environmental Protection intended to discriminate, you can just show that they were doing it by showing the numbers.

So that remedy is there and you can file the complaint now and you can file it under the Bush Administration but they just weren't moving, nothing was happening.

MS. YEAMPIERRE: That is excellent Nicky, just disparate impact and the causal connection, disparate impact is what I am saying. Disparate.

MR. SHEATS: Disparate impact, yes I didn't want to say it like that yes. You can show a disparate impact and that would be, I am getting old I can't hear Elizabeth I am sorry.

MS. YEAMPIERRE: So Nicky I actually - - I am sorry, is there another comment? Oh, I am sorry John has his card up.

MR. RIDGWAY: Just a point of clarification, this happened in Washington State to the comment that you can't sue, in fact you can sue EPA and in fact that happened and in Washington State finally the decision was in fact EPA was not carrying out the law.

So you cannot sue another state or entity that receives the Federal money but you sure can go after EPA.

MR. SHEATS: Okay, now that is interesting. I know that was being debated so you have to cite that case for me. What we have been saying is that Department of Justice should take up Title VI and sue state entities if they are not doing the right thing.

So when I said you couldn't sue for everybody else I was saying individuals can't sue. So thank you for the correction, if an individual can sue EPA because maybe they are not carrying out their duty but we have also encouraged Department of Justice and U.S. Attorneys to consider, since they are not individuals, that if they think there is a pattern of discrimination by State Department of Environmental Protection that they can sue or think they can sue anyway.

MS. YEAMPIERRE: Nicky, I wanted to thank you for raising the issue of new sources because as people talk about green infrastructure and green manufacturing and new technologies, some of those technologies have toxic processes like the production of solar panels and they can become the new Environmental Justice issues in our communities and a lot of that stuff is being fast tracked and none of it is taking out the old polluting infrastructure.

So even when we talk about offsets we are not talking about planting some trees but taking out the old diesel dependent infrastructure, do you have any other examples of that kind of technology?

MR. SHEATS: Not for news sources but can I tell you what has been very frustrating for us and actually it applies here. For existing sources, we have really been advocating for example incinerator Newark when the permit renewal comes up and we go and we say, listen you need to ratchet down the amount of pollution coming from this incinerator, it is right in an EJ neighborhood and nothing happens and we got told, well the law is not on our side.

I want to mention this because in the Plan it says, the greatest extent practicable under existing environmental laws and what we have been saying now and I will say this to EPA that what we are telling our own DEP now is that look if you don't think you have the authority to address cumulative impacts in a permitting process under existing law and we are not sure we agree with that but if you don't think you have it then you need to go out and get the authority, you can't just say we passed, we don't have existing authority so there is nothing we can do and throw up your hands.

So then you need to tell us what authority you need and how you plan to get that authority whether that is through new rule making or new legislation.

MS. YEAMPIERRE: So just a final comment is that the new technologies that are being floated by in New York City are waste to energy proposals, all gasification with the exception of anaerobic digestion and all being floated in South Bronx, Sunset Park, Red Hook, Williamsburg, all the communities that have all the environmental burdens in New York City and so it is being pushed as this new technology that is going to address issues that it can't possible because of the health impacts and because this is not Europe and we don't have the kind of recycling infrastructure that they do in Europe.

But I wanted to flag that also because that will probably head your way as well.

MR. SHEATS: I am glad you brought that up Elizabeth. Also let me add, I just blinked on that one, let me also add that in New Orleans and Atlanta and in New Jersey they want to declare this waste energy as renewable energy. They did it in Maryland already and I think in general yeah it is something the EJ community needs to look for.

In fact let me suggest this, it is kind of off the Plan but since we found out Eddie Bautista* we have been in contact with him and he has been telling us about New York. I think as the EJ community we need to have some kind of national conference on this so we can all come together and talk about it and take a stand and decide what we are going to do.

MS. YEAMPIERRE: Thank you.

MR. SHEATS: Thank you.

MS. YEAMPIERRE: Okay, we have Mae Lee from the Chinese Progressive Association. Is Mae here? Mae Lee? Katharine Pelzer from the National Wildlife Federation?

MS. PELZER: Hello Council. I wanted to start by thanking you all with opportunity to join with this incredible group of advocates in the room and to weigh in on EPA policy.

I work with the Fair Climate Project at the National Wildlife Federation, I know when a lot of people hear National Wildlife Federation they think what does that group possibly do with Environmental Justice? But, we are more and more incorporating it into our work as we understand it is increasingly important.

A lot of our work goes along with working with community organizations to access grants. Therefore I thought the section on grants and technical assistance would be of great importance that we have done a lot of work with a solutions guide to set up community organizations with reoccurring grant opportunities and the feedback we have gotten from community leaders is that grants training is lacking but is incredibly important obviously for the continuation of their work as it is less and less possible to rely wholly on volunteers.

Secondly, the section about considering Environmental Justice and permitting is of great significance. We all know one of the main reasons why underserved communities and communities of color felt very hesitant or outright against the climate bill was because the issue of cap and trade permitting put a disproportionate burden on their communities and continued to, didn't solve that problem at all.

We are seeing the same thing now with lawsuits over California's cap and trade system for carbon and moving forward permits for power plants, refineries and other projects will continue to be a great concern for these communities as they have historically been and have historically have had little to say in terms of who comes into their communities and starts polluting, dumping and wrecking havoc.

Therefore, I advise NEJAC to advise the EPA to examine and reshape the role of communities to participate in permitting because without careful re-examination of this role we risk ruining the great potential of such carbon policy by continuing to mire at - - - equal access of communities to weigh in and negotiate throughout the permit process.

I was also heartened to see the section on tools development and I think it is crucial to integrate the efforts to better consider Environmental Justice and permitting with the effort to improve scientific tools especially creating mechanisms to incorporate perspectives from community based organizations and community leaders into EPA research agendas when the researching impacts of potential permitting schemes and engaging in collaborative partnerships with these communities on the science and research to address Environmental Justice.

And then following with that to build them strength in the technical capacity of agency scientists to conduct this research and partnership with the communities and translate these results to inform change.

I think it is time that communities should be able to see the EPA as a partner and I think the Environmental Justice office under Administrator Jackson is really the first time we had seen a lot going on there.

MS. YEAMPIERRE: Thank you, Ms. Pelzer. Any comments or

questions? Okay, thank you. Nicholas and Father Nguyen.

MR. TARG: I am interested how you are using the issue of Environmental Justice in the context of grant applications, I think it is a really interesting nexus and there is a lot of opportunity and it is also in some ways a fraud issue.

MS. PELZER: That is interesting. We partnered with a lot of education organizations, a lot of small grassroots organizations that are focused on education in urban communities, so in that case it is directly going to fund programs for kids in existing school systems and I am sure there are fraud issues that you refer to, I am not quite sure what grant processes you are referring to. Could you elaborate on that?

MR. TARG: Sure. It sounds as though the applications that you are making then that have an Environmental Justice to them are applications that are made in tandem with other community based organizations. Is that correct or is your organization beginning to pursue Environmental Justice issues perhaps in a new way?

MS. PELZER: When I referred to matching organizations with grant opportunities we don't fill out the grant applications it is more just sharing a lot of different grant opportunities that could apply to step of interest to our network of folks, it really doesn't go much further than that so I can't speak to that.

MS. YEAMPIERRE: Father Vien?

FATHER NGUYEN: Thank you. You had recommended that NEJAC would recommend to EPA to allow the community to participate in permitting, to what extent are you referring to? Normally when we are dealing with environmental permitting issues there is already a commenting opportunity from the communities. Are you saying that that is not effective enough? What are you asking for specifically, any idea?

MS. PELZER: Absolutely. I think often times the potential impacts of allowing a power plant or waste treatment plant to come to an area, a lot of times the potential impacts on health aren't fully known by the community especially if it is a community that hasn't had experience with those issues before, they may hear that particular industry's white washing of the project to say that it will create jobs and I just think it is important that the EPA translate research results to inform change and make sure that all the health impacts are understood and I think that is the main place where I feel like, I just feel like all the health impacts aren't totally understood.

FATHER NGUYEN: So you are asking that EPA would help translate so that the community, interpret it, so that the community would understand the issues better because there is always the commenting - -

MS. PELZER: Yes, there was already commenting period but just to have the science more synthesized into more tangible impacts.

MS. YEAMPIERRE: Nia?

MS. N. ROBINSON: I think Nick his question touched on a little bit of what I am looking for but I was fairly around and involved when NWF started the Fair Climate Project and they actually fought hard against using the term just climate project, which I thought was extremely interesting.

I would like to know how NWF is defining Environmental Justice, if their work inside of the Environmental Justice movement has increased in the last three years, if the Fair Climate Project has been in existence and if so like if there is a conversation around true support of Environmental Justice and what that means.

Has NWF had any further conversations around shifting their position on the commodification of the atmosphere and on capital trade?

MS. PELZER: As far as our work with Environmental Justice issues, I think when the Fair Climate Project started we are focused around a lot of national policy stuff and the time since the cap and trade bill failed we have been engaging more closely with community leaders.

For example, after this oil spill one of our leaders is a young man from a Tribal group who has not received any payback from BP for the spill, so we have had events where people have come up to DC and we have talked about clean air and the importance with communities but then they have gone onto Congress to lobby on behalf of whatever their own issues are and whatever issues they feel like they want to bring up to their Congress people.

So it is still probably, it is a combination of both the local and the national pieces there. Did you have another question that I had not addressed?

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: So Katharine my question was very similar and I want to say that at least some of my own reticence about participating in the fair climate work was based on past history of not the best communication and integration with the National Wildlife Federation around these issues.

But when I walked into the room at the Fair Climate Summit the best expression that comes to mind is that this not your daddy's National Wildlife Federation, that your young staffers are trying to bring a different piece and a different perspective.

You are much more multi-racial than I have ever seen a staff at NWF so I wonder if you could say a little bit in your own perspective about what you think that sort of next generation of work for NWF is in collaborating with communities of color, impacted communities and others and is there resistance from the older heads at NWF to the work that you all are trying to do?

MS. PELZER: Thanks Vernice. We are definitely a much more diverse young group of staff at NWF and as far as I know everyone in our organization is really excited about the Fair Climate Project and is excited about not just having it be the Fair Climate Project but have diversity worked into all of our work because we are focusing more on communities and it is not just one type of community, we are focusing more on all communities because it is not just one type of core constituency that cares about clean air and water.

You will see that reflected in our climate resilient communities efforts, which works across all communities on climate adaptation and I think you will see more NWF work in the future and urban centers and areas where NWF typically hasn't typically been engaged.

MS. YEAMPIERRE: I just want to make one comment. It is great that you are interested in working in urban areas and we know the demographics are changing and we also know that a lot of organizations like yours are now interested in working in communities of color because we are basically going to be the majority in a short amount of time.

I know that sounds really cynical but people follow market trends and all of a sudden EJ is sexy. But I do want to say that we have over the years developed really meaningful respectful partnerships with organizations that come from a very different

place and that we really hope that your enthusiasm doesn't supplant local leadership, that it compliments, that it supports, that it makes it possible for local organizations and communities that have been struggling in these issues for over 20 years to be able to access resources and work in a way where we continue to speak for ourselves.

We know often times people come out of college and out of school really excited wanting to speak for our communities, we often call them contemporary missionaries we basically say to them we got this, we are good, thank you.

But we also are not adverse to working with people who really deeply care about developing these meaningful relationships and making sure that together we address these issues.

So we have been successful in developing those relationships with a number of organizations that we had a history of tension with, so I want to share that with you because it is my hope that moving forward we are able to develop those kinds of relationships with you.

If you come into an urban community, you have the capacity and the power to address issues with resources that we don't have and make us the passive recipients of your agenda or people who are actually working under a grant that you received and that is a power dynamic that under Environmental Justice is unacceptable.

So I share that with you because it is my hope that you understand how these things play out and how important it is particularly for young people of color who really are the core leadership in our communities to see leadership that looks like them at the helm and so that you work with us under a construct that is very different than your predecessors.

So I want to thank you but I want to share that with you because if you come in differently you are going to roll out differently, I mean we are in Brooklyn right, but we look forward to working with you in a way that is different than the way that that work has happened in the past.

MS. PELZER: I look forward to that too. As someone who is 22, I was not involved with that past history, I just want to put it out there (laughter) so feeling a lot of heat on me right now but definitely not where I am coming from.

MS. YEAMPIERRE: But you know what, the young people who are in the other room who are talking about Environmental Justice the average age is 15 and 16 and they understand this and my son is 22 years old and he understands this, so I think that you are all deep, you are all brilliant and you can really transform relationships but I am not going to tell you that there haven't been tensions, I want to tell you this is what it has been and it can be something very different and I look forward to it.

MS. PELZER: Me too.

MS. YEAMPIERRE: Thank you.

(Applause.)

MS. YEAMPIERRE: So our next presenter is John Fleming with New Partners for Community Revitalization. Welcome John.

MR. FLEMING: Thank you. Good afternoon to the Council, I want to thank you for the opportunity to speak with you about Plan EJ 2014 and EPA's policies.

My name is John Fleming, I am the Policy Director for New Partners for Community Revitalization and out of respect I would say that we are not an EJ organization but we work closely with EJ communities in New York City. We consult in

an in-depth fashion on our policy advocacy and our priorities are shaped by the needs of EJ communities and we support them in their efforts around area wide revitalization as it relates to Brownfields, which is a principle area of concern for us.

I want to talk to you today about two things, I want to highlight and talk about strengthening the Brownfield area wide planning program, which is in a pilot phase with EPA and talk about how it might fit with Plan EJ 2014. Two of the areas of the Plan where this program I think fits or could fit is supporting community based programs and fostering administration wide action on Environmental Justice.

Just to take a step back, the area wide idea is an Environmental Justice idea, it came out of the EJ communities in New York City who for years fought to stop this incinerator plan and the expansion of waste transfer stations and power plants and the expansion of sewage treatment plans and at a certain point the communities realized that we have to stop reacting to other people's plans and we need resources to create our own.

That was formalized into the idea of the Brownfield Opportunity Areas Program, which was enacted into law in 2003, it took five, six years of mobilizing the communities of New York City, Environmental Justice communities, mobilizing to Albany to have this enacted. Mathy Stanislaus, now with EPA, was one of the leaders of that effort and many of the people here also participated.

The EPA Brownfield area wide planning pilot is modeled to some extent on the BOA Program, that is what we call this program for short, BOA. There are two ideas in Plan EJ 2014 that I think is connected to the area wide approach. The idea that communities should be the organizing principle of EPA's activities and the idea that EPA wants to through this plan align resources.

There is no better way to align resources than align it around the community and the BOA idea, the area wide concept, is precisely that. It puts the community in the driver's seat, it puts resources into their hands supporting leadership so that they can sustain a multi-year planning effort.

It gives them resources to hire their consultants rather than being brought into a consulting process, they hire the consultants that they need to design revitalization strategies and to engage their communities, to establish a vision, goals and to test that vision and goals through studies, feasibility analysis and so forth so that the final plan can be something that is implementable, that is realistic.

There are a few things that I wanted to say about the area wide planning program as EPA has established it. Again it is in a pilot phase, I think Assistant Administrator Stanislaus said there might be a second round in the current budget if it survives.

So things that would make the area wide Brownfield Planning Program serve Plan EJ 2014 would be the following one, we would hope or ask that NEJAC would establish some criteria or advise EPA to establish some criteria in terms of how to evaluate it.

It is a pilot, it is not a permanent program yet and it ought to be evaluated and it ought to be evaluated in terms of how it meets the needs of Environmental Justice. The area wide concept is EJ's concept and so that ought to be a principle aimed to say is the way EPA has started, and we are very happy that they have started it, is the way they have started does it meet the needs of EJ communities, that is

number one.

Assuming that it is evaluated and it can continue to be strengthened along the lines of EJ it ought to be made permanent, that it ought to be institutionalized within EPA as not just one eligible activity but as a core feature and that other programs might work to support it rather than the other way around.

In the first round of pilots only four out of the 23 grants went to non-profit community organizations and so we would recommend that EPA or recommend the NEJAC consider advising EPA to set aside 50 percent of the funds that go specifically to CBOs and with a preference for those with a track record in EJ. Again, it is an EJ program it ought to serve EJ communities.

Second, the idea in New York in the BOA Program is preference and priority. Many EJ communities have been involved with planning, all kinds of different planning, and often have the experience of expending resources on plans and have the plans sit on the shelf.

In New York in the BOA Program, I see I am out of time, resources are prioritized so public investment follows upon the planning process. That could be done with EPA's programs within EPA but broader across the Federal Government so that HUD, the Department of Commerce, DOT their resources could be prioritized around the community's vision as well. I might have had some more things to say but I am out of time.

MS. YEAMPIERRE: Okay thank you, John. Any comments or questions for John? John?

MR. RIDGWAY: Thank you, John. You brought up one point has come across before and I am curious and that is your reference to making 50 percent of the money available for the EJ communities that are actively working on this.

The question is, how do we get the communities that haven't started yet and haven't rallied, do you think EPA should make some money for those communities that have to catch up as opposed to those that are maybe ahead of the average? Any thoughts on that?

MR. FLEMING: I participated in one of these applications and it is a big effort to submit one of these applications. So, one of the things that I have seen and one of the things that - - - Shore does with BOA is to help groups complete applications, so EPA might in coordination with the area wide planning program have area wide technical assistance at all the phases.

There could be the pre-application phase, we can evaluate is your community ready for this? Is it a fit? Is this the resource for you? If so, perhaps it can provide resources to help complete the application because there is an immense amount of data and ideas that are brought together in a package that is a winnable package because there was heavy competition for this.

I know it was a pilot so there were fewer resources available for rewards but that might be one of the ways to provide a TA resource that can partner with EJ communities to get them winnable applications in.

MR. RIDGWAY: Thank you, that is an excellent answer I appreciate it.

MS. YEAMPIERRE: John, I just really want to thank you for your leadership. I think NPCR is exactly the kind of organization that we are talking about that works closely with EJ communities to compliment and support the work on a local

level.

These BOA grants are sometimes complicated and take a minute, could you describe, give an example of a BOA grant and what the community is planning and how that money is used supporting a community vision just so that the public has an opportunity to know how this actually works on the ground?

MR. FLEMING: One of the great things about the BOA Program, I haven't seen the EPA's program in action yet but in the BOA Program in New York one of the hallmarks of it is its flexibility so there are some things that are common that all BOA grantees whether they are CBOs or municipalities would do some basic planning studies, demographics, the current condition of the community and so forth but then there are other resources that are made available to hire consultants to do specialized investigations.

So for example, New York City there are several waterfront communities that have industrial districts and rather than seeing than land re-zoned they want to see industry preserved and green and expanded and so they can use resources to hire the right kind of consultants to do market analyses.

Green jobs and green economy everyone talks about it and most of us don't know exactly what we are talking about. In New York City, in highly compact industrial districts there are some things we are not going to produce, but there are things that we can produce and so the idea is, well let's hire the consultants that can advise the community, here are the kinds of industrial operations that fit, that could provide jobs for your community as opposed to the other ones that might work say in upstate New York, Buffalo has huge tracks of land where they can put in major, major industrial operations that is not going to fit in Sunset Park .

So, having the kind of expertise hired and brought to the table to do those kinds of analyses I think is what we are talking about. So there are communities that are land locked and are about open space and affordable housing, they hire those kinds of consultants to help them look at that.

There are communities that are waterfront communities and they want in addition to industrial activity to provide jobs for the community they also want access to the waterfront and many of these communities have been locked out.

So it can be tailored to the community and that is one of our great features of the BOA Program.

MS. YEAMPIERRE: Thank you. Any final comments or questions?
Vernice?

MS. MILLER-TRAVIS: Thanks John, I have a question. First of all, what exactly does the acronym stand for?

MR. FLEMING: BOA stands for Brownfields Opportunity Areas.

MS. MILLER-TRAVIS: Thank you. My question is, at the national level in terms of the Brownfields Program we have encountered and something I know you are deeply familiar with, the unintended consequences of successful Brownfields redevelopment, which has been the wholesale displacement in gentrification of communities that have successfully moved through a Brownfields redevelopment.

How does the BOA Program sort of speak to that and how its equitable development addressed within that process and do you have any recommendations that we could filter back to EPA's Brownfields Program?

MR. FLEMING: Equitable development, there are a couple of things. A lot of it is emerging at this point. Within the BOA Program there are phases of funding that come into the community, there is a pre-nomination, what you are trying to do is nominate your area to become a permanent BOA and then resources flow to it.

So in a pre-nomination style there are some preliminary kinds of work and in later phases there are other resources and the grant sizes get pretty substantial. One of the things that we are seeing is precisely that, that communities want to then use their funds to prepare implementation strategies, the final stage of doing a BOA planning process that would lay the groundwork for the local capacity to preserve the community for those who suffered for the decades before it was improved.

So it might be planning studies for a community land trust and how can a community land trust begin to function in the area or land banking is a growing idea in New York, Tax Incremental Financing whether it is a specific tiff kind of law or just the idea of using the incremental value that is created by public investment that it be returned to the community.

So there are ideas along the Bronx River, there has been a lot of public investment to restore the lower half of the Bronx River, which was completely inaccessible to all those Environmental Justice communities for years.

After years of organizing now people can go down, there are parks on the waterfront, there are major Brownfield sites that have been cleaned, wetlands are being restored, they have beavers now, there is a beaver in New York City (laughter).

As that begins to happen, the value of all that property is going to rise and so the idea is well maybe some of that value ought to be captured and returned and reinvested in the communities that are there so the river can be enjoyed by the same people, the people who fished it when it was not safe to be fishing there can fish it now when it becomes safe to fish there. So those are some of the ideas, there is nothing automatic.

Another thing that I would highlight, something we are kind of proud of is that there is a tax credit program in New York State and we have built a linkage between the tax credit program and the BOA so that one of the things you do in a BOA is you identify the key Brownfield sites that if they were moved it would move a lot of other things in the neighborhood.

If a private developer builds a project on one of these strategic sites and it is consistent with the BOA Plan and the idea is to empower the local community to be that decision maker, if they do then they get an extra tax credit bonus so it is a draw, there is an incentive for the private sector to do what the community wants.

So the vision is to have all of those powers and capacities of the private sector drive the community vision rather than it always being a polarized fight here they can work hand in hand meeting the two things that the different sectors want, the community, the private sector, a return on their investment and there you have a marriage.

So I think that is one of the beautiful ideas in BOA, we are hoping to increase it, it is a two percent bonus now it ought to go up to 10. It also, I know this is an area dear to you, it is a key Smart Growth idea because if a private developer can earn 10 percent tax credit on his investment by investing in a Brownfield area in an urban center rather than greenfields then you are drawing private investment away from

upstate or from the greenfields into the Brownfields.

So I am not sure where I am in answering your question but I started rolling, so.

MS. MILLER-TRAVIS: You were rolling, excellent. One last question if I may Elizabeth and it is about the tax credit, is that like New Market's tax credits or is it something in addition to or different kind of category of tax credits? Do you have a name for it?

MR. FLEMING: These are called Brownfield tax credits, they are connected to the Brownfield Cleanup Program in New York State. New York's Brownfield law was passed in 2003, it created the BOA Program, it created the Brownfield Cleanup Program.

There are different kinds of tax credits associated with the Brownfield Cleanup Program so projects that successfully complete the work plan approved by DEC have, they are called site preparation credits, which are targeted really towards the cleanup and then there are tangible property credits, which are targeted towards the development.

There is a lot of controversy around some of these tax credit programs and how generous they are and how much they are needed, so there is some reform needed there to make sure they are targeted. When I talk about in debates about targeting I think the BOA bonus, which is enacted into law it is not an idea, that that is a key way to target.

So if a developer can get 20 percent without dealing with anyone's community BOA Plan or any other kind of criteria and then get two percent for build it consistent with a BOA that is not enough of an incentive? It is there so we need to build that concept so that they can earn more by doing the communities vision and goals rather than something else.

MS. YEAMPIERRE: Thank you, John. I am just going to call out the names of some of the folks that have signed up that weren't here when I called them. Jo Ann Simon from the Gowanus Expressway Community Stakeholder Group? Mae Lee, Chinese Progressive Association? Okay, next Beryl Thurman from the North Shore Waterfront Conservancy of Staten Island. Welcome Beryl.

MS. THURMAN: Hello everybody. I am here today because - -

MS. YEAMPIERRE: Can you turn on the mic? We can't hear you, okay great, thank you.

MS. THURMAN: I am here today because I have a very tiny grassroots organization that is in Staten Island and we showed up very late to the game. We have been working about 12 years with the EJ communities on Staten Island pretty much by ourselves, we didn't even know a lot of things existed because we just didn't know, it wasn't accessible to us.

So when we showed up we came with little more than passion, heart and the desire to make our communities better and a lot of things that we were able to accomplish we did it out of pocket. We started out trying to talk with the City and get funding through the City to try and help our communities, sometimes that didn't work out as well as we had hoped it would.

We then eventually made our way to the State and that is when we found the DEC EJ Office and they were tremendously helpful in helping us to move forward

and to get the word out about what was happening on Staten Island's North Shore.

The thing about it is, is that now we are at the point where we have to go a step up, which is to the Federal Government and the EPA. The EPA grant process is very daunting for a small EJ organization such as myself. We have three people and a whole host of volunteers and none of us are familiar enough with the whole grant process to be able to get the type of funding that will help us to help our communities.

And on top of that we are always being asked to participate in various projects by colleges and universities and other Government agencies who have gotten funding, okay, and they want us to come to all of these meetings and sit in on all of these discussions and participate and give them our intellectual property, okay because we have the expertise, we know our communities better than anybody does.

So what is happening is that we are coming to these meetings but we are doing it out of our pocket or we are borrowing the monies that we have gotten in some cases from other grants in order to participate and to get our people to these meetings with the hope that we will be able to pay it back and that is not how it is supposed to work.

If we are going to participate and you are an EJ organization or an environmental organization and you are being asked to participate, then those people who are asking you to participate should be contributing something to you being there and the same thing applies to the communities, we are asking our people to come out, they are paying for transportation, they are paying to get there and to get back.

No one is subsidizing it, no one is compensating them for any of the information that they are getting from the people of our communities or from our organizations and when you think about where you are asking these people to come from, these are the communities that have the least in terms of money, in terms of resources, in terms of what they can do.

So, we are not being empowered not the way that we are told we are supposed to be empowered, we are always begging and that is not where we want to be. I am done (laughter).

MS. YEAMPIERRE: Thank you. Any comments or questions from Council? John?

MR. RIDGWAY: Thank you very much, that was quite succinct and direct to the point and it is appreciated. My question is, have you asked these groups that are asking you to provide your time at your pocket expense to come to your community if they value your intellectual property and what is the response you get from them?

MS. THURMAN: Because they already have an agenda, we are still not being compensated. They have an agenda, they have a budget that they budgeted for, they will come but they are still taking away far more than the community itself is receiving.

They get to do a report based off of the information that we have given them that then they have been compensated for that that report then gets to sit on someone's shelf somewhere. So that information is never really making it back to the community and you are seeing any kind of real change, any tangible change and in the same token the community is not receiving anything in terms of their time.

MR. RIDGWAY: Thank you. In a follow-up have you asked EPA to provide a grant application assistance and if so what has their response been?

MS. THURMAN: The grant application process is daunting and they do have the webinar that you can go on and do that with but even with that it is not enough, it is just truly not enough and so it almost seems as if someone is going to be given a grant to work with EJ communities or EJ organizations, some of that money should be going to those organizations or to that community directly so that the people who are participating are actually being compensated.

MR. RIDGWAY: Thank you.

MS. YEAMPIERRE: Thank you, Beryl. The next presenter, Barbara Zimmer from Long Island? Welcome.

MS. ZIMMER: I am in very awe of all of this, I am not a speaker, I am not affiliated with any organization, in fact I am surprised I got up here today. It is a problem that I just wanted to bring your attention to environmentally speaking.

I live in Long Island City Astoria area of Queens in a very highly industrialized area and for the past 10 years my small old house, one of the pioneer houses in that area, has been shaking and in fact the whole area where I reside shakes.

Coming from a research background I have delved into this issue and I found out there is such a thing as ground born vibration produced by industrial equipment, industrial machines and the area where I live has been inundated by power companies producing electricity for the New York City area.

I found out that all the countries like Japan, England, Norway, the Scandinavian countries are very aware of this environmental issue but the United States isn't. There is no law concerning this and I think it is just an issue of I have tried to contact the EPA and they tell me there is no law on record to address this problem and I should get a private counsel, which also does not want to deal with this issue.

The power companies are self-regulating and they are very powerful and I understand that they do have a job to do providing electricity, however I just think that there should be some awareness of this problem. I feel it is a health hazard, long term and it is very subtle, it has improved over time with my talking and writing to everyone that I could possibly include and I just thought it was something that the NEJAC should look at as far as establishing a legal article to address this issue.

I wasn't planning actually on speaking so I haven't anything prepared but I just had to mention that this is occurring, that some people might be much more sensitive to this ground born vibration or it could be residents, it could be a noise that is inaudible, in other words it would be either low wave frequency or a very high pitch like bats you know thinking of things or children.

It also has affected my house somewhat, you know but I have been ignored, a private person I have gone around most of the homes in my area are big structures, which are not as effected by this subtle constant background vibration is what an engineering firm that I hired nine years ago stated it was with their seven day test. I don't really know what I want you to do about it, just be aware that there is such a thing and lawyers also you know as I say don't want to touch it, it is a hot potato and I just thought that somebody here should be aware of it, that it is going on.

MS. YEAMPIERRE: Thank you, Ms. Zimmer. Edith?

MS. PESTANA: Hi, thank you for your comment. I had a question, you indicated that the Europeans are aware of ground one vibration.

MS. ZIMMER: Ground born, it is carried by the strata under the earth and

if these large powerful turbines say that produce electricity a lot of them have inundated the area along the East River on the Queens side. I don't think there had been a serious geological study done as to what kind of, you know is it silt, is it sandy soil as opposed to the granite in Manhattan and is it more effected, our area more effected perhaps than it should be?

MS. PESTANA: I just wondered what with the Europeans were doing, I had two questions, if you knew you said you had done some research if you had any ideas of or thoughts about what the Europeans are doing to address it as you indicated?

MS. ZIMMER: Well they are very concerned about it, you know I don't know exactly what they are doing about it but mostly it dovetails into the wind turbine area you know or trains passing you know very temporary things, it is not like a constant continuous 24/7 day in and day out vibration.

It probably is more serious too, you know it might be more severe and there haven't been many studies in America as far as the health effects of this. They do studies on that, you know about vibrations. There are standards that the international standards organization in Switzerland has established as to how much a human can sustain and for how long and the entire life time exposure to it but not in the United States.

MS. YEAMPIERRE: Thank you. Sue?

MS. BRIGGUM: Thank you. I think it was really helpful for you to mention this especially with a lot of people from EPA here. There are some devices or which what is usually called vibration is in fact regulated as part of the permit within state programs. I don't think the larger issue of with small generators frequently you have to do things in order to eliminate the vibration but I think this larger issue is kind of like odor and some of the other things that aren't specifically within our regulatory lexicon.

But when people like you come forward to mention this issue it resonates, if you were, and people think this is something we should be paying attention to when we have other regulatory opportunities, so thank you.

MS. ZIMMER: That is what I want.

MS. YEAMPIERRE: Jolene?

MS. CATRON: Jolene Catron, I would like to share kind of a cultural impact story along those lines. I am from the desert Southwest and a Pueblo Indian and back home we have these ovens that are made out of adobe brick and they look like a beehive they are dome shaped and they are called ornos and those ornos are held in high regard by the women as family members because we use them and they become part of our family.

The extraction or uranium in the area had created this really constant vibration, the big trucks, the blowing up the rocks, all of this was a constant vibration that created a real structural problem for these ornos and it was killing members of our families.

Again, that goes back to what Sue was saying is how do you protect that as a cultural resource? It isn't really a part of our regulatory lexicon like you said but it is something that we need to be paying attention to.

MS. ZIMMER: Oh, I appreciate that.

MS. YEAMPIERRE: Thank you, Ms. Zimmer.

MS. ZIMMER: Thank you.

MS. YEAMPIERRE: I am going to call the individuals that signed up to see if they are here. Jo Ann Simon? Mae Lee? No? Okay.

So we are getting ready to adjourn, I just want to ask do two things, one is I want to have you all join us in clapping for to celebrate someone who has been working all day on her birthday, Nia Robinson, it is her birthday today. Happy birthday.

(Applause.)

MS. YEAMPIERRE: This is a very, very hard working young woman and I just want to make sure that we express how happy we are that you have manifested on this earth and that you are with us. So, love you sending you lots of love.

So I am giving you homework before you leave. I would like you to review the 10-page Coastal Ecosystem Restoration Recommendations draft report, it is in your folder. We are going to start at 9:00 a.m. tomorrow morning.

We also want you to review the Science Implementation Plan in preparation for the conversation with EPA's Office of Research and Development and I also want to remind you, where are my notes, about tonight's this evening's community dialogue about mercury and toxics, where is that description, that starts at 5:30. It is Community EPA Dialogue on Proposed Mercury Air Toxics, I remembered, from Power Plant Standards and it is Salon F and it begins at 5:30 and ends at 8:30.

So I would like to thank the public for being patient and I hope to see you all tomorrow and I want to thank the NEJAC for all your insightful comments, buenas tardes, this meeting is adjourned.

(Whereupon, the meeting adjourned at 4:58 p.m.)

WRITTEN COMMENTS

The following individual submitted a written statement for the Focused Public Comment Period, but they did not speak during the public comment period.

Ms. Savonala Horne, Land Loss Prevention Project (see following pages).

LAND LOSS PREVENTION PROJECT

May 9, 2011

Savonala Horne, Esq.,

EXECUTIVE DIRECTOR

400 West Main Street

Suite 204

Durham, NC 27701

MAILING ADDRESS:

Post Office Box 179

Durham, NC 27702

(919) 682-5969

1-800-672-5839 (free call)

Fax (919) 688-5596

Ms. Lisa Garcia

Associate Assistant Administrator

US Environmental Protection Agency Headquarters

Ariel Rios Building

1200 Pennsylvania Avenue, N. W.

Mail Code: 1101A

Washington, D.C. 20460

Ms. Gina McCarthy

Assistant Administrator - EPA Office of Air and Radiation

Ms. Janet McCabe

Deputy Assistant Administrator

U.S. EPA Headquarters

Ariel Rios Building

1200 Pennsylvania Avenue, N. W.

Mail Code: 6101A

Washington, D.C. 20460

National Environmental Justice Advisory Council

U.S. Environmental Protection Agency: Office of Environmental Justice

Ariel Rios Building, Room 2224

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

SENT VIA E-MAIL to L. Garcia, G. McCarthy, J. McCabe, Victoria Robinson,
and Elizabeth Yeampierre

Re: Uranium Mining in Pittsylvania County, Virginia

Dear Ms. Garcia, Ms. McCarthy, Ms. McCabe and Advisory Council members:

The Land Loss Prevention Project of Durham, North Carolina, submits this correspondence to flag an issue of potential interest. The Land Loss Prevention Project is a non-profit organization dedicated to providing legal services and outreach on issues of land tenure to limited resource farmers and landowners in North Carolina. The issue we draw to your attention is the proposed uranium mining project at Coles Hill, Pittsylvania County, Virginia.

Coles Hill is the site of the largest undeveloped uranium deposit in North America. It is currently owned by Virginia Uranium Inc. (VUI) and is located in Pittsylvania County, Virginia.¹ The deposit is approximately seven miles outside of Chatham, Virginia and 30 miles north of Caswell County, North Carolina.² In 1982, the Virginia legislature passed a moratorium on uranium mining, largely in response to the discovery of the Coles Hill deposit and concerns over mining operations. Because of the relatively low market price of uranium, the moratorium remained in place unopposed for 25 years.³ Beginning in 2005, the price of uranium has steadily increased. On December 14, 2007, VUI began new exploratory drilling at Coles Hill and since that time has lobbied to investigate removing the ban on uranium mining.⁴ The ban can be removed through legislation authorizing the removal. In 2008, the Virginia General Assembly rejected a bill to do so.⁵

In response to the renewed interest in uranium mining, the Virginia Coal and Energy Commission approved two studies to evaluate the potential impact mining would have on the state.⁶ The first is being conducted by the National Academy of Sciences (NAS) and is targeted at the technical aspects of uranium mining.⁷ NAS created a committee of experts and has held several committee meetings and town hall meetings to allow testimony and public comment on the various issues presented by uranium mining. The second study focuses on the socio-economic impacts of uranium mining in Virginia.⁸ Both studies have projected completion dates of December 1, 2011.

The mining of uranium is a two-step process. The first step is the actual mining of uranium. Raw uranium ore is extracted from the ground; the ore is usually 0.1% pure uranium. This requires the mining of a large amount of ore to produce a comparatively small amount of uranium.⁹ The second step is milling. In a milling facility for an open pit or underground mine, the ore is crushed and then treated with a chemical leaching agent to separate the pure uranium from the ore. The refined uranium product is referred to as "yellow cake." At an in-situ leach milling facility the ore arrives as a liquid which is evaporated to leave refined yellow cake.¹⁰ Each of these three types of mining, underground, open-pit, and in-situ leach mining, have advantages and disadvantages. The potential impacts of a uranium mining project vary depending on the choice of mining technique. In-situ leach mining is the only technique currently used in the United States.¹¹

Exposure to different radioactive elements varies depending on the type of mining-milling operation used. Mill tailings are the waste products left over when uranium is separated from ore and are associated with open-pit and underground mining methods.¹² These tailings retain about 85% of the original radioactivity of the uranium ore and have the potential to get into the environment in many different ways.¹³ They are usually stored in large ponds and piles near the mine and milling facility. If improperly stored, it is possible that radon gas and tailings dust will travel from the pile, by wind, to nearby communities.¹⁴ People are

exposed to radiation when this dust is inhaled. Additionally, dust containing radioactive substances can travel to water bodies by wind and contaminate ground and surface water. It is also possible for rain to filter through the tailings pile and contaminate the ground water. These concerns have resulted in the practice of capping or covering tailing piles.¹⁵ Because some rainwater does eventually reach the tailings, a liner is placed underneath the entire pile in an attempt to prevent any water from reaching the ground water of the area. Because of the amount of mill tailings produced, the resulting pile or pond is usually quite large. This results in the production of a dam like structure to contain the tailings in the desired location.¹⁶ The largest concern with regards to mine tailings is the possibility that a storm or heavy precipitation will compromise the integrity of the dam and result in it failing.^{17,18} In the event that this happens, the released tailings have the potential to flood into nearby areas and contaminate water supplies.¹⁹ Because of this concern, uranium mining is typically conducted in arid, desert climates and in areas that are deemed sparsely populated. Nonetheless, potential risks to individuals and communities are not negated by a simple population tally. No uranium mining operations have ever existed east of the Mississippi River.²⁰

Though mill tailings are not produced with the in-situ leaching technique, this mining-milling operation also has environmental and public health risks.²¹ Using the ISL method, holes are bored deep into the ground until the uranium deposit is reached. Then a leaching solution is pumped into the deposit. The leaching solution flows through the porous uranium ore, dissolving the pure uranium. The dissolved uranium leaches (attaches) to the solution and is then pumped back to the surface. The solution is transported to a nearby milling facility where the uranium is extracted from the solution. The leftover leaching solution is placed into an evaporation pond nearby the milling facility.²² There are treatment processes that attempt to re-collect all of the leaching solution that is pumped into the deposit.²³ There is still a chance that some solution will be left behind and might contaminate ground water. Regulations promulgated under the federal Uranium Mill Tailings Radiation Control Act require that affected ground water be restored to its original pre-in-situ leaching contaminant levels.²⁴ However, it is said to be impossible to restore groundwater to its original condition.²⁵ Contamination of ground water can occur in several other ways from this type of mining; for example, a pipe could begin leaking at the surface level, leaching solution at the deposit could be improperly pumped, or the evaporation pool could be improperly lined.²⁶ The ISL method results in larger quantities of liquid waste that can spread across large areas.²⁷ Additionally, it releases significant amounts of radon into the air.²⁸

Chronic exposure to radiation from uranium mining can affect cellular processes and cause genetic damage leading to cancer.²⁹ Additionally, birth defects and mental retardation are possible if exposed in utero.³⁰ In a study of uranium mining in Monticello, Utah, residents of the area showed remarkably high rates of diseases related to exposure to uranium and other radioactive chemicals as well as significantly higher rates of mortality during the time of mill operations.³¹ This

study also illuminated higher rates of childhood leukemia and respiratory disease.³² Exposure to uranium, radium, thorium, polonium, radon gas, arsenic and lead (some of the potential elemental byproducts from the uranium mining-milling process) results in a wide range of serious health problems.³³

Historically, uranium mines have been in the western United States and 75% of uranium mines are located on federal or tribal lands.³⁴ The painful lessons which are still being learned on those lands are relevant here and may be brought into focus in still another framework. Virginia's climate is classified as "humid subtropical" and there are many people per square mile in the state.³⁵ Virginia is an area subject to tropical storms and hurricanes which can generate extreme flooding.³⁶ Additionally, Virginia has an average of seven tornadoes per year.³⁷ Coles Hill is the only place - out of all of the places where uranium has been mined or milled before or even has been considered for mining-milling - where rainfall exceeds evaporation.³⁸ Furthermore, Virginia is more densely populated than other uranium mining sites in the United States. In 2010, the population density estimate per square mile of Virginia was 203 persons.³⁹ This is high as compared with other population densities of states that currently have uranium mining: Colorado (49), Nebraska (24), New Mexico (17), Texas (96), Utah (34), and Wyoming (6).⁴⁰

The Coles Hill Deposit is part of the Dan River Basin, as well as, the larger Roanoke River Basin. It is located just north of the Banister River, which flows into Kerr Lake and Lake Gaston.⁴¹ Smaller contamination of the groundwater could impact Virginia residents in the nearby vicinity of the mine, whereas a larger incidence of contamination might impact residents downstream from the Banister River. A contamination of Kerr Lake and Lake Gaston would have a noticeable impact on water quality in North Carolina and Virginia. The Virginia Beach area currently uses Lake Gaston as its primary source of water.⁴² Many of the counties and municipalities in North Carolina that border the reservoirs also draw their drinking supply from Kerr Lake and Lake Gaston. Due to the rapid population growth of the area, there are proposals to conduct a water transfer from Kerr Lake to the Neuse River basin to supplement the water supply of the Raleigh, North Carolina area.⁴³ Approximately 1/6th of North Carolina's population lives in the Neuse River basin.⁴⁴ A large contamination incident could potentially have a significant impact on water quality in North Carolina.

Counties of North Carolina likely to be impacted by uranium mining at Coles Hill are Caswell, Vance, Granville, and Warren Counties. Caswell County in North Carolina borders Pittsylvania County, Virginia. Radioactive elements from a uranium mining operation in Pittsylvania County could contaminate the air, water and soil in Caswell County. Caswell County is mostly rural with a long history of tobacco farming.⁴⁵ Vance, Granville, and Warren Counties obtain drinking water from the Lake Kerr Supply.

The statistics show that these North Carolina counties are generally very rural, with low population densities.⁴⁶ Large percentages of the people who may be affected in North Carolina by a uranium mining-milling operation are classified as racial minorities.⁴⁷ The affected counties have poverty levels higher than the national average of 14 percent in 2009.⁴⁸ The national “event dropout” rate or the “percentage of both private and public high school students who left high school between the beginning of one school year and the beginning of the next without earning a high school diploma or an alternative credential” was 3.5 percent in 2007-2008.⁴⁹ The potentially affected counties in North Carolina have significantly higher dropout rates of over 20 percent.⁵⁰ Historical access to justice questions arise. Given such potential concerns, it is important to consider what avenues are open for all affected citizens to participate in decisions affecting their well-being and their livelihood and whether this access will be meaningful.

The values of both health and justice require a close examination of the future of Coles Hill and we urge your careful consideration of the well-being of both the land and the people.

Very truly yours,

LAND LOSS PREVENTION PROJECT



Savonala Horne
Executive Director

¹ Rex Bowman, *In Virginia, the Appeal of Uranium Mining*, TIME MAGAZINE, Feb. 23, 2009, <http://www.time.com/time/nation/article/0,8599,1880695,00.html>.

² *Id.*

³ *Id.*

⁴ Virginia Uranium Inc., *The Process*, www.virginiauranium.com/process.php (last visited Feb. 1, 2011).

⁵ Virginia Conservation Network, *Uranium Mining*, <http://www.vcnva.org/anx/index.cfm/1,258,1821,0,html/Uranium-Mining> (last visited Feb. 1, 2011).

⁶ Anita Kumar, *VA. Commission to Study Effects of Uranium Mining*, WASH. POST, Nov. 29, 2008, <http://www.vcnva.org/anx/ass/library/28/washposturanium.pdf>.

⁷ Virginia Coal and Energy Commission, *Request for Proposals – Socioeconomic Study of Impact of Uranium Mining*, http://dls.state.va.us/groups/cec/Uranium/RFP_Final_092910.pdf (last visited May 5, 2011).

⁸ Virginia Coal and Energy Commission, *Socio-Economic Impacts of Uranium Mining in Virginia: Study Objectives*, Jun. 22, 2010, <http://dls.state.va.us/groups/cec/032409/impacts.pdf> (last visited May 5, 2011).

⁹ Peter Diehl, *Uranium Mining and Millings Wastes: An Introduction*, Aug. 15, 2004, www.wise-uranium.org/uwai.html.

¹⁰ Peter Diehl, *Impacts of Uranium In-Situ Leaching*, Nov. 20, 2011, www.wise-uranium.org/uisl.html.

¹¹ *Id.*

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- ¹² Diehl, *supra* note 9.
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ International Atomic Energy Agency, *The Long Term Stabilization of Uranium Mill Tailings*, 47, 47-53, (2004), www-pub.iaea.org/MTCD/publications/PDF/te_1403_web.pdf.
- ¹⁶ *Id.*
- ¹⁷ *Id.* at 16-18.
- ¹⁸ Peter Diehl, *Safety of Tailing Dams*, Aug. 21, 2004, www.wise-uranium.org/mdas.html.
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