

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

November 16 - 18, 2010

***Wednesday,
November 17, 2010***

National Environmental Justice Advisory Council

November 17, 2010

NEJAC Committee 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
Jodena Henneke
Savonala "Savi" Horne
Hilton Kelley
J. Langdon Marsh
Margaret J. May
Fr. Vien T. Nguyen
Edith Pestana
Shankar Prasad
Patricia E. Salkin
Nicholas Targ
Vernice Miller-Travis
Kimberly Wasserman

Victoria Robinson, Designated Federal Officer, ***Ex Officio***

NEJAC Committee Members Absent:

Don Aragon
M. Kathryn Brown
Chuck D. Barlow
Paul Mohai
Nia Robinson

National Environmental Justice Advisory Council

November 17, 2010

I N D E X

	<u>Page</u>
<i>Welcome and Review of Action Items from Day 1</i>	
by Elizabeth Yeampierre, NEJAC Chair Executive Director, UPROSE, Inc.	5
<i>NEJAC Preliminary Response to Permitting Charge</i>	
by John Ridgway, Moderator	11
<i>Questions and Comments</i>	20
<i>EPA Plan EJ 2014: Environmental Justice and Permitting</i>	
by Janet McCabe, Deputy Assistant Administrator, EPA Office of Air and Radiation	49
by Carol Ann Siciliano, EPA Office of General Counsel	57
<i>Questions and Comments</i>	64
<i>EPA Plan EJ 2014: Supporting Community-Based Action – An Overview</i>	
by Mathy Stanislaus, EPA Assistant Administrator, Office of Solid Waste and Emergency Response	73
<i>Questions and Comments</i>	76
<i>PANEL: Environmental Justice Challenges Facing Rural Communities</i>	
by Vanessa Frazier, Executive Director, Howardville, Missouri, Community Betterment	98
by Marcie McLaughlin, Chief Executive Officer, Midwest Assistance Program	104
by Michael Linder, Director, Nebraska Department of Environmental Quality	108
by Richard Boyles, Area Director, U.S. Department of Agriculture (USDA) Rural Development	114
<i>Questions and Comments</i>	120
<i>NEJAC Comments to EPA Plan EJ 2014</i>	
by Kim Wasserman, Coordinator, Little Village Environmental Justice Organization	132
<i>Questions and Comments</i>	140

National Environmental Justice Advisory Council

November 17, 2010

I N D E X

	<u>Page</u>
<i>EPA Response to NEJAC School Air Toxics Recommendations</i>	
Moderator: John Ridgway, Manager, Information Management and Communications Section Hazardous Waste and Toxics Reduction Program	152
by Richard “Chet” Wayland, EPA Office of Air Quality Planning and Standards	153
<i>Questions and Comments</i>	179

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

MORNING SESSION

(8:46 a.m.)

Welcome and Action Items from Day 1

MS. YEAMPIERRE: Good morning everyone. You all have your agendas in front of you. We are going to start this morning with reviewing Actions from Day 1 and a few issues that have come up. We have about half an hour to go over that and some of the things that do not get discussed we will have an opportunity to talk about tomorrow.

We have a good amount of time tomorrow to go over those things. We know that Lang raised the issue of the Gulf Coast Restoration Task Force and so I wanted — where is Lang? Oh, so I wanted to know if there was anything that you wanted to talk about regarding what you felt the NEJAC should be doing on that, whether there should be a charge. Do you want to talk about that?

MR. MARSH: I am not sure I was the one who raised that.

MS. YEAMPIERRE: All arrows pointed to you Lang. Jody?

MS. HENNEKE: Thank you. Lang and I talked amongst each other about it but I think there are a couple of different things, I think that having set through that first Gulf Coast Task Force of course there is intense interest in the restoration effort but a tremendous focus is going to have to be on how the communities are involved and you are dealing with five separate states with very different set ups and with a huge number of activities going on.

I personally think that NEJAC is positioned and experienced at helping with that and because that Task Force is on such a bullet train schedule, they have to be finished by October 4th, just the organizational effort is going to be herculean.

I am not sure whether I think the NEJAC should have a separate and unique charge or should be, and I do not want to use the word staffed, but staffed to at least in a work group or something to help with that effort.

MS. YEAMPIERRE: Thank you. Any comments or guidance that the members want to add? John?

MR. RIDGWAY: For those of us who do not understand maybe a couple of minutes of explanation about what this Task Force is tasked to do.

MS. HENNEKE: Administrator Brooks was talking about it a little bit yesterday. This is coming right after the BP spill started. The President tasks Secretary of the Navy Ray Mabus to do a report, an investigation of sorts, as to some of the suggestions, some of the different kinds of approaches that he thought should be ongoing as a result of this spill.

He came out with what those of us that have followed it very closely just refer to it as the Mabus Report, that report brought with it the recommendation for the President to issue an Executive Order.

The Executive Order created this Task Force with specific slots of memberships including all of the Federal resource agencies for NRDA for the National Resources Damages Act through oil spill.

So you have Federal Agencies and then you have slots for the Governor of each of the Gulf states has a statewide elected official or their staff on the Task Force and it is staffed at a very high level.

There is -- well Lisa knows all about it but it is on a bullet train it seems like because there are several of us on the NEJAC that have deep and abiding interest in the Gulf Coast so we are either from there or lived there or worked there and it appears to me that we would be poised to help.

MS. GARCIA: Well I would certainly agree with that. There definitely was a discussion early on on whether there should be a new FACA or created to help out with the Task Force and we discussed this a little bit that it may take too long for it to be a whole new FACA and that we would bring together members to work on the Gulf Coast restoration.

So I will definitely take that, I guess certainly the recommendation of how the existing FACA's can begin to help because there is an environmental impact and restoration has to include a lot of the environmental Justice communities and we recognize that.

So just to also update, in Pensacola it was the first meeting of the Task Force and the goal was really to bring in some of the comments from the impacted areas and so opening it up to communities, to local stakeholders and also local elected officials because they are not members of the Task Force and that was some of the concerns that we heard that we really need to hear from

communities and from local elected officials.

So, the hope is that we are going to continue to collect some of those comments and go out some more and then figure out how we create these panels of community input and local elected official's input along with the named Task Force members which are the Governors from the states and then the Federal Agencies.

So, I will definitely take that recommendation back as something that could happen along with the work that we are doing to get that input.

MS. YEAMPIERRE: Thank you. We have about six more minutes so is there another topic that someone wants to put on the table? John?

MR. RIDGWAY: This is maybe for Lisa, but we all received invitations to the White House meeting in December on Environmental Justice and I am wondering if at some point before we leave we can get a little context of that meeting in relation to the NEJAC's involvement or maybe they are completely separated.

MS. GARCIA: Well I wouldn't say it is completely separate but the invitations went out to the individuals. So first of all, I am happy that the invitations went out and that you all received it so this is something that seems to be working a little bit.

But the goal of that is one of the next steps in the Interagency Work Group that was reconvened by Administrator Jackson and Chair Sutley is that we would have a White House leadership forum on Environmental Justice and so it is December 15th and we recognize that things are kind of moving a little bit quickly and it abuts closely to Christmas but we really want to keep this effort going.

So, the invitations are to come to Washington, DC and there is going to be a dialogue with some of the Secretaries and some of the senior leadership of the Federal Agencies that are on the Interagency Work Group and we reached out last spring to a few state cultures to figure out what some of the topics are, what some of the main topics are for Environmental Justice leaders to discuss.

So we have narrowed it down to green jobs and climate change, healthy and sustainable communities and so those will be the topics and we will have plenty discussion with some of the Secretaries and then panel and we are also hoping to invite some of the EJ advocates to come and speak also along with the Secretaries and senior leadership. So, it is just kind of continuing that dialogue.

MR. RIDGWAY: So Lisa, is it correct that the context is much broader than just the EPA's role with Environmental Justice given it so White House multi-agency?

MS. GARCIA: Yes exactly, it is really beginning to bring in the Federal family to once again focus again on Environmental Justice.

This is under the Executive Order signed by Clinton on Environmental Justice and we have added a few agencies that were not in the original Executive Order like Department of Homeland Security was not even formed but it is that effort to once again bring in all these agencies and have that dialogue.

Just quickly, one of the commitments that the Secretaries had in the first Interagency Work Group meeting it was cabinet level members.

One of the commitments they made was to go out and go into communities and listen and hear what some of the concerns are but also talk about some of the things that the agencies are doing and so this is the kind of kick off of that dialogue and community outreach. We are hoping in 2011 to go outside of DC to other cities.

MR. RIDGWAY: Thank you.

MS. YEAMPIERRE: This is so exciting. These kinds of meetings I do not think have ever happened before this level and I think that there is a real interest in really doing an Interagency approach that makes sense. Pat?

MS. SALKIN: Lisa, I just wanted to find out if you knew the way the meeting is going to be set up, how much is listening to the presentations and how much of an opportunity is there going to be for the invited participants to actually engage in the dialogue to ask questions, to offer suggestions, how interactive I guess is it going to be?

MS. GARCIA: The agenda is still draft but we are hoping to have 45 minute Q and A sessions for each panel discussion to open it up and really to hopefully meet the agency staff also and go from there to set up those relationships and hopefully continue that dialogue.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Thank you. Actually, we have had White House meetings on EJ before but we are really, really pleased and honored, Lisa, that you and CEQ and others are taking it

forward to this level.

I wanted to ask and I know there has been some discussion that travel funds are not being made available for grass roots folks and community based folks to get to the meeting and that may be an impingement for some people to be able to come and it may also stifle the voice of that constituency who do not live within a train ride or a bus ride from DC to be able to get there.

Is there any give and take about that and is there any way to make it possible for as many folks to get there from around the country as possible?

MS. GARCIA: I will definitely take that back. My understanding is that I guess the general, any time the White House has a meeting especially for security and everything else that there is not those types of scholarships but I understand that this is a little different so I will make sure that we talk to CEQ and see if there is something we can do.

Then of course I completely understand that even if there were some scholarships that it may be difficult so I am really hoping that this will be the kick off event and then we hope to go out to communities and meet folks where they live.

MS. YEAMPIERRE: Although Lisa I do understand in all fairness that a lot of grass roots leaders have been invited, people who actually have a base that they are accountable to that have been invited or is that wrong?

MS. GARCIA: It is not exclusive to the NEJAC that is correct. So, there is definitely grass roots groups that have been invited and we are hoping that they can get there or maybe talk to some funders to see if they can get sponsored but I will definitely take the question back to see if there is some leeway there to assist with that.

MS. YEAMPIERRE : Wynecta?

MS. FISHER: Thank you Madam Chair. Ms. Garcia, do you think it might be possible for those individuals that cannot travel if they could get to a, I am going to deem it as a secured location, whether it is a military installation or an FBI office, I mean you would still have to go through the same clearance, and they could possibly have a video conference where you would still be able to at least hear what is being said and possibly participate?

MS. GARCIA: Yes, that is a great recommendation. I know we did something where we had a web cast for one meeting, so figuring out if there is a way to open up. Yes, I mean I would need to figure out what the White House security like you said FBI I don't know but we will have to talk about that and figure that out. But thank you.

MS. FISHER: When Chair Sutley came to New Orleans for the Ocean Policy Task Force they actually, I don't know how they did it, but they had to people in Florida and they had people in Mississippi via video.

MS. GARCIA: Okay, that is good to know thanks.

MS. YEAMPIERRE: Thank you. Victoria?

MS. ROBINSON: Thank you, Elizabeth. I just wanted to clarify for those in the audience the invitations that the NEJAC members received to the White House Forum, they were one of many that was sent out to individuals.

However, this is not sent to the NEJAC members as the council. They received invitations individually because of their role and participation in Environmental Justice, so it is definitely not a NEJAC function or subject to the Federal Advisory Committee Act so that people are very clear on that, okay? Thank you.

MS. YEAMPIERRE: Thank you. So we are going to transition now to John who has been working diligently for the last six weeks on the permitting charge and he will be presenting and moderating the next part of the agenda.

NEJAC Preliminary Response to Permitting Charge

MS. RIDGWAY: Thank you, Elizabeth. Good morning everybody and in the audience thanks for coming on back today. I think this is going to be a pretty interesting presentation and conversation.

What I want to start with is to lay out kind of a strategy for getting through the next hour and a half and then we will get into the substance of the preliminary report in a moment.

The first thing that I want to cover or just remind everybody about process, this is a draft and it is by no means complete. So, the purpose here will be to focus on substance of the recommendations and the background to those recommendations.

We are going to be pretty tolerant of typos and things of that nature because there will still be time to correct those. So, we will just focus on the substance and certainly we will welcome comments on corrections as well but we don't want to take time on that here.

In terms of looking at substance, the general goal I would like to get out of today's deliberations is to look for what is not clear so that we can clear that up for you. You are the audience council members at this point of what the subgroup created, so it is really not out there for the full public yet.

There is certainly the possibility that you can all say this needs to be sent back and reworked, so this is why I want to just be sure that it is still a process in motion here but my goal would be to clarify any questions and also to get input in terms of anything that you think is missing that we should get in there.

So again, we are looking for clarification where needed and what is missing that we should consider and add into that and if we are lucky we can take what we hear today, this morning, and if we need to add a little bit more in there so that we can get this wrapped up and have the council accept it then it would go back into the finalization process where we would address the typos and wrap it up and then we would have a chance to send it on.

I don't know if we will get to a voting process or not today or tomorrow on that but we may be able to wrap it up in emails if we don't.

The summary is not written yet purposely such that we can take into account what we hear today and over the next day in terms of maybe I might need to report back tomorrow if we hear things of substance that we have to go back and chew on.

So that is why there is no summary yet but the summary should certainly be consistent with the core of the reports. So there will not be anything new in the summary that you won't already be aware of.

My humble request of the subgroup that worked on this is to listen and take good notes on the comments of your fellow council members so that the comments I would hope to engage in dialogue here will be primarily from council members that were not on the subgroup.

Certainly, you subgroup folks are welcome to chime in as well but I want to give the other council members a chance to be sure to have plenty of time to address your questions and/or comments and advice.

I may be a little informal in terms of saying, hey it is okay to chime in if you have a question or for clarification, I will do my best to facilitate that and ask Elizabeth too to keep her eyes open for your cards going up, but it is going to be kind of an informal conversation in this regard.

So, with that I will kick into a little of the background then I will get into the substance of the report and I think what we will do is we will project up onto the screen what was passed out to you yesterday which is a summary of the recommendations without all the background that led to those recommendations.

We will go through each one of those briefly but to be sure that you all understand the recommendations we are making. That is kind of the meat of what we are delivering here and you need to feel free to ask, what did you mean by this or that so we will probably go through each one of those and that will be probably the core of the amount of time and in deliberations.

At the end I want to take five minutes maybe to summarize what we hear collectively and be sure we understand the advice that you will pass along to us.

With that, I will get into some caveats here. The charge is in the report and it was pretty broad in some regards, and I am paraphrasing here, what kinds of permits should EPA be looking at to address or enhance Environmental Justice and not just look at but first or initially.

So, I don't think we were asked to say, look at these kinds of permits and don't look at those kinds of permits but rather where should the focus start with and it is a very big topic and frankly it was way more than we had time to get into in great detail.

So the process here was a little different than what I have observed with prior NEJAC charges where there has been many months, sometimes years, that go on before there is a final product.

Whereas here we were given the charge at the end of July and by the time we had our first caller we were well into August and so we really did only have about six weeks to map out how we were going to go about this charge and the first thing right off the bat was, well this is not going to be a comprehensive effort because we don't have the time for deliberations, for research.

When you are looking at all the different kinds of permits and implications around those

permits this could keep a lot of people busy for a long time and yet we didn't have that.

So, I am not making apologies by any means but rather just say we just didn't even try to think that this was going to be a fully comprehensive review of all the dynamics around permits that could be deliberated on with a greater amount of time and resources.

So, we were trying to cover some fundamental concepts here and ideas in our recommendations understanding that there may be nuances there that were not captured, challenges certainly where things are easier said than done, that is all assumed as we started this and as we went through it.

I want to recognize the subgroup members. We had Don Aragon who wasn't here. We had Hilton Kelley, and going around the room here, we had Sue Briggum and we had, I am still waking up here this morning, Vernice and Shanghar and Edith and who else did I forget here, Jody right, thank you.

So that was it and I did kind of caught up in process because we had such a short amount of time. We scheduled the meetings right up front and we just said, here is the way we are going to go about it and we will do our best. So that is enough on the caveats.

I think the fundamental recommendation was that if EPA really wants to garner the advice of the NEJAC on all the ramifications of permits it is going to take more resources and time. So whether they want to do that or not is up to them, but I think we dished up a lot for them to chew on.

So there is a healthy exchange here where they challenged us to turn around something very quickly and now we get to challenge them to digest everything we are dishing up for them and they have plenty to work on. Whether or not a subgroup gets set up in a more formal context with more people or a workgroup that might bring in other folks that are not council members as experts.

So it is different that way and I am kind of curious to see if it works in the context of turning this around in a quick way and giving EPA something to start working on right away at the same time understanding that there may be more research and work and deliberations that follow.

Any questions to start with before I get into the recommendations about what I have just shared or processed? Anything there? Okay.

So maybe I can ask — what I will do also is I will go through kind of by section in terms of the recommendations.

So there are really two documents here, the draft report which was sent out to council members about a week ago is about 26 pages and that includes appendices and really what you got sent out yesterday would be another appendices and a quick summary of the recommendation.

I will start with the first kind of general section which was after just noting the charge we felt it was important to lay some context and so we started with Section 3 and I am on page 2 here of just general considerations.

The first was beyond, the workgroup might be appropriate to get into this more, was there is already a lot of hard work and good recommendations that this council in its prior work have already produced regarding permitting and those are noted in the document but we just wanted to remind all readers that we had no interest in reinventing the wheel here.

There is just plenty to work with and some of those reports were produced 10 years ago and it is certainly possible that given a new administration and turnover that perhaps all those reports were not fully digested by the most current leaders of EPA or the folks that are involved in permitting and we had to say, you need to go there first. You need to look at the work that has already been done and that is the huge foundation of what this is built upon.

So we wanted to recognize that and then be sure that we didn't have to go over those things again though there are some key points that are drawn out as reminders in relation to our recommendation that come from the prior reports.

We also acknowledge that by no means do we have the expertise to full address this and a lot of my comments today are going to be more from my own perspective rather than I am not speaking on behalf of the council in this regard but rather background.

My job with the Department of Ecology in Washington state is involved with permitting but in the limited traditional stovepipe manner my interest in the expertise is around the hazardous waste or RCRA permits and that is just one of many.

I would generally suspect that few people have the broad expertise on all kinds of permits across the board so to ask a question around what is the best one to start with first, I don't know that there is any one person who can answer that it is a tough question and because of the nuances no small group can do this.

If there was going to be a big expanded review many, many people would have to be involved with advising the workgroup on the nuances of that. So again, we didn't try to get into that too much.

I think rather than to go through page by page I do want to ask that we will put up, oh it is already up there, that Appendix D on the summary of the recommendations. So we are going to just start going through those now and just feel free to chime in quickly if you have a question that needs clarification.

So the first recommendation here, now I am looking at what is up on the screen was to set up a more formal workgroup and just to be clear that would be different from a subgroup or a subgroup was council members only, quick appointments, quick turnaround where the workgroup would have more resources and time to bring in experts who are not on the council who have an expertise to share on specific kinds of permits or issues around specific permits.

The second is to assemble data to inform the public on the percentage of permits that address EJ concerns and applicable environmental permits in general. Again, we had a ton of questions and we put those questions in this report as well to help guide EPA as to maybe things to tackle in that broader context or in a more advanced workgroup setting.

We didn't know how many permits of one type or another were issued to EPA as opposed to the many other entities that may be doing the permitting through state, delegated or authorized capacity where primacy is not within EPA but it might be the Corp of Engineers or again a state, it might even be something we have in Washington and perhaps elsewhere there are other forms of local government as opposed to a state.

We have air permitting agencies that are based at the county level, so it goes all over the place where these kinds of permits happen and we didn't really know for sure the percentage one way or the other in terms of what EPA can directly control or they have indirect connections with.

The third recommendation to support TSCA reform to better identify the range and toxicity characteristics of current chemical in use and their applicability to permitting or permitted pollution in communities. I want to put a small caveat into this, we heard from Carl, Region 7's administrator on Monday, not yesterday in our council meeting but he made it very clear that EPA is not authorized to go and lobby Congress and TSCA is something that Congress has set up.

So, although we understand that nonetheless this comment is to support that TSCA reform such that the country has a more up-to-date chemical policy to address these questions that many, many people have. There is a lot of ambiguity and/or things that across the country are being brought up around chemical policies that we think a TSCA reform is cued up to address.

Right now Congress is looking TSCA reform but I just want to be clear, we are not expecting EPA to go and lobby at the same time we want to encourage them to do what they can to support that reform.

The fourth recommendation is pretty obvious, just follow the recommendations of the prior NEJAC Council. I don't think there is anything in those prior reports that we would disagree with so we just want to reiterate keep using those recommendations where appropriate.

Number 5, to require permitting and implementation staff to review available guidance on permitting and incorporating the principles into all possible agreements, formal or otherwise, with delegated states and permitting. We will get into this a little bit more.

In general, we are seeing here the people out on the front line in the Regions where more of the permitting work is being done either directly or overviewed when a state or a Tribe or some other agency has primacy, we certainly want to recommend that those staff are very familiar with these recommendations and the options that we bring up here such that this work can go forward sooner than later.

Time context here, we were not given one in the charge but we do understand that the sooner the agency can start doing this work the greater the chances we can see some opportunity for implementation before the possibility of an administration change two years from now.

But to the extent that these comments have been provided in recommendations it is for, not just the next two years, but it is certainly beyond that.

Number 6, to draft an outreach plan template or form for permitting staff that would contain all relevant community concerns and conditions and include a list of stakeholders focused on recognizing Tribal Nations, EJ communities and other indigenous peoples and again we have the references and I need to thank Suzette and others for doing this work of putting it together. The

background is on the pages that are referenced in the parentheses.

So we think that there is an opportunity for EJ staff to go out and use a template that could be applied consistently across the Regions. Sue, do you have comments you want to add right now? No? Okay.

Backing up, one of the things that happened early on here and Sue was a wonderful provider of a different way to look at permitting and we tried to address this in the paper and that was to look at all the kinds of EJ concerns that we are aware of, that have been brought to the council in the past and try to correlate those with the kinds of permits that are out there recognizing that there are some EJ concerns that are not related to permitting directly, maybe indirectly they are, and others that very much are.

So there was an effort and that is addressed in one of the appendices and I will ask Sue to give a little bit of discussion about that in a second. But I do want to get through the recommendations first just to be sure we cover those basics.

Number 7, maintain an open list of community organizations in Tribal Governments and indigenous organizations in context to permit applicants such that when somebody comes to the agency with primacy, again it could be EPA or a state, and they say I want to get a permit to do this or to build that we would like to see EPA's staff that are involved with reviewing that application to be prepared to give to the applicant a list of here are all the people we are aware of.

It may not be a perfect list but certainly we assume that the Regions should be aware of the EJ communities out there that are around this permitted facility and ask the permit applicant or encourage him to say, here are your stakeholders here you need to work with him and you need to invite him into this process ASAP.

It is just never too soon to do that, we have heard that a lot and we had a little bit of dialogue around how that list is maintained or who gets to be on it or who doesn't and we didn't come up to a clear definition of how that list would happen but the general context is EPA should be able to provide that list to permit applicants so that they know who potentially could be impacted.

They may not know, they may never have thought about it and they need to be aware of that and we want EPA to help that happen.

Subgroup members, if you want to add anything to my comments here, I am not presuming I am catching all the nuances so do feel free to just chip on in.

Questions and Comments

MS. PESTANA: Hi, can I chip in?

MR. RIDGWAY: Yes.

MS. PESTANA: This is Edith Pestana, Connecticut Department of Environmental Protection. Yes, I think the intent on the recommendation number 7 on maintaining an open list of community organizations and Tribal Government and indigenous organization contacts, I think that can be flexible. I am not sure that it should fall within the permitting staff because they are technical people.

I think that if the Regional Environmental Justice coordinators have this staff that that coordinator should work more closely with the permitting staff in participating in the public notice process and helping the permitting staff with the applicant obtain the list of contacts because the EJ coordinator in the areas should have a good idea of who the effected communities are and who the more vocal individuals are that should be contacted when there is a permit in their respective community.

MR. RIDGWAY: Thank you. Number 8, encourage the greater use of supplemental environmental projects or SEPs. For example, developing, hosting and publicizing training and implementation sessions on EJ oriented pro-active SEPs.

Now, we gave a little context of what SEPs are and it is important, these are voluntary EPA or the state tribal primacy entities cannot require this and this gets into the enforcement side of things where if a business has or a facility has going through enforcement or penalty kinds of work that there is the opportunity to the business being penalized to offset a small amount of the penalty.

This is way down at the end of the road after there has been usually a case brought and deliberations and a judgment ultimately there is a penalty that gets negotiated and it is at that point where the business or facility has the opportunity to do a supplemental environmental project.

It might be to mitigate something that happened as a result of a violation. It might be to do just tell buy emergency response equipment or do a local enhancement project on the environment but this council has heard comments in the past around SEPs and although they cannot be required we certainly think the pump can be primed for good SEPs to be considered and through that enforcement

process which is not directly related to permitting but absolutely indirectly could be, we think EPA's Environmental Justice staff and the other people involved with the compliance and enforcement should be thinking what would good SEPs potentially be? What is going on already in that community?

Not that the community has the chance to come in and negotiate these things but EPA is in a very unique position to understand what the penalty is and the dynamics around what was involved with assessing that penalty and then we think they can help cue up ideas and recommendations but they cannot require it. The business may just say, I don't want to do it, I am going to pay my fine, that is that. But to the extent that these can be considered and cued up for a business that is in the nature of this recommendation.

Number 9, employ EJ good neighbor environmental benefit agreements as part of permitting to more pro-actively resolve EJ concerns. So this is up at the front end. It is certainly possible that a business when they get a permit can put in other non-required elements but are things to enhance EJ dialogue and showing of information about what the facility is going to do relative to the permit.

If it is going to be issued, for example, maybe more monitoring than the law requires that the community will have access to that monitoring information. It is not a regulatory requirement, it is just a good neighbor agreement to let them know what is going on and to help interpret what that data is and/or other considerations around the nature of the business and the permit.

Number 10, to ensure ample representation from both Tribal Leaders and Tribal communities appointed to the council related to the workgroup. Excuse me. This one is very broad and for the council's consideration we wanted to be sure that we felt although we had input from Tribal representation it probably wasn't as much as would be critically important for an overturn review of permitting and we think that the permitting dynamics are very complicated in the Indian land and thus there needs to be a good wholesome comprehensive representation from that community for the permits.

Number 11, incorporating closer and/or independent review of formal consideration of EJ concerns by the U.S. Army Corp of Engineers, EPA, Tribes and State entities regarding the issuance and enforcement of the Clean Water Act and we note Section 404 permits and this is in regard to dredging and dredge fill and there is also 402 but it is complicated and we would like to recommend that more be done in that oversight and/or coordination between what the Corp has delegated the authority to do and what EPA's overarching carrying out of the Clean Water Act would be.

Number 12, allocate more time and attention to the many facets surrounding EJ and cumulative impacts regarding permitting regardless of which government entity has primacy. I think that is fairly self-explanatory.

Number 13, to consider the following recommendations related to the performance partnership agreement. This is something that I have had a lot of background around PPAs, another acronym, but these agreements are in existence as I understand in all Regions and they are set up to clarify and publicly declare what the State, Tribe, other agency is going to do to carry out their delegated responsibility.

It is negotiated usually every two years. It is signed off by the Regional Administrator and the Director of the environmental agency that is issuing the permit and we think that this is a tool that already exists, it is ready to go and there are no limitations on the kinds of things that can be included.

At a minimum, they certainly have to reference what has to happen but there is more that can happen and the PPAs are a perfect spot to recognize Environmental Justice in the work that that delegated authority involves.

So, we have those items A through G. I am not going to go through each of them but we think that this a tool that is ready to go and should be used much more and it needs to be, there needs to be equal support EPA needs to do this, the State has to do that but the public has an opportunity here also to comment on these performance partnership agreements in advance so that EPA and the Tribe or State can understand what the community wants and have a chance to build it into that performance partnership agreement.

Also, halfway through the two year cycle give an update, how is it going? Are they really doing it? And let the public know what is going on there and if it is towards the end of that two year period be sure everybody understands there is a new one that is going to be negotiated and invite in engagement with the community and anybody who is interested early on.

Number 14, consider the following recommendations related to the memorandum of agreement or understandings. This is getting down into the nitty gritty and this is something again that I see in my permitting role the public may not even know about.

When a State or a Tribe or a delegated authority is able to carry out these laws they typically get money from the EPA to do that work. If they don't do it, they don't get the money and they are accountable and these memorandums of agreement or understanding spell that out.

They are legally required, the grants to the Tribes or States are subject to making sure that those elements are carried out and those are also opportunities to engage EJ dynamics in the permitting process in a general sense upon the agency that is doing the permitting and we would like to see those agreements utilized more.

That is it in summary on the recommendations. Any questions on any of these so far and then we will get into some of these other dynamics but anything that has been shared so far that isn't clear or anything that we didn't catch? Nicholas and then I will get to Patricia.

MR. TARG: Thank you very much and I certainly commend the work that the workgroup has - -

MR. RIDGWAY: A little louder please.

MR. TARG: I certainly commend the work that the workgroup has done in bringing this very complicated and difficult issue that goes off in many directions to the point where, where it is thus far? This is a very challenging issue as you pointed out and I think really just so appropriately identified that this body over the last decade or so has put a lot of time and effort into looking at the issue of permitting and that the inappropriate place to begin analysis.

I have a couple of questions with respect, first to supplemental environmental projects. I am a big fan of supplemental environmental projects and have given a lot of thought to them over the years, worked on a monograph involving them and actually helped draft legislation addressing issues of supplemental environmental projects.

So in no way should my comment be taken as a question of the value and the use of supplemental environmental projects. I think that they make a lot of attempts in a lot of cases and encourage my clients to enter into SEPs as well.

The question is, the relationship of SEPs to the permitting process. SEPs are an activity or an agreement that take place after the permitting process has occurred. Sometimes steps involve the development of new permits so I wasn't sure whether this Item 8 addressed permits that might come out of an enforcement process using SEPs as a mechanism or whether it might be something else.

With respect to that as well, whether there might be a way to broaden it to address permits that are modified in the enforcement process through the use of injunctive relief and the consideration of Environmental Justice in the injunctive relief context as well?

That is, if I may, and also just going onto Items 13 and 14 pertaining to PPAs and MOUs and whether there might be an interface between agreements between EPA and the delegated authority, the entity to which is receiving these delegated authorities or other Federal assistance in Title VI and whether those kinds of relationships have been taken into consideration but where that EPA previously issued a draft guidance to recipients of Federal assistance. I believe that document is still in draft but it may be that there is a nexus there as well. Thank you.

MR. RIDGWAY: First on the SEPs and the SEPs, the projects, you are absolutely right Nicholas. The relationship to the permit is a little distant here and we wanted to draw this out. The permit often, most people think, is something that happens up front, it is about something new that is going to happen but certainly they can involve compliance and enforcement to be sure when a facility is permitted they have to do certain things and if something doesn't go well then there should be efforts to correct that and in some cases enforcement and/or penalties are involved.

He is bringing up the point where he could trigger a new kind of a permit and so everybody understands permits are not always just about new things, a business that already has a permit may want to change a particular process.

They want to bring in a bigger way to handle this or that or they want to put in some new environmental protection equipment and they need to modify their permit to do that or they may just have a permit that is scheduled to expire after a certain number of years so it needs to be renewed and all of that is around permitting, so it could trigger modification to that permit and we think yes this would be applicable in any regard the SEP to change in a permit as well as in regard to an enforcement.

On the second point for Title VI and the agreements, absolutely there is a connection there. There is money coming from the Federal Government going out to the delegated authority and Title VI of the Civil Rights Act makes it very clear, you cannot discriminate when you are using Federal dollars and that applies certainly to the State or the other entity that is taking those Federal dollars.

So there is a very strong connection there to be sure that Title VI is applicable and the States may sign off in their grant process of yes we are going to follow all the Federal laws and that includes Title VI but certainly that can be drawn out more to in the permit languages say, we want to be sure you understand that Title VI is applicable here and there is not question about that. Did that answer your questions Nicholas?

MS. HENNEKE: John, can I join in on this equinum a moment?

MR. RIDGWAY: Absolutely. Well go ahead Jody.

MS. HENNEKE: Jody Henneke, we had that same discussion on the subgroup about SEPs because SEPs to me are traditionally are associated with enforcement. The group at least from my perspective felt very strongly about the concept of SEPs and wanted to tie the nexus but I would encourage us to clarify so that it is not confusing because I think most folks automatically think a SEP is an enforcement tool.

Some permitting modifications as John said are, some permit modifications are a result of an enforcement action. So we can say that with SEPs but I think we have to be pretty clear about it. The traditional up front grass greenfield permit kind of thing, to me it makes more sense to use special conditions within a permit that often times you can accomplish exactly the same thing that you are trying to get to with the SEPs but it is not a punitive action which a SEP actually is a punitive action. That is my opinion, that is the opinion I voiced on the workgroup.

MR. RIDGWAY: Quickly Nicholas I want to go around to the others.

MR. TARG: I think that that makes an awful lot of sense to perhaps break out the SEPs in an enforcement context to clarify the role of Environmental Justice and enforcement that involve permits rather than to break out SEPs of that context for the reason Jody that you just mentioned.

MR. RIDGWAY: Thank you. Patricia?

MS. SALKIN: Patricia Salkin, Albany Law School. I want to commend the subgroup because I didn't know how after the last meeting we were going to be able to tackle this charge and you have done a great job.

I just had a couple of comments on recommendation number 9 which is the good neighbor or environmental benefits agreements and maybe some of it is semantics I mean I am glad that the concept is there. We have done a lot of work at Albany Law School studying, analyzing, thinking about community benefits agreements which I think is the same thing it is just we are wording it differently here.

I have some just conceptual concerns about an active role of the government in being a party to any kind of negotiation on these typically private agreements. I know in some states like California the government may be involved but in most of the other states they are not, they are the community groups with the project applicant or the project sponsor and so there are a lot of questions about community empowerment and bargaining.

There is also a constitutional question I think once the government gets involved as to how far the government can push it if there is a public side to this negotiation or contract. If it is a private contract between the community coalition and the project sponsor some of those issues go away.

There is also enforcement problems with these because a lot of the deliverables come after the permit has been issued or after in a typical CBA that is not tied to a permit after the community has already given up their rights to challenge the project in a more vociferous way because they have accepted these promises to be delivered in the future.

So I guess I like the idea, I am a general supporter of CBAs in these environmental benefit agreements but I think I would rather argue that the recommendation ought to be instead of employ to have EPA formally study this and really look into some of these issues and figure out how it can be used to enhance quality of life in EJ communities.

I am not sure it is really best to be tied into the permitting and I am not sure I would make it a condition of a permit. I might rather say that the permitting authority EPA could consider in reviewing a permit application whether there is a CBA or an environmental benefit agreement, that is different than EPA actually being involved in negotiating what the community wants.

MR. RIDGWAY: Thank you. I don't think there are limitations on this and absolutely there should be more research on all of these recommendations but if a community can negotiate an agreement with a business without being directly involved with a permitting entity, great, and you are right the EPA or the agency would not be in a role to enforce that, that is between the business and the community but this is by no means to put limitations on what a community can do directly with the

business whether or not it is tied to a permit.

MS. SALKIN: Right, my concern is that if EPA comes in and because of this has a seat at the table they may be constrained by things that they can push to be included in here which the community in a private agreement can push the envelope as far as it can go because in a private agreement there are no constitutional constraints to parties or if more parties can agree to anything they want. When the government gets involved I think that there become other constraints on the process.

MR. RIDGWAY: Thank you. Let me get some other cards up here, I am sorry I address other people who have cards up here first. Edith, go ahead real quickly.

MS. PESTANA: Edith Pestana, Connecticut Department of Environmental Protection. Our public act actually includes the language that requires the local community to meet with the respective community, EJ community, and discuss a local community environmental benefit and then take that back to the permit applicant.

Be that as it may, what we are finding is that when the communities, the EJ communities, start negotiating with the permit applicant what they wanted in the last three negotiations is for DEP to actually provide them with the technical assistance because what they wanted, and this is just my personal experience in Connecticut, is they wanted reductions and they wanted to negotiate the reductions through and include them in the permitting process.

So if you are adding omissions this over here reduce them and right now we are actually going through a case where the negotiators, Connecticut Fund for the Environment, the City of New Haven and New Haven Environmental Justice Network wanted DEP to do the enforcement on their negotiation and to include it and make the changes in their air permit and we have been involved in that now.

So as much as we wanted to stay away from it, the community brought us back in and said, look we want our negotiation enforceable because we are looking for pollution reductions. So yes it is something that I think and we are learning through it as well but I think it is worthwhile sort of venturing and looking at it because it is a mechanism that communities can use to sort of balance an expansion and through that expansion actually take a permit and maybe get reductions through it.

MR. RIDGWAY: Thank you. Teri, you had your card up.

MS. BLANTON: Okay, so all of this is very new to me.

MR. RIDGWAY: That is okay, it is new to a lot of folks.

MS. BLANTON: 402s, 404s which is very important.

MR. RIDGWAY: And Clean Water Act we are talking about here.

MS. BLANTON: Yes, and delegating the authority to other entities but it is my understanding that EPA still has the ultimate responsibility of enforcing the Clean Water Act.

Then we talk about Title VI and not giving money to, you know, cutting off funds when they are not doing their job. So when does that start? I mean, do we completely destroy every stream within a watershed before EPA will actually step in and exercise that authority?

MR. RIDGWAY: Okay, Title VI is not about cutting funds off, it is about saying you cannot discriminate using Federal dollars and so just to be clear there is a little distinction between the two and I am not going to be able to answer when EPA gets into or any Federal entity gets into accountability around Title VI it is there and we want to be sure that everybody understands that it is there without getting into the details of how it is implemented.

MS. BLANTON: We can leave Title VI out of it all together then. That is very new to me and it is more I am going to study when I get home. But the cumulative impact under the 402 and the 404 and the fact when the states or the other entities are not doing their job and actually looking at a cumulative impact so when does EPA, I mean, how do we make sure that Environmental Justice because I just read an article last week that said that EJ is pervasive when it comes to looking at mining permits so that is sort of like the, I don't know how to talk about those in a way that talks about everything.

MR. RIDGWAY: Let me suggest that you can feel free to write some questions down into the context so that we can provide some clarity on the language here. I am very open to doing that for the whole group.

This is very complicated. We are talking about the Clean Water Act which EPA has the overarching implementation of but then they also put right into the law that really the Corp of Engineers has a special role here in the 404 permit. Whereas, EPA and/or the delegated agency has the lead role on the 402 side and it is very complicated in how that is carried out and what kind of oversight responsibilities EPA has and when they kick them in, we are not getting into that here we just

need to recognize that that needs attention and it is relevant to the charge that we took on. So I don't mean to be evasive but that is about as far as I can get into it at this point. The permitting panel that is going to come up later may be able to address that too, that is a good point.

Lang, you have had your card up a long time.

MR. MARSH: Lang Marsh of National Policy Consensus Center. I wanted to first of all congratulate the workgroup, you did an amazing job in a very short amount of time.

I wanted to focus on questions of 4 and 12 or recommendations 4 and 12 because they raise in my mind whether the question that is in the charge is really the right question.

Are we best advised or are we best at advising EPA to focus on permit types versus permits that affect communities that have Environmental Justice problems and any permit that has a significant entity potentially on one of those communities could trigger an EJ analysis.

That would be the way that EPA would determine in their charge language whether they are they type of permit to focus on to incorporate Environmental Justice and to incorporate cumulative impact analysis and there is that wonderful quote that seems to bear Vernice's eloquent way of putting things of that proportional response from the earlier cumulative impact report that I think really says it very well and so I think you flagged that question and I guess there are two things.

One, should there be some debate in this group about how to craft this report in response to EPA along those lines or at least should we not give a lot of emphasis in the final report to that question?

MR. RIDGWAY: Lang had a key point here. We didn't even think the question was really well crafted to begin with. What permit type to look at? Facetiously I could say, yes look at them all. It is not a matter of this one or that one. It is very complicated and there is a bigger picture here that needs to be looked at around cumulative impacts, multiple permits, multiple permitting entities and no one permit is going to be the silver bullet here for EPA to focus on.

So, I am just recognizing that we said that too and maybe there is a better way we can characterize that in here but this we couldn't get into it much more than that.

MR. MARSH: The thing that I am concerned about actually is that, I have been in the permitting business for many decades in two states, if you tell a permit writer that they have to look at something it becomes a check off item and it takes time to do and it doesn't really necessarily accomplish anything and I would be very disturbed if the result of this was that certain types of permits had to have a check off when the real issue is how do you analyze impacts in a community that is suffering from particular kinds of stresses?

MR. RIDGWAY: Thank you, I agree. I was at a local EJ meeting about three weeks ago in Seattle and one of the comments was, a community just like EPA may want to have their own EJ plan 2014 or whatever time frame they want to put there and permits should be considered around that much more comprehensive overarching EJ strategy for a community.

Some communities want to do that first and say, let's see how the permit application aligns with what the community needs and what the community's issues are so absolutely, good point there. Sue.

MS. SALKIN: I was going to respond to Patty but instead I am going to respond to Lang. You know, that was actually where I was hoping this conversation would go because my sense and part of the reason why we discussed the previous reports is as a body we seem to be going toward and EPA with us as a partner let's figure out a way to address the communities with the highest burdens and the highest vulnerabilities and they now have tools that allow you to do this.

When you identify that community, I think Bob Perciasepe said yesterday, community is the organizing principle. It really is. Then you say, okay these are the types of permits. It is every conceivable permit authority that we have here in order to get this community relief and pollution reduction.

If the group wanted to say that I think that could be really sharpened in the report in a powerful way.

MR. RIDGWAY: Vernice?

MS. MILLER-TRAVIS: I just wanted to say to the body and Patricia you raised a really excellent set of questions that if you have suggested language or thoughts about ways to sharpen or clarify or even change what is in the recommended language please forward that to John and we will certainly make every effort to integrate that into the next iteration of the report.

But I thought that was a really good point you made Patricia and I think we were not clear enough about distinguishing between an environmental benefits agreement that is solely a relationship between a community or an impacted party and the facility owner or operator is separate from the category of folks of environmental benefits agreements, where the government can and should have a role.

But they are two separate categories and we really need to be clear about that. But there may be other things that you all are seeing that that language is not as clear as it could be or as sharp as it could be, please let us know and let John know so that we can sharpen the next iteration of the report.

MR. RIDGWAY: Thank you. For the non-subgroup folks I am going to kind of focus on your first. So, I am going to go with Stephanie please.

MS. HALL: Thank you. I am sure I echo the comments of many in saying that the subgroup really did do an outstanding job on capturing what is a very complicated and complex subject and distilling it down to a very digestible start and I appreciate that work and I don't want to beat a dead horse -- I didn't say Stephanie Hall with Valero Energy, I apologize I was supposed to do that at the beginning.

I don't want to beat a dead horse but I did want to again as a industry representative echo Patty's comments. I don't know that there is a need to try to further explain, I think she was quite articulate in explaining the concern and the concern I had is I think we have to be very careful about impeding the flexibility of a business to work directly with a community to accomplish results.

Sometimes I think when you bring in a third party entity it can have the effect, not always, but sometimes it can have the effect of slowing down that progress and so I think Vernice said it well, John said it well in making the comment that maybe more clarity is needed surrounding recommendation number 9 and I appreciate the opportunity Vernice put on the floor for comments to be submitted in terms of trying to better clarify that language.

So I just kind of wanted to reiterate the importance of making sure that we get that part right because I know that there are companies that are very willing to work with communities and incentivised to do so beyond what they have going on regulatorily but because it is the right thing to do and we don't want to impede that goodwill and good spirit of that company or industry. Thank you.

MR. RIDGWAY: Thank you. Hilton?

MR. KELLEY: Hilton Kelley, Community In-power and Development Association, Port Arthur, Texas on the Gulf Coast. When it comes to permits I know that there are a few that kind of interest the southern region when it comes to refineries and chemical plants and that is the flexible permit rule.

The flexible permit sort of, it didn't provide any transparency and now that a lot of the industries in the Port Arthur, Beaumont, Louisiana area are starting to de-flex within Region 6 because of certain laws that are coming down within that particular, well within Texas I will say that.

De-flexing is starting to provide a little bit more transparency on what type of units are coming online, what type of air emissions will be emitted and I think that de-flexing is a pretty good process that has started in Texas and a lot of the organizations out there are really happy about the de-flexing of some of the facilities.

As a matter of fact, Valero has decided to de-flex their permitting process and also Motiva has voluntarily de-flexed and from what I understand Totale never did have a flexible permit which has always allowed us to have more visibility as to what type of units were being brought on and what type of air emissions we are being exposed to.

When it comes to having the Environmental Protection Agency from a Federal level and a Regional level being involved with the whole process of negotiating with facilities when it comes to Environmental Justice groups, I think that that is paramount in assisting groups that would ordinarily have no ability to get to the table of the industry because they were not well open to possibly working with a lot of community groups, for lack of a better word.

For years I have worked in the Environmental Justice field dealing with, well Valero before it was Valero was Premcor and there was a manager working there, just to talk about one particular case real briefly, and he was not open to talking to people that lived on the --- line so to say.

I mean he was rude, he was very arrogant and it wasn't until we started filing lawsuits and writing petition letters to the EPA to get something done to give us some type of reprieve from the emissions we are being exposed to, that those doors were open to Environmental Justice groups like the Community In-power and Development Association.

But for the last three years I have been working very closely with Stephanie Hall who is sitting at the far end of the table here and there is a new day at the Valero Refinery due to a lot of the enforcement actions, I believe, that have come down but yet this particular entity has been more willing to work with our group. So I think that EPA has played a critical role in bringing that about.

MR. RIDGWAY: Thank you. Jolene?

MS. CATRON: Thank you, Jolene Catron, Wind River Alliance. I want to thank subgroup for their comments, their comprehensive comments under such a short time frame and also I think your Tribal input is really on the spot and I will be talking a little bit more about what included in this because that also reflects a lot of the comments that we have included in the Plan, 2014, EJ Plan 2014.

So actually I am not really here to talk about Tribal issues on this one. What I would like to talk about is the hydraulic fracturing section on page 14. You are listing these out by types of relevant permit types and just as a clarification hydraulic fracturing could conceivably come under the Safe Drinking Water Act not necessarily the Clean Water Act so there is a subheading that is missing there.

But hydraulic fracturing is exempt from the Safe Drinking Water Act by the Energy Act of 2005 under the Bush Administration, so that is something that EPA is currently studying. They are studying the impacts from hydraulic fracturing so in this paragraph it says, "These chemicals are also contaminating ground water."

There is no proof, well there could be some proof but it is hard to prove that these chemicals are contaminating ground water because we don't know what are in these chemicals because they are exempt from being listed.

So I think we need to be very careful about how we characterize hydraulic fracturing and there is a strong national push right now to be hydraulic fracturing back under the Safe Drinking Water Act. States have realized that that is the trend and like in Wyoming where I live they have, and you and I talked about this a little bit John, they have required industry to list the constituents that are in their fracking fluids.

When hydraulic fracturing, when the fluid itself actually comes under the underground injection control system that is something that I am dealing with in the community that I live in.

The energy producer is re-injecting all of the fluids produced in coal bed methane production into a re-injection well and so that includes all the hydraulic fracturing fluids, all the drilling fluids and so that is when that comes under the UIC Program and so I think there just needs to be a little bit more clarification in this paragraph and I would be happy to help out with that.

MR. RIDGWAY: I will gladly accept that help. Thank you. Shankar and then Jody.

MR. PRASAD: I want to first off, Shankar Prasad from Coalition for DNS at ---. I want to acknowledge the hard work put forth by Edith, --- Sue and John in spiriting this effort.

A couple of clarifications, one, some of the issues that brought about here are really in part and but at the same time --- recognize the extent of the details that need to be given are really hard and that is the reason that we are recommending EPA to form this subgroup and so some of the issues that we are talking about need to be sort of dealt with that should there be a subgroup and just that is something an observation.

Also the committee, this one comment I always have is this MOU, this agreement while it is nice to see that there should be flexibility for the industry and a community to enter agreement the challenge becomes the enforcement capability of that.

So if it does not work out and the permit has already been issued all we are doing is postponing or ending up in a litigation. So to the extent we are kind of cognizant of that and recognize that it is important because EPA --- in their state or at their local delegated authority wise, we feel at least in my opinion I think it is better that it happens in consultation with the government body but that it is signs are not but at least it is at the table so that additional efforts could be made so that our work is enforcement and that is where we are now.

The other piece of that is any of these agreements have to have an open process not a closed process, that is very important and some of the best examples of the issues that came out when straight up California and the railroads got into --- and it became a mess for about two years, so those are just my initial thoughts and also a question for the Chair and the EPA staff, we will have an initial response from the EPA staff today.

MR. RIDGWAY: I am not expecting that, I don't know, but I want to keep the focus just, you know, remind everybody this is a preliminary report so a lot of these details we do not expect to perfect in this preliminary report but certainly to the extent we can build them in to remind everybody they

need more attention we will do that.

MS. GARCIA: I was just going to add quickly that we have all received the preliminary draft and we are reviewing it and so I don't think since we did just receive it we plan to take back the recommendations and we appreciate all the work that has gone into it, so we will be discussing a little bit later but not, I guess, concrete responses to each one.

MR. RIDGWAY: Thank you. I am going to call on Jody and then I am going to ask for Sue to give us a little bit of a background on that review of the comparisons of EJ concerns and permits. Jody.

MS. HENNEKE: Jody Henneke with the Shaw Group. My comment is a combination of what Patty was touching on and Edith and Vernice and Shankar and that is from my perspective having been involved in permitting across several states as well in some pretty difficult situations a regulatory agency cannot put in a permit something they have no authority over.

That makes it more problematic for some of the good neighbor agreements and you don't want to, as Stephanie was saying, you don't want to stifle any creativity on the part of that community and the applicant or permittee to do the right thing.

But where I have seen so much frustration happen is the community looks to, as Edith was saying, looks to the regulatory agency to enforce that agreement and they don't have the authority, none whatsoever, to enforce the components of that agreement was just magnified magnificently. The mistrust and everything that can spin out of that.

So, as much as we can crystalize that difference it will be helpful. The other thing in Texas what I saw happen a lot was that the staff, we have a Public Interest Council there that is part of the regulatory agency and they are statutorily a party but they still cannot sign off on something for which the agency has no authority.

The agency also has an alternative dispute resolution staff that can help facilitate those discussions and as everybody knows it is a capacity issue. The neighborhood often times, and I use that term loosely, doesn't have the capacity with which to do the research necessary to get to where they want to get.

But good neighbor agreements are awesome but it is a separate instrument from the permit.

MR. RIDGWAY: Thank you for that clarification. Okay, I am going to ask Sue to just give us a quick general overview of that comparison you did that is in the appendix.

MS. BRIGGUM: Sure, thanks and if I could just, Teri asked me to mention one final note on the good neighbor agreement. One of the hopes, and we are trying to be soft on this, is that there are several forms for these.

Some are the permittee and the community, some are kind of supplemental agreements within the bounds of the permit or included as an addendum but not necessarily enforceable and then the ones with the really big money in my experience are between the local government and the permittee based on their land use authority.

That is where EPA if they had the very least a consulting role might be very helpful in making sure that those agreements where their real resources benefit the community that is most impacted by the facility rather than the one at the other side of town that doesn't really need the money. So, just one thing we were hoping for.

If you could look back on page 2 and recommendation to that is basically the discussion and the appendix is the data that formed the basis for the discussion.

As we start on this and very much in mind of what Lang said about it is really the community that is the focus rather than the permit. We thought you know it would be really important if instead you started with a type of permit rather than all permits within a community to have realistic expectations of impact and we thought how would EPA communicate that?

We ask information about, well how many clean air permits under new source review do you issue, et cetera? And we didn't get anywhere with that so we decided to do it ourselves and this was our collective wisdom and the best job we could possibly do understanding EPA will do a much better job when they turn themselves to this kind of evaluation.

But we thought communications would be important to understand how many permits EPA can directly influence either in terms of issuing themselves or laying out the criteria for delegated state programs so that the State has to follow those same criteria so that communities would know, oh well you know when it comes to air emission and we went back to all of the old NEJAC reports and

skimmed through them to get all the concerns that were expressed.

We looked at some of the old transcripts, we had a conference call. We tried to think of every concern that had been expressed in Environmental Justice meetings and then match that up with, as best we could, what we understood about the scope of permits and what they would actually be able to handle because we thought it would be helpful for EPA to communicate we can do so much and we cannot do this.

We were thinking about, for example, if you look at all of the RCRA and the waste issues, the current policy interpretation of EPA's authority is that they can issue permits or for the State to issue permits for hazardous waste facilities and municipal solid waste facilities but nothing else. Everything else is up to the State.

That would be an important communication because only four percent of the waste generated per year in the United States is covered under that scheme so it would be very important for people to understand how much EPA could influence on this.

So this was our best shot to try and be helpful in terms of information and we thought it would be helpful for the agency too to think within that lense and then perhaps realize a community based approach in maximizing all authorities might ultimately be most successful quickly.

MR. RIDGWAY: Thank you Sue. It is obviously very good for people to know what they cannot expect within a permit and thus what are other mechanisms to address those points if not within the permit that could be incorporated comprehensively.

So for a time check here we have another about 10 minutes, I would like to summarize what I have heard and pay attention to be sure if I missed something that has been brought up here and I expect what I will do is ask if you are comfortable with us taking these comments back and working with them and then I expect what we will do is ask for a vote of confidence to move this to the whole council for your review in a subsequent meeting that we will have and you will have a chance to read the language and be sure you understand it before we will ask for that sign up, I am not trying to push anything here.

So in terms of recommendation number 9 and these agreements, these community based agreements, we need to put a little more clarification in there around where EPA or a delegated agency has leadership or not and certainly in terms of enforcement of those agreements.

We did not get into that. That is not something that EPA can do they might be a party to it or they might not but we have to be clear about that and to the extent possible we would encourage that to be open. I mean if two people want to negotiate privately that is their choice but we certainly would like to see that as an open process in general and again it is not enforceable.

The comment from Hilton on the de-flexing, I don't know what de-flexing is so I might ask you to draft something for us to clarify how that relates to this and that would be helpful.

On comment number 14 regarding the fracking and whether or not it is the Safe Drinking Water Act or the Clean Water Act or applicable, it sounds like we have to get some corrections folded in on that and I am not an expert on that so Jolene you have offered to help with that.

Those are the bigger ones I have heard but maybe I will ask the other subgroup members now what other points that we want to be sure that we try to address if anything that I have not already brought up. Wow, I cannot believe I got it all, okay.

MS. MILLER-TRAVIS: Just one question?

MR. RIDGWAY: Yes, Vernice please.

MS. MILLER-TRAVIS: Vernice Miller-Travis, Maryland Commission on Environmental Justice and Sustainable Communities, I am sorry I have forgotten to say that.

Nick, was there something that you wanted us to say or clarify more about the SEPs?

MR. TARG: Vernice, thank you very much. Nicholas Targ with the American Bar Association. With respect to Item 8, the suggestion is to broaden out the issue to address enforcement more generally and two bullets they can see under that would include modifications of permits or considerations of Environmental Justice issues in the modification permits within the enforcement context and that would include both the use of SEPs and also injunctive relief. I would also like to again flag the role of Title VI within the context of delegated agreements.

MR. RIDGWAY: Okay. I might ask you to suggest some draft language on that if you could that we can incorporate in. Thank you. Anybody else? Otherwise, I am going to turn it over to Victoria for a process here.

MS. ROBINSON: Okay, oh I think Father Vien.

MR. RIDGWAY: Father Vien?

FATHER VIEN: Vien Nguyen, Mary Queen of Viet Nam Community Development Corporation acknowledging that what I am about to bring up is not within the charge and it is beyond what you are talking about thus far.

What is presented by the group here it is just amazing but it deals with the ordinary day of permitting. My concern being from where we are in the Gulf Coast where that is a potential for an emergency every year at least.

My concern here is the permitting process in case of emergencies. All that we brought up may very well be just suspended or dispensed with. So the question here may be from another perspective of the EPA is if we present all of this then what would be the fundamental, the foundational requirements in case of emergency because a lot of times when it comes to emergencies then EJ communities would be the ones being thrown at, so that is my concern.

MR. RIDGWAY: I think that is an appropriate thing to build into this and we will put some language in there on that and absolutely that is not the typical circumstances that are emergency conditions and we would not try to imagine every possible scenario but to make a general reference would be very appropriate. Thank you. Victoria? Oh, I am sorry, Sue you still have something you want to add?

MS. BRIGGUM: Just a quick response that is a really good point. Remember when Mathy Stanislaus was here we asked him about that and he said there were no emergency permits or waivers during the most recent spill thing and that is a very important principle. I think that EPA evidenced this time and we should include that as good practice.

MR. RIDGWAY: Victoria.

MS. HORNE: One point.

MR. RIDGWAY: Oh, I am sorry.

MS. HORNE: Sorry, it is Savi Horne. I just recall back in the day the enforcement subcommittee did a lot of stuff around SEPs particularly looking at egregious conditions in Chester, Pennsylvania and so I am not really sure if Victoria would be able to get some of that material back so we can kind of look at those case scenarios and kind of look at the language in that we have presently on SEPs just to see if we had captured some of those early thinking on enforcement and use of SEPs.

MS. YEAMPIERRE: I am a bit confused, are you saying –

MS. HORNE: The enforcement subcommittee of the back in the day NEJAC.

MS. YEAMPIERRE: And you want me to pull all the information?

MS. HORNE: Yes, there was some particular language on the use of SEPs and recommendations and I just would like to look at that again.

MS. YEAMPIERRE: I will see what I can find.

MS. HORNE: Thank you.

MR. RIDGWAY: I might ask for a variation on that theme that this could be something that a more expansive group would certainly want to look into and we can make a quick reference to prior work on SEPs.

MS. HORNE: I agree.

MR. RIDGWAY: Thank you.

MS. ROBINSON: Okay, process wise. Normally, the next step would be to take your recommendations, your suggestions for revising this document and incorporating them and then presenting to the council via ballot a revised document and once you get a choice of approving, approving with revisions or not approving. Remembering that it requires a full consensus agreement of all respondents to be accepted.

Now, I just want to make sure everybody is clear that that is the process we normally would follow. Do you feel that there is enough revisions or significant changes that you think you need to have some more deliberation on in a call or do you think this will suffice to just take these recommendations, these revisions, they get incorporated by the subgroup and then they produce a final draft that is submitted to your final approval.

That is the game plan I was thinking but I want to get a reading from the room to see if that is your understanding and expectation.

MR. RIDGWAY: Before we answer that I am going to go ahead and acknowledge Elizabeth here.

MS. YEAMPIERRE: I just wanted to ask Father Nguyen if risk management plans are a

way of addressing the question that you raised?

FATHER NGUYEN: Would you clarify the risk management plan for me?

MS. YEAMPIERRE: Each division in EPA is required to have a risk management plan and when you are looking at disaster relief and you are looking at things that are unexpected there are initiatives that need to be taken to reduce the risk.

So, I just wanted to find out whether that is one of the ways that the issues, the things that happened on the Coast can be addressed.

FATHER NGUYEN: It is possible but the reality of it is, I have mentioned other problems brownfield(s) kind of conference that I believe EPA had called the states to do that already to have some plans for disasters. Since 1984, if I recall correctly, Louisiana still does not have it. So, that is my concern.

MR. RIDGWAY: One slight tans gentle thought and then we will get to Victoria's question about the next steps. It was also brought to my attention that there is a lot here even in this preliminary draft and some advice was passed on that it might be good to focus on a couple two or three and kind of bring them up to the top, maybe some general things so that it might be helpful to point out higher priority issues within this. So, if you have thoughts on that in terms of crafting it we can do that but we are certainly going to include all of these recommendation.

And then I think moving onto Victoria's comment I guess I will ask the question here, do you as a council feel comfortable that we have addressed the points in this discussion today, as well as in the draft, that you want to with the comments taken today feel free to move it to your hands now as we put the comments together for the whole council to vote on or do you want to have the subgroup go back and do some more work on this?

So, I will make the recommendation that the council adopt this as presented and with the caveat that we will incorporate these comments in writing, send them back to you and then we will set up a process to vote on that document when you have a chance to see it. Is that a clear recommendation?

MS. ROBINSON: Right. The council will still have that final ballot. The question is whether there is a need for additional deliberation on the revisions that are going to be made, put into writing or whether you agree with the basic context and think that the direction of these revisions you suggested today will be fine and you just need to review the language as part of the final ballot.

MR. RIDGWAY: Lang?

MR. MARSH: The only caveat I have is that I didn't hear in your recitation of changes any mention of the issue of changing the emphasis of the report to enhance the notion that community based process as opposed to by permanent process and I think Sue spoke to that a little bit at the end on her analysis.

I would just like to see somebody, and I offered to help, put in some language that makes that point as maybe one of the two or three or four points that get the most emphasis.

MR. RIDGWAY: I am fine to see some language that makes that clear that we are not looking at permit by permit here but the bigger overarching issue. Shankar?

MR. PRASAD: Lang, that is a very good idea and I know that you will be able to provide the right language and we can work on that. But related to that, is it worth seriously considering prioritizing communities in each because while one can think of all communities equally need this but you cannot make those changes across so easily but is it something that we have -- in some of the reports of previous reports from this body we have said that each Region identifies priority communities and then look at the permitting on this issue in those communities. Is that something that you think is worth pursuing as well?

MR. MARSH: It is a little different point but I do acknowledge that this group, and EPA put a lot of effort over the past years in trying to prioritize through EJ Seat and other tools those communities that ought to have priority for enforcement or whatever, so I don't know that I have a strong feeling about including it in this report but I think it would be worth mentioning that use of the focus on permitting in communities that have the greatest burdens seems like the proper way to deal with this.

MR. RIDGWAY: Okay, just two more, Stephanie and then I will get to Teri and then we will take a vote here.

MS. HALL: Thank you, Stephanie Hall with Valero. I think I am fine with the approach that John recommended for moving forward. I guess I have a question in the sense that this particular setting did not allow us to really comb through page by page the draft report and while we did share some comments here, I guess if there are additional questions or comments will there be an opportunity during

the process that you are to go to John for us to further delve into things or do we need to get it all out here I guess is what I am trying to get a feel for?

MR. RIDGWAY: I would suggest certainly you need to read the whole report to get the context of the recommendations. I doubt there will be much deliberation but if the council wants to any individual bring that up when you see this next draft that now will be in the council's hands there should be opportunity to deliberate on that. Victoria, go ahead.

MS. ROBINSON: I would add that as you are reading through don't wait until the final draft, read through it, if you have some comments email it to the entire council, those comments, so that the subgroup can see them and everybody is aware of your rationale behind your comment change.

I think that is what we would do and that it would make it much easier that they can then if somebody disagrees then again, but we need to make sure the deliberation is done in a public setting but if you are just submitting your comments, go ahead and submit the comment to John and cc everybody.

MR. RIDGWAY : So it is not too late. Certainly, if you want to write down some justifications so we can all understand the point being made that would be helpful. Teri?

MS. BLANTON: Teri Blanton, KFTC. So where does the public comment come into play with what we say? If this is put out there and the population or the general public has the opportunity to comment on this whether online or whatever they don't –

MS. ROBINSON: Your recommendations are not subject to public comment.

MS. BLANTON: No, I am not talking about our recommendations I am talking about how do we know how the general public feels about the permitting charge in the first place?

MR. RIDGWAY: We don't know how, they certainly the public can express their issues, concerns, questions at any time to EPA or the authorized agency around any kind of a permit and they don't need to go through the NEJAC to do that, so we are not trying to incorporate that. The public can comment when this goes out as they can on all the prior NEJAC reports when they go out but we don't have that built into this process.

MS. ROBINSON: I want to add though that during the August and September teleconference calls as well as this meeting, the public has had three different opportunities to provide input on the dialogue that the council has had. They have actually heard the conversation so there has been three different opportunities.

That does not stop, and John said, individuals from commenting on, hey NEJAC I think you are wrong on this but NEJAC is moving forward with its advice because its advice is to the council, I mean to the agency.

MS. BLANTON: So I think my question is, is because there is very limited grass roots representation here how do we know that we understand the problems that the communities face when it comes to permitting and do we have the opportunity always read their comments and what they put online so that we feel like we are really educated about the issues.

MS. YEAMPIERRE: Teri, my understanding is that there are seven CBOs, seven NGOs and three Tribal, so I think that grass roots representation is at least half of the NEJAC which is pretty substantial and more than it has been in previous years according to what I understand.

MS. HORNE: Can I just hop in, it is Savi. I think John's point and just being on the score by Elizabeth is that it is trying to have a very transparent process in terms of developing the work product and building consensus.

So by us continue to comment on this work in progress it would help us to elevate the community concern that you are raising and to represent those viewpoints even if you are not part of this particular subgroup.

MR. RIDGWAY: Thank you. So at this point, oh Vernice excuse me go ahead.

MS. MILLER-TRAVIS: Teri I, Vernice Miller-Travis, Maryland Commission on Environmental Justice and Sustainable Communities, I share your concern and so last night I took the opportunity to ask Stephanie Tyree and her colleague from OVEC to please read this specific section on 402 and 404 permits and to give us some feedback about what they thought about it.

Stephanie gave me comments in writing, being Stephanie, and I plan to mention them to EPA when we have this dialogue with EPA but also to feed them back to our subgroup process as we have revised this because she makes specific comments in writing about what we have written about the 402 and 404 permits and I would like to see at least that factored into our next iteration.

MS. YEAMPIERRE: We are about 12 minutes past the time. I just want to say in closing

before we take a 15 minute break that Plan EJ 2014 was open to the public for three months and we received 177 comments and we can talk about that later in that section.

If folks can be really disciplined, we are going to take 15 minutes and come right back. Thank you so much. I think the break is needed.

(Whereupon, a brief recess was taken.)

EPA Plan EJ 2014: Environmental Justice and Permitting

MS. YEAMPIERRE: Welcome back everyone. So, we are going to get started with EPA Plan 2014: Environmental Justice and Permitting. We have with us, I thought someone was shaking their head like no I am not really with you, okay you are with us.

We have with us several people, some of whom I have a bio for and then we have some where the bio is at your desk. So, I am going to start with Janet McCabe.

Janet McCabe is Deputy Assistant Administrator for the EPA Office of Air and Radiation. Since November 2009, Ms. McCabe has served as the Deputy Assistant Administrator and prior to joining the Agency she was Executive Director of Improving Kids Environment which works to prevent lead poisoning and reduce asthma in children and promote healthy homes, schools, childcare facilities. IKE, as the organization is called, celebrated its 10th anniversary as Indiana's leading advocate and educational source for healthy environments for children last year.

Ms. McCabe who is a graduate of the Harvard Law School is the former Director of the Indiana Department of Environmental Management Office of Air Quality. Ms. McCabe, thank you for joining us.

Presentation by Janet McCabe, Deputy Assistant Administrator, EPA Office of Air and Radiation

MS. McCABE: Absolutely, thank you for having me. I have been at EPA a year now and this is the first opportunity I have had to come to meet with NEJAC so I appreciate it.

With me are a couple of other people from EPA that I will just mention because I think we see this as not so much a panel 1, 2, 3 but as a conversation among all of us. To my left is Carol Ann Siciliano, she is Associate General Counsel in charge of the cross cutting legal issues part of our Office of General Counsel which includes Environmental Justice.

To my right is Avi Garbow who is the Deputy General Counsel of the Office of General Counsel and then Nancy Stoner who is my counterpart in the Office of Water is also here, so we are all your disposal for the next hour to talk about what the agency is embarking on in terms of Environmental Justice and permitting.

One other thing I wanted to say, I thought I was going to have to tell you a little bit about my background but thank you for doing that, one other thing is that I am a veteran of a FACA group myself.

I was on the Clean Air Act Advisory Committee for a number of years and also the Children's Health Protection Advisory Committee. I have also worked on workgroups so I know personally how much time is involved and how important it is for members of FACA to devote their time to giving the agency advice on these things. So it is, a) important and b) a huge commitment on your part and I cannot emphasize that enough how much we appreciate your thoughts on it.

What we are going to do today is talk a little bit about what the agency is doing in response to the directive from the Administrator in Plan EJ 2014 specifically with respect to permitting, there are of course many other elements to that plan that you are going to talk about today.

So, I am going to talk about that a little bit to get us started and Carol Ann is going to then I think talk more specifically with you or not so much talk as listen and ask questions about the issues that you guys are thinking about to help us as we get started.

We very much see that as we proceed with our work under Plan EJ 2014 that we will be doing it in communication and partnership with the NEJAC as well as any other external stakeholders that want to provide us input on this issue and we would like when appropriate today or later to get a clear understanding of the best ways procedurally for us to interact with you over the course of the next months through 2011. So, does that sound okay as a process?

One thing I wanted to mention, I don't think we are going to be able to respond specifically to every issue that you all raised in the previous conversation. It was unbelievably helpful to hear your conversation this morning, coming into this particular conversation was really, really helpful.

One thing I wanted to mention because there was some confusion about it, Hilton mentioned the de-flexing process in Texas and I just wanted to let you know that is a situation that is unique to Texas. They have some issues with their, and Stephanie knows, they have some issues with the Texas Rules on air permitting that we are working with the State and the industries and the community groups there to try to work out.

But this whole de-flexing thing is not something that people in the other part of the country need to worry about and you should thank your lucky stars that you don't.

So, what I am going to do now is talk a little bit about the process that we are starting and the reason that it is me doing this rather than somebody else is that the Administrator asked the Office of Air and Radiation to take the lead on the internal EPA process to respond to the charge, our charge, in the Plan 2014. That just means that we are in charge but in terms of organization and driving the process as I will explain this is going to be a whole EPA effort but that is why I am here.

So what I wanted to do a little bit is talk about where we are currently, the expectations of the Administrator that she has laid on us and then the process we are proposing to follow in order to carry those out and we will see what you guys think about that whether you agree that we have thought of the right things at this point.

So I am relatively new to EPA. I have a lot of experience on the air permitting side from my work with the State of Indiana and then as an NGO on the outside knocking on the door the way you guys do. But, I was not familiar with what EPA has been thinking and what NEJAC has been thinking over the last 10 years about EJ and permitting and I have to tell you that when I read the 2000 report from this group on permitting, it was pretty amazing.

There are 80 recommendations in there and my question when I read that was, well what has the agency done? What did the agency do in response and what am I going to say to you guys when I sit up here this morning and you all know that 10 years ago you made a whole bunch of recommendations?

So, I don't know the answer to that question because I just read that report recently and I have not had the chance to talk with all the other program areas about what has been done. I know that there have been some advances on the permitting front, some of which are a part of the agency's entire move towards thinking more about Environmental Justice but some very specific ones and I just wanted to mention a couple of them.

One is the development of the CARE Program, the Community Action for Renewed Environment Program, which actually when I was an NGO I was a CARE recipient with a group in Indianapolis so I am very familiar with that and I think it is one of the best tools that we have to try to address the issue that Vernice was mentioning and Lang was mentioning before about looking at a community holistically rather than permit by permit.

So as somebody else mentioned, over the last 10, 12 years we have greatly increased our ability to analyze data with an Environmental Justice perspective and through the Enforcement Office and through our work on developing our rules we are using those tools to a much greater degree and some of them are pretty sophisticated, some of them not so much and work needs to continue to be done there.

I think also the agency has enhanced the ability of the public to participate in permitting processes generally. I wouldn't say that it is where it needs to be or that it has been fully appropriate in every circumstance but certainly I can tell you that there is much more awareness at the Regional Offices which is the place at EPA that actually does the permitting of making sure that notice is done more appropriately, that documents are provided more appropriately, being sensitive to the needs of communities.

Again, there is much more to be done there but I think especially in the last two years there has been much more increased emphasis on the process and the public access part of the process.

Some of the other things that we have done problematically I think it may indirectly contributed to influencing the permitting process when we tighten the National Ambient Air Quality Standard which the agency has done in the last couple of years that ultimately has the effect of changing the kinds of permits that get issued and the kind of analysis that needs to be done in communities, so all of that is a good thing.

In addition, in the last 12 years I know there have been great improvements at various State levels in terms of how states deal with Environmental Justice permitting, again not uniformly and as I will mention I think that is an area for us to really focus on as we delve into our process.

So you guys I think are familiar with the language of Plan EJ 2014 and what the Administrator asked us to do, but the goal of the effort just to make sure that we are all kind of on the same page about it is to ensure that Environmental Justice concerns are given full consideration as much as possible in the decisions to issue permits and what kind of permit terms are included under the Federal Environmental Laws.

That is a very broad charge and it contemplates kind of a too deliverable approach. One is that our initial focus will be on things that could be implemented very quickly and that might be things that would focus on the permitting actions that EPA undertakes itself, there might be other things too.

The longer term aspect would be things that would take a little bit more time and you guys in your thoughtful discussions have already identified a number of the hard and sensitive questions that we need to think about that may mean that we need to take a little bit more time on some of these things.

So, I don't know about you guys but I am a list maker and I really like to have things on my list that I can then cross off when I finish them and I am also very big on very concrete deliverables and this particular process I think gives us a great opportunity to identify some very concrete deliverables that can be addressed in the short term even while we are discussing the harder more complex questions that may lead to solutions that are more challenging to implement.

As I go into this process I am going to very much have that in mind, what kind of things can we be putting down on our list that are things that we can just move on right away. I have to say that many of the suggestions in the NEJAC's list of 80 recommendations back in 2000 I would put into that category of things that there is no reason that we shouldn't just move ahead and talk about those and get them implemented quickly, as quickly as we can.

So, in terms of our process we have been tasked with getting a group together within the agency to think through these things over the course of 2011. We are to deliver a work plan to the Administrator by the end of January and our plan is to create a workgroup within EPA probably similar in makeup to the workgroup that was created to develop the rule making, EJ and rule making protocol.

So it will include people from all of the offices in EPA especially the ones, well I shouldn't say all I have learned in a year, there are many offices at EPA and each one has its own acronym.

But certainly the offices that are engaged in permitting whether it is the major program offices, OGC, the Office of Environmental Compliance, those various offices, the Regions will be very much involved in this as well because as I said and as you know they are on the front lines when it comes to permitting.

My thought is that the work group can kind of naturally divide itself into two main focuses. One being to focus on the public participation process and access to the process and move ahead with making sure they understand all the recommendations that this group has made collecting best practices from the Regional Offices, from State and local permitting agencies to make sure that we have a comprehensive list of the kinds of things that agencies at whatever level should be employing to make sure that everybody has meaningful access to the process and then figure out what the best mechanisms are for making those available to State and local agencies, to our own Regional offices whether that be through mechanisms like the performance partnership agreement or whether it is guidance or however that makes the most sense.

So I see that as one distinct part of the work of the group and then the other part is all the other stuff, right? So it is the more substantive, if you will, part of how we can meaningfully integrate Environmental Justice considerations into the permitting process and much of your discussion this morning goes to those sorts of consideration.

I think one of the most important questions that we have to consider is the one that you guys discussed this morning is what are we talking about here and what is the right way to approach this in order to make progress not get bogged down? Do we want to be going through the whole long list of permits that EPA issues or that others issue under Federal Laws? Or is there a more community focused way to approach this identifying the types of facilities that get these permits or the types of communities where our focus ought to be on initially.

I myself am inclined to look at it that way, that we are going to be more successful. Not every permit that is issued under Federal Environmental Law has Environmental Justice implications, so let's not set ourselves up to integrate Environmental Justice into the universe.

Let's focus on the ones where it really makes sense and let's focus on it in a way that is more holistic from the community perspective because that is the way people in communities think about

facilities in their community. They don't think about it in terms of the PSD permit and the underground injection permit, they think about the landfill in my community and what are we going to do to reduce the pollution from the landfill in my community? So, an initial inkling there.

So two efforts there, our plan is to try to have draft recommendations by about mid year that is pretty aggressive as you guys know having just, although if you can do it hopefully we can too with your help and then to have final recommendations to the Administrator by the end of 2011.

But as I say, if there are things along the way that can be implemented before getting to the end of 2011 there is much motivation to go ahead and do that.

We want to make sure that we work into our process a way to get input from, as I said, from NEJAC, from State and local permitting agencies who are clearly important stakeholders from Tribal representatives and others and we would look to your advice and help on how to do that.

So, that is kind of the process that we are thinking about. It is not set in stone, so we certainly if you have suggestions about whether that makes sense, the timing makes sense and in particular how the NEJAC would like to interact with that process that would be extremely helpful.

Before I turn it over to Carol Ann, I wanted to mention a couple of other things that we are thinking about in terms of some of the key questions I think and she will go into this in much more detail but in addition to how to continue to make the permitting processes acceptable as possible what is the interplay between what the Federal Government does and what State and local governments particularly when it comes to citing a facility. I think that that is a very challenging issue.

The Federal Government is not the best at doing a lot of things nor does it have responsibility or authority to do a lot of things and we need to be respectful of where it is local community, State governments, community groups and private enterprise that really has the responsibility and the authority to make those decisions.

So I think that that is something to keep in mind. Related is the interplay between environmental permitting and economic development and job growth which you guys have also acknowledged is a key issue to think about as we move forward with this.

The last thing I will mention is the issue of cumulative impacts which I think is there anything harder than that? I don't think so and one of the challenges is that our technical tools and our data are not everything that we would hope them to be in order to equip us at any level to really understand and deal with cumulative impacts.

Does that mean that we shouldn't have it as a primary focus? Absolutely not. These tools will come along and if we are not focused on it then tools won't come along so we need to keep it in the forefront of our mind.

But I think it is incredibly challenging as we think about specific communities, as we think about specific permit actions and what it is or should be within the ability of a particular agency as they look at a particular permit what they can do to try to address or understand the cumulative impacts.

So I am going to stop there, turn it over to Carol Ann and that will be the time for you guys to start talking.

***Presentation by Carol Ann Siciliano,
EPA Office of General Counsel***

MS. SICILIANO: Well good morning and thank you very much for inviting me to appear before you to talk about your preliminary response to the permitting charge.

My name is Carol Ann Siciliano, as Janet said I am in the Office of General Counsel. I am the Associate General Counsel for the Cross Cutting Issues Law Office. I have been at EPA for 20 years and in the first 17 years I did a lot of work under the Clean Water Act and now have moved to my new position where I am challenged and delighted to work on some of, I think some of the vexing issues that the Agency faces and the most interesting ones and the ones with greatest for change.

Included among them are, of course, Environmental Justice, Indian Law, NEPA, I work an endangered species act as well as administrative and international law. So I am in position thanks to my portfolio to look broadly at the ideas that this council is putting forward and seeing all the connections that you are encouraging us to make. I like to make those connections too and I thank you very much for putting that first and foremost in front of EPA as we ponder the permitting question.

As I have told a lot of you as I was reading your preliminary response which I did, I had three uninterrupted hours and I used every one of those minutes to read this report and I found it incredibly engaging and thoughtful, provocative and helpful, helpful to EPA as we begin to tackle this

question about how do we integrate EJ into permits?

We have talked a lot about it. We have had advice from the NEJAC on this issue and we thank you for that. What to me set your recommendation apart was the way you cut through the questions we posed, types of permits, cumulative impact, took a gigantic step back asked yourself there are questions first we need to address, we as the subgroup, we as EPA and there are themes cross cutting themes that really perhaps should be the organizing principle for EPA as EPA tackles this question.

I have been giving a lot of energy and a lot of thought to this permitting question but it was not until I read your preliminary response that I started achieving some clarity in my own mind of how EPA could make a real difference here, really do something new and creative and meaningful in the next year, next 18 months that could change things on the ground.

So while I recognize that you are not done with your work and I recognize that EPA as a whole has not formally considered and responded to your work, I just wanted to speak from my personal position that I found a lot here to help us and I wanted to name a couple of things and to acknowledge, first actually to acknowledge the individuals who worked on this and I have gotten a chance to talk to several of you but have not met all of you.

Jody I know you worked on this and Sue and Hilton and John and I have also talked to Shankar and to Edith and to Vernice and I know Don is not here, so thank you very much. I have individually spoken with you and I have a great sense of the energy and passionate commitment you invested into this and I have seen that from the council as a whole your engagement.

For me, there were a couple of things. You made several requests from a process point of view and you alluded to some of these this morning, for information, data, about the permits, who issues them, what kind of permits they are as far as the statutory regime under which they fall and then you have asked us to report that information to the public.

You have also invited us to assemble a workgroup or otherwise keep engaging with the NEJAC as we tackle this issue. You have asked us to think about how we can use the Interagency Working Group of the senior officials of the agencies across the Federal Government, how to engage that group to tackle some of these issues and I will come back around to that.

You have also asked us if the NEJAC continues to be involved in this to facilitate presentations by the State and local permitting authorities, people who have on the ground experience writing permits who might be able to give us some on the ground reactions to some of the ideas you all are coming up with.

Then you asked, do our past reports help? You very helpfully provided links to a number of reports that the NEJAC has produced in past years. I found it very helpful to have that all in one place, links that I could get ready access to. That is a very fair question, do they help? How can they help? What more needs to be done, in light of what you have already offered to us.

As Janet says, that is a question I take very seriously and then we will look at that. We will be sure that in our library of resources as we the Agency tackle this issue we have your word. So thank you for that.

I found a couple of, I noticed some themes some cross cutting themes in your paper. I know some of you almost apologetically said, EPA we may not be giving you what you asked for. I believe with these cross cutting themes that you have started to identify, you have given us what we need. What we didn't think to ask for you have given us some very thoughtful things to ponder.

These are the themes that I identified and I really would like folks to react to see if I have gleaned themes appropriately from where you are preliminarily.

One of them, Janet alluded to this, is public participation. That getting communities involved not only during the public comment process when a permit has already been drafted and a preliminary decision has been made but getting the public involved very early in the process in a way that they can meaningful engage with the facility before emotions get high, positions get fixed and when interests can be deliberated among caring professionals.

Some examples of that were the community outreach plan that Edith supplied as an example from Connecticut's work where Connecticut asks, or maybe we require, facilities as part of their permit application process to develop a plan. How are you going to reach out to the community who cares? Who is the community that cares? What are their names? What is your process? Do this early.

In fact, there is even a provision in the template that the subcommittee provided here that says that the permitting authority will not consider the application until 60 days have gone by from the

date of a public meeting that the facility has.

I found that to be a very intriguing idea that I invite this group to talk about and to give us advice about because to me what that signified was an opportunity for the facility and the community to talk and then to perhaps inform the permitting process before EPA or the State even gets involved in a decision making capacity. Very, very interesting idea.

Other aspects in the public participation, also you talked a lot about Part 124 of EPA's regulations, laws that already exist. How is EPA using those? Those of course cut across all permits, how are we using them? That is a great question, I don't know the answer to that. Is it worth investigating?

I know permit writers probably know the answer to that but the folks who are in the process of developing an overarching strategy, I know one of those people, I don't really know, it is a great question.

I also appreciated the conversation this morning about the good neighbor opportunities there. Jody raised the point, to what extent can these agreements be integrated into permits and even if they can be to what extent can they be enforced under the applicable laws? That is a very fair and interesting point.

Having said that, it is interesting to have again that dialogue between the facility and the community and also folks alluded to that, is the permit the only mechanism by which change can happen on the ground? You have challenged us to answer, to ponder that question. Are we looking to myopically add permits as the solution? Janet alluded to the citing issue, of course permit is not the only solution. So thank you for challenging us about the role of the public before decisions are made.

Another thing, and this was related to it, a theme about community right to know. Okay, so now we have a permit, we have discharges or emission. The permit includes, one would hope, monitoring reporting obligations. Are they good enough? Do we have, and one of the things our group is going to be looking at, do we have the right tools, the right monitoring tools? What kind of reporting would be helpful for the community to understand the environmental implications of the permit once it is issued? That is a really interesting question.

You guys alluded to TSCA and Reform, that is what it is and the Agency is doing what it is doing on that. In the permitting contest though at the micro level each emission matters and we have mechanisms under our regulations about record keeping and reporting, monitoring, record keeping, reporting, how are we using them? That is a good question.

Another theme that I picked up was compliance and enforcement, we talked a little bit about this morning and the SEPs, the supplemental environmental projects, SEPs context and some question about how that relates to permitting and we do welcome your advice as you all figure that out in the final response.

Then the question relating to that is compliance and assistance grants and making sure that people are implementing their permits as they have been written. What is the role there for EPA? What tools do we have to facilitate that? Again, an excellent question.

Another theme is interagency relationships. Teri talked about the Corps of Engineers this morning and other agencies get involved in environmental permitting or make decisions that affect the environmental health of a community.

So, how are we going to use this newly reconstituted interagency working group for Environmental Justice, the Administrator, the Attorney General, Secretaries of key Federal Agencies, that is a lot of brain power, a lot of influence, a lot of opportunity, you have recognized that and you have identified in your response some ways that maybe we could think about using that group. Again, a very interesting question.

And there particularly, and I want to highlight, Tribes because you hit the nail on the head in your preliminary response by acknowledging that there are a lot of Federal Agencies that affect environmental quality of life in Indian Country and EPA has a little slice of that but we have Indian Health Services, of course Department of Interior, we have HUD, we have any number of agencies. So, what are we doing about that?

A footnote here I can speak briefly about that is that we are working, the lawyers and the agencies, are working try to get together and talk about some of these cross cutting Indian issues to share common experiences and figure out where the synergies are. So thank you for naming that, I appreciated that.

The last partnership was State and EPA partnerships and then I guess I would include

the local permitting authorities because certainly in California there are the districts issue water and air permits. There you challenged us to think about your relationship with the states, to think about our relationship with the states.

We authorized many states to administer programs, certainly under the Clean Water Act, the Air Act as well, RCRA, what does that mean in terms of EPA's oversight? What does that mean in terms of our expectations of the State when they start to administer these programs, as in this case, as it affects permits? What are the opportunities there?

The performance partnership agreements, John you talked about those as an opportunity to influence the State's thinking about Environmental Justice on these important issues so that the themes we talk about, public participation, community right to know, maybe compliance related issues. How do we memorialize those?

To what extent and how do we bring the states, either learn from the states in the case we were talking about with Connecticut, California and for others who are still working on this issue how do we bring them? How do we engage them as leaders with us or at least engaged followers? A very, very important question.

Of course, there is the Title VI issue, money. What does that mean? How do we use that? I have gleaned from your work what for me are five very, very important themes that cut across every type of permit. It doesn't matter if it is a UIC permit, underground injection permit, or a Clean Water Act permit or an Air Act permit, these questions have common applicability.

I would like to actually maybe turn at this point to ask you all some questions because what I am interested in is with this deliberative advisory body continuing to advise us as we tackle these questions.

So maybe my first question, if that is okay and of course we welcome questions too, but I would like to know whether these things resonate with you. Are these the themes that you would like us to draw from your report as possible ways of organizing our own work? And I do have more to say about any one of them.

Questions and Comments

MR. RIDGWAY: Thank you Carol Ann, you got a lot in there that I was not able to so I appreciate that. Yes, I think all those themes are there and appropriate and so yes you are on track and I will just throw out one comment from what you said was early engagement, you said, before emotions get high.

I would suggest a different view on that. That the emotions may be high from the get go and the sooner you get into it, the sooner they can be addressed, mitigated and allow the process to move on as opposed to when you keep the public out of it until a lot of the decisions are done then you hear about everything it really throws a wrench in the works.

So I wouldn't say it is to avoid high emotions but rather it is to address them earlier.

MS. SICILIANO: Thank you.

MS. YEAMPIERRE: Father Vien?

FATHER NGUYEN: Vien Nguyen, Viet Nam Community Development Corporation.

Carol Ann, I just wanted to bring up what you mention about the monitoring tools. The reality for us I believe at the local level and this is concern where EPA has the adequate care on some issues but then a lot of the monitoring work is relegated to the State. The State delegates to the local government. The local government does not always have the capacity to monitor or even to understand what they are seeing.

An example of that is a situation in New Orleans where there was a landfill that was reopened and then the concern was that the levy would be compromised and so the requirement was that there would be monitoring devices on the levy to see if it moves and it took forever for the State to get the City of New Orleans to bring in the results.

But then both sides looking at it had no idea what they were looking at. So, it is the capacity of the people monitoring more than the tools in this case.

MS. YEAMPIERRE: Jolene?

MS. CATRON: I am still trying to craft my question in my head here. Thank you for the opportunity Carol. I smiled when you said that you are a specialist in Indian law because of really complicated failed to be involved in and it seems like jurisdiction issues are really a lot of what the bump up against between the State, the Tribes, it is just mind boggling the kind of jurisdictional quagmire we find ourselves in a lot of times.

And then trying to explain that back to the community level especially Tribal Elders about, no the Tribe doesn't have jurisdiction over their groundwater but they do once it comes out of the ground or they put it in a pond or it just gets really difficult.

One of the things I wanted to mention and I will be saying more about this later on this afternoon is that it is unclear of EPA's policy towards engaging Tribal Community members whether they are organized like in the case of where I work through their own general counsels or whether they organize them formally through non-profit or community organizations and how that fits into the umbrella of Consultation for Tribes and how Tribal Governments might influence that Consultation at a community level.

MS. YEAMPIERRE: Carol Ann, do you want to respond or should I keep going around?

MS. SICILIANO: I will just briefly to acknowledge that that is an important and difficult question of what constitutes Consultation from Government to Government perspective which is what is our charge, EPA's charge and all the Federal Agencies and what constitutes outreach to the communities and members, not the same thing as Government to Government Consultation and then who are the other groups within Tribal Governments like the General Counsel and others who would have tremendously valuable information to EPA as we try to make the right choices.

So thank you Jolene, I will look forward to hearing more about that this afternoon and thank you for identifying that.

MS. YEAMPIERRE: Wynecta?

MS. FISHER: Carol, thank you for asking for feedback and thank you for reading the document. My question is fairly simple, it is about the siting issues and you brought that up and you are smiling, so I am just curious how is EPA go about working with municipalities because that is generally where the siting is, how would EPA go about doing something like that?

EPA is going to walk into a city and say, yeah you know this is zone heavy industrial it now needs to be zoned. How would that process ---?

MS. McCABE: Well I don't think EPA is going to be going into any city and tell them how to do their zoning, it just doesn't seem like the appropriate role for the Federal Government.

There are some environmental statutes that speak more explicitly to siting and alternatives consideration than others, so we need to pay attention to that. Again, I think that we have as was mentioned before permitting involves a whole range of issues not always brand new facilities where you may already be dealing with a facility that is there and so siting it is not really as present as when you are thinking about new things.

I think having people involved early is very helpful in that but I think we don't have an answer to your question today nor do I think it would be appropriate for us to before we have walked through the discussions that we are planning to have with you and others over the next year to try to figure that out. Carol Ann, I don't know if there is anything you want to add on that.

MS. SICILIANO: Thank you Janet. I do smile on Janet as well because siting is a remarkably difficult issue for EPA. We care but by the time the matter comes to us and as you know the facility is built, the pipe is built and we decide what the limits should be or what the monitoring requirements should be or other conditions.

So, at some point I would very much like to get your creative ideas about how, who influences siting, we all have ideas about that and what are the ways that caring people can influence how they thing? So it is something, the siting issue I want to acknowledge, it is there we all know it. It is there in the room with us. We are going to work on what my deep interest with Janet is, let's do what we EPA can do. Let's influence what we can influence.

And then for that hard question, do we have some ideas that maybe we can share with other people who do have influence, direct influence, that maybe can make a difference. Nancy?

MS. STONER: So I just wanted to pick up on, I think Janet said this I don't think I am making this up, there are sometimes their siting is not in any Federal environmental statute, it is really not the Water Act, but there are things that reflect where discharges occur that could be looked at in terms of something that is like an analog sort of, of siting.

So the Water Quality Standards Program is all about what is the water body being used for and is the discharge into that water body consistent with that use? Now, that is not siting but it is different in different places depending on how the water is used.

So you just might, I don't know in thinking about your recommendations you might want to think about is there something in the statutes that even though it isn't about siting helps address the

same concern that motivates the siting.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Thank you. I am just going to take a pass on this question which is the vein of my existence for 25 years but we will revisit it and there has been many things that we have attempted to do to get at it while respecting EPA's hard and fast prohibition from being able to recommend, say or even speak to what local jurisdictions around land use.

But two things that I would recommend that the NEJAC has produced in the past and I think we cited them in our report is the Resource Conservation and Recovery Act social siting brochure and the Waste Station Transfer Report which were both issues that tried to get at that issue but walked a very fine line that EPA has to walk around how you can relate to local jurisdictions about that issue.

To your question Carol Ann about were you hearing us correctly, I would say you are right in the wheelhouse in terms of the themes that we tried to integrate in the report. The one piece that I would highlight, and you and I have talked about this a little bit, is the Army Corp of Engineers is an incredibly, incredibly vexing relationship particularly for local communities.

It is vexing in the Gulf Coast, it is vexing in coal country, it is vexing around local jurisdictions and water bodies, it is vexing around natural resource damages and protection, but communities have such a difficult time being able to even sit at the table with the Army Corp.

I know what we have asked the EPA in the past and we are certainly asking it again is that you have to help us figure out how to have a relationship with the Army Corp of Engineers such that they are not completely dismissive of local communities and their concerns and even dismissive probably doesn't begin to really capture how they operate around in coal country.

It is destructive, it is violent, it is costing people their lives and the fact that they won't even talk to these folks is just, it is an abomination. But, we have been here before many, many times again and we have asked EPA to help us figure this out and we are asking you to really help provide some leadership on how we get them to be compliant with existing environmental law and statute and we know that there is some great area around Federal Agencies having to be compliant with their own law Federal facilities is one of those issues.

But if the Army Corp of Engineers is not going to comply with basic fundamental environmental laws then how can you expect industry and others in the extractive industry to be compliant with the law if the Government is not going to be compliant with the law.

So this is a real difficult sticky wicky, we don't have an answer but we would very much like to be in dialogue and thinking together about what we can do to bring the Army Corp to the table and not a shotgun way but in a way that is really engaging and provides a platform for relationship going forward to get them to respect the interest of local communities because they are paying with their lives when the Army Corp dismisses what their concerns are.

MS. YEAMPIERRE: Council members, I am sorry we only have about seven minutes left, so I will ask you to be judicious with your time and your questions and your comments. The next person on the list is Shankar.

MR. PRASAD: Janet, Carol Ann, thank you for coming and I really appreciate your enthusiasm towards this issue. Two words of caution, EJSEAT was followed in the same way that you are planning to go ahead as well.

It was --- an internal working group and it came up with a report and it became like what I call as a bad principle, decide, announce and defend and it fell into that and we still have serious issues with that so let's to award that part you may want to think about, I understand the urgency you have in order to produce a draft at six months, but let that not be a close loop as it happened with the EJSEAT in making it a big problem for all of us. So just a word of caution on that.

Similarly, as we went through history again cumulative impacts I was also on that workgroup, worker hard great, outcome expected was some policy recommendations what did they --- is a research program.

So you want to be very careful about how you craft and what is the outcome expected and the people whom you want to include are the essentially it should include not just the EPA but to bring about the actual permit writers state level and how you want to utilize this body is something that you all decide, that is fine with us. We don't have to be a part of it but we would welcome it to be an open process.

MS. YEAMPIERRE: Thank you. Sue?

MS. SICILIANO: I am sorry, may I respond?

MS. YEAMPIERRE: Absolutely, yeah.

MS. SICILIANO: Shankar thank you very much because you probably already figured this out that I have a great deal of enthusiasm in energy, a great deal of confidence in what I and my colleagues can achieve but by the same token this is really, really, really hard and your reminder to me to manage the work effectively, to manage my own, never mind other people's expectations, my own expectations about what we can accomplish.

Make sure that what we take on in the next six months produces a product that we can use that won't fall into a drawer and unused. So while I do have identified the many themes that you all have identified yourselves and personally I find them engaging, what are we going to work on first? How do we want to be sure that the time we have, the effort we employ is going to change whatever it is we all think should be changed? So thank you for that and we look forward to getting your help on this priority.

MS. YEAMPIERRE: Thank you. Pat?

MS. SALKIN: Thanks. Patty Salkin, Albany Law School. I just cannot pass up the opportunity to take the bait on the siting issue and zoning. I just want to say in the famous movie line, you know, go ahead and make my day, ask me Jack to look at what EPA can do with respect to influencing local control of planning and zoning decision making.

You don't have to take away the local control in order to change behavior and time is limited but I just want to quickly raise a couple of points. There was an article that was written in the Law Review by Gerald Caden from Harvard Law School who said, there is no Federal land use policy and I wrote a response in another journal saying that he was wrong.

Some things just from historical perspective, in the early 1920's the model, planning and zoning enabling acts that the states then used to tell local governments what they can and cannot do, they were promulgated by the U.S. Department of Commerce.

That today is still what we use as the basis and the model for our planning and zoning enabling acts. If that is not Federal influence on what local governments are doing I don't know.

There is a huge opportunity here for cooperative federalism and for EPA to take the lead. In the 1970's, HUD had the 701 Program that provided money to local governments to revise their comprehensive land use plans in accordance with the HUD Program regulations. You didn't have to take the money but if you did you had to craft it and do it in a way that met the program funding requirements.

In the 1990's, huge interagency across agency lines Federal Government bought into the Clinton/Gore liveable communities agenda and all of you changed the names of your programs and you changed funding requirements to get people to do things with the liveable communities agenda.

These are just a couple of examples, the list can go on of what you can do if you want to focus resources, if you want to put out guidance, suggestions, models, it doesn't have to be a mandate, it doesn't have to be top down but the models, the suggestions, putting information out there, technical assistance and a little bit of programmatic incentive voluntary funds will go a long way to changing how local governments are making these initial decisions on citing policies where things can and cannot go because of their comprehensive plans and their zoning regulations. They need EPA's help.

MS. YEAMPIERRE: You know I felt like I was in law school again but this time enjoying it (laughter).

MS. McCABE: Can I just respond very briefly? Those are very, very fair points and I certainly didn't mean to suggest that EPA is doing nothing on the issues of land use and sustainable communities and all that sort of thing. I think people around this table know that EPA is working actively on those issues. I appreciate you calling us up on that.

First of all, I didn't want to leave a wrong impression but also I think it is important for us to keep those in mind as we move forward with this more discreet task. So thanks.

MS. YEAMPIERRE: Sue?

MS. BRIGGUM: Thank you and I would like to take off from something that Lang elevated for us and then combine it with something that Edith brought to our report and that is the importance of starting with the most burden communities and then using all available resources under all of your permitting authority to improve the circumstances of the community.

It occurs to me that if you coupled EPA's firm declaration that henceforth in all permits we will maximize our authority to address cumulative impact and Environmental Justice and we also encourage early communications and discussions and in order to talk about how those reductions might take place and improvements as soon as possible then you wouldn't have to just work with the one facility that has the permit in 2011 and everybody else is like, not my problem.

But everyone would know that relentlessly going forward you would expect everyone to be a good citizen and you already have the tools you have done such a great job. I mean it is not just that you have an EJSEAT but EJ view alone allows anybody to type in their street address and say, oh wow look at all of this stuff and we are all in the game together and there are going to be expectations on all of us to do a better job.

I think that you really might be able to leverage a lot of positive benefits very quickly by changing expectations and everybody who is responsible knows I am going to have a role that I have to help cure.

MR. YEAMPIERRE: So we are down to the wire. We are going to take one more question. Jody?

MS. HENNEKE: Mine is more of an observation and it is building a little bit on what Vernice said and that is in my perspective is more from the Gulf Coast but in dealing with as the Interagency Working Group has been re-energized and the Administrator's Gulf Coast Restoration Task Force and all of the events, let's just call them events, that have happened in the Gulf Coast over the last several years it has focused for me how difficult, and I will try to say this kindly, how difficult it is to work with the Corp of Engineers.

Their corp mission has changed over the decades, they have gone from navigation and flood control to being very involved in environmental decisions and in a way that they may be technically prepared for but not organizationally in any way and Vernice if you think they blow the communities off, they are right there blowing off the states as well.

It is very difficult to work with them in a way that is meaningful that doesn't turn into decades worth of effort that never really winds up with much except spending billions of dollars and I would encourage as we have these opportunities over the next several months to a couple of years to see if we can help finesse that in any way possible.

It doesn't have anything to do with the individual, it has to do with the mission of the Agency and how they feel like they are to accomplish what they are supposed to accomplish however slowly it takes.

MS. YEAMPIERRE: I want to thank you for your thoughtful and candid presentation. I think it was remarkable that you actually spent time with each member of the permitting committee and so I want to extend a heartfelt thank you.

We are going to break now for lunch. We will be back. If you look at the agenda it says that we return at 1:00, we will be back at 1:30, 1:30 okay?

(Meeting adjourned for lunch at 12:04 p.m.)

AFTERNOON SESSION

(1:34 p.m.)

EPA Plan EJ 2014: Supporting community-based Action -- An Overview

Presentation by Mathy Stanislaus, EPA Assistant Administrator, Office of Solid Waste and Emergency Response

MS. YEAMPIERRE: So Mathy, welcome to the NEJAC.

MR. STANISLAUS: Hello everyone. It is great being here. As you all know I am the Assistant Administrator for the Office of Solid Waste and Emergency Response. We are responsible for almost everything hazardous in solid waste, Superfund Program, Solid Waste Program, Federal facilities, underground storage tanks, all kinds of the RCRA kind of issues.

So one of the things that the Administrator charged us and what I am trying to do is really kind of operationalize the --- in a real kind of substantive way, in a real way that we can bring about tangible kind of results in a way that kind of deals with overburden communities and really trying to move the ball on Environmental Justice in a real kind of a community based mechanism.

I have spoken at your prior NEJAC meetings about some of the other activities that I am doing. So I am going to focus today on Plan EJ 2014 so you got some discussion earlier today about Plan EJ 2014 and it really maps out the EJ strategy through 2014, the 20th anniversary of the creation of the EJ Program.

What I am going to focus in on is one aspect of that and that is the cross agency focus area of supporting community based action programs. For those of you who know me and I have spent a

lot of my career in kind of really figuring out how to link a community of authentic community based strategy to bring about a problem solving and problem solution.

So I have been charged to really spearhead that effort and try to figure out how the Agency can develop a set of tools to address EJ from a kind of community based place based method.

So what I really want to get from you is kind of a feedback on what you think works or your experience of things that have worked from a community based place based perspective and things that we could take a look at and to really kind of operationalize that in a kind of real way to provide again tools view.

Let me touch on kind of a few programs that I think are successful that I would like to get your input on. One is the CARE Program and the CARE Program is widely recognized because it is kind of a community based approach.

It provides resources to do problem solving at a local level and I visited a number of communities that have had the benefit of CARE grants and the tangible successes of not only the relationships and trust building that occurs but also real tangible risk reduction in communities that are overburdened.

So can we take that example and operationalize that throughout other of EPA's programs? So we are looking at in terms of EPA what are the kind of short list of kind of community based approaches within all of EPA's programs.

We are also looking at through the Interagency Working Group that Lisa Garcia is participating on is how can we also link that with other Federal Agencies work. EPA is involved in the sustainability partnership with HUD and DOT, we are expanding that to include a number of other agencies, that is a potential vehicle.

But there are other kinds of ways that you all suggest in terms of a community based approach with other Federal Agencies where we are kind of interested in hearing that. So what my plan is to develop an initial implementation plan but also realizing that it is going to be kind of an --- process. What I would like to do is to identify some initial activities that we can do to initial set out of tools or activities within our programs really advance kind of a community based approach to address Environmental Justice.

So we have convened a working group internally to begin thinking through what are some of the examples and I give CARE as an example as something we can look at to replicate or integrate within our programs.

So we have had some initial preliminary calls within the Agency. So my goal is to really try to have an initial implementation plan in the next few months and then continue to work on that and kind of hone it in and kind of advance that over the next period of time.

So let me pose a number of questions for you for some initial feedback. But I also would like to talk to you about the ongoing engagement with you in the shorter term to really move the ball on this.

One, are there particular community based activities both the EPA or State agencies or local agency that you think we can replicate nationally to begin solving Environmental Justice issues?

Are there particular Environmental Justice circumstance that you think lend itself to a community based approach and what are those particular community based approaches? It could be technical assistance, it could be kind of a planning effort. So I would be interested in that.

Are there particular strategies that you think work from a community based perspective to look at the cumulative exposure issues that is a significant Environmental Justice. From the perspective of, I would couch it as a cumulative risk reduction strategy.

I had participated before I got into this job is looking at communities that have multiple exposure pathways let's begin approaching it from a risk reduction strategy, incremental risk reduction strategy but are there ways that we could deal with the cumulative impact issue by looking at kind of a multi facility incremental exposure reduction kind of a strategy.

Are there ways of linking a community based strategy to deal with some of the permitting issues that you had raised earlier and should that be distinguished in existing permits and new permits?

So, those are some initial questions I would like to get some feedback on and then I also want to talk a little bit about my initial thoughts about an ongoing dialogue with you in the next few months.

So, with that I will throw it out to you.

Questions and Comments

MS. YEAMPIERRE: Thank you so much. Any comments or questions from council? Jolene?

MS. CATRON: Thank you for the opportunity to speak. I am Jolene Catron and I am Executive Director of Wind River Alliance. You asked what are circumstances that could lead to a community based, what did I write here, what are specific circumstances that lend to a community based perspective kind of thing and I would certainly say that climate adaptation and climate change and around that especially in Native communities that have strong subsistent way of living would certainly be a good way to look at that.

It would also include a lot of interagency kind of coordination things and then also to just kind of go back to the CARE, I am a recipient of Level 1, my organization is a recipient of the Level 1 CARE grant and one of the things I found in CARE is that is a very linear process and when you work in communities non-linear process and so even the roadmap, even though the roadmap is curvy like this it is still linear and I always say this when I go to CARE meetings that it needs to be more spiral fashion.

You go back and you revisit the same task but you are looking at it through a different perspective and then you also have other items that come in from top to bottom and so it isn't just linear.

So I would encourage if you are thinking community based that it is certainly not a linear fashion. Also, I think what is real important to mention too is the opportunity for the communities to define the risks that they face the cumulative risks within their perspective instead of trying to fit the risk model into their community.

We are in the process of starting at that risk ranking right now and that is something that really interests me in how we can really move that forward.

MS. YEAMPIERRE: Kim?

MS. WASSERMAN: Hi, my name is Kim Wasserman from LVEJO. First of all, I have to thank you for coming and talking with us because I think it is really exciting that part of the EJ Plan is looking to getting more teeth to it, later on today you will hear from the NEJAC committee that worked on that, that part of the issue we had with the plan was that there was real no objective and timeline to it so I applaud your effort in coming to talk to us about this because I think you cannot get a better answer from community than talking to the community organizer, so thank you.

I think to echo was Jolene was talking about in regards to the CARE grant, we have not been recipients but I think that it is such a highly competitive market to look for a CARE grant that it only makes me think that there needs to be more money designated to the CARE Program because there is such a great need in our communities to identify environmental hazards that are happening and be able to fund it more consistently through our communities instead of four or five projects, you know, 10 to 12 projects.

With that said, I think that being able to tie other Federal Agencies is key to that. I am hearing Ms. May talk about all these different Federal Agencies working with her, that is great, but unless you get one of those grants that process is not really available to you so I think it would be great if either through the CARE grant or whatever model is replicated to have the ability as a community to say, we are in need of public transit how can we get the FTA to come and talk to us?

Being able to link our organizations and communities with those folks when we don't have necessarily a grant to do that for us and that was it, thanks.

MR. STANISLAUS: Can I gladly respond to that? I will be blunt in that we are kind of budget constrained. So what I would like you to think about is the CARE model I think works because you have all the key local stakeholders participating and really kind of problem solving with kind of technical assistance being able to kind of independently evaluate the circumstance, identify the best ways of reducing impact.

But can we take that model and have the EPA, could EPA play a facilitation role if funding is found elsewhere and even possibly by a coalition of the private sector that is in the community. So, those are some things I would like you all to kind of think about.

MS. YEAMPIERRE: Thank you. Ms. Margaret?

MS. MAY: Thank you for the opportunity to share an experience. Here in Kansas City several years ago working with our local EPA office, we provided an opportunity for several neighborhoods to participate in a trainer to trainer type session on lead paint awareness of the need for lead remediation.

From that, we had some of those folks who decided that they would actually serve as a trainer and they carried messages in the community to folks that lived on their blocks.

From that, we got a lot of people with interest in learning more and actually taking the steps necessary to make their homes more lead free and I think that there has to be creative ways like that to really get these messages across and to get the feedback that you want from the people that you need it from.

Because quite often we have people who are in other positions or with organizations that decided that they are speaking for or on behalf of the community and so you are getting that view which is a higher level view than what you were really looking for at the grass roots level.

In that regard, it is very important that you be aware that this takes time, that you cannot get comments within a 60 day time period if you are really wanting to get down to the grass roots level and there needs to be adequate time for people to give the feedback that would really be good quality feedback.

Finally question, Victoria do we keep track of the people that come to the public comments sessions and where we are able to connect them with the organization, do we have a means of getting to those folks so that they can give us feedback?

MS. ROBINSON: You mean as the NEJAC getting feedback?

MS. MAY: Yes.

MS. ROBINSON: Okay, we do have a record of every person that has given public comment at a NEJAC meeting and in terms of being able to reach out to them we don't know if, we only have what information we would have had 10 years ago where somebody lived, phone number, email so we cannot really, we don't track the public comment as the commentor has spoken or presented a comment.

So we do have a list of their names and their affiliations, whether they are still at the point of contact we don't know but actually your other question related to, you know, reach back and everything that is not something that the NEJAC has done, has set up a mechanism for and I don't think that EPA has -- we have in the past provided those comments to the appropriate Regions for follow up where they can, things like that, all different program offices.

MS. MAY: I was just thinking that that may be a way to drill a little deeper in getting feedback.

MS. ROBINSON: Feedback for EPA or feedback for the NEJAC?

MS. MAY: Actually feedback for NEJAC so that we are in fact representing what the community, we use community so loosely so that we really are getting to the folks where the rubber meets the road.

MS. YEAMPIERRE: Mathy, do you want to respond to Ms. Margaret?

MR. STANISLAUS: I think with respect to the NEJAC and also I will talk about it a little later, I am interested in terms of the folks that you are connected with and what kind of ideas that we can kind begin moving on them. Clearly, the implementation of the community based approach you want to make sure it is done in an authentic in a community based way, that is one of the things you want to kind of build into whatever set of tools that comes out of this process.

MS. MAY: And then again to the time. The comment, the length of time that you allow to get feedback.

MR. STANISLAUS: Again, at least with respect to this activity to begin working on an implantation plan and continue to examine this. In terms of, I did the separate issue I have heard also is generally the comment period for community comments and permit process that is something that we have to take up program by program.

MS. YEAMPIERRE: Thank you. Hilton?

MR. KELLEY: Yes, Hilton Kelley with the Community In-power and Development Association, how are you doing Mathy?

MR. STANISLAUS: Good, how are you?

MR. KELLEY: Down in Port Arthur, Texas on the Gulf Coast. Mathy, as you know there are multiple stresses down on the Gulf Coast when it comes to chemical exposures. As a matter of fact, in the area of Beaumont and Port Arthur and Norko, Louisiana we are dealing with chemical plants particularly westside Port Arthur chemical plants, incinerator facilities, refineries and other small emission releasers like out ship channel. We have goods movement issues as well.

I would just like to encourage the Environmental Protection Agency to first if you are really serious about looking at cumulative impact start with your hardest hit communities, not necessary Port Arthur, but any community from east, west, north to south pick some of your hardest hit communities

that is out there what communities are being impacted the most.

Then talk with those groups that are on the ground living on the fence line and look at some of the health institutions that have worked with those community groups. For instance, in Port Arthur, Texas we are working at this present time with the University of Texas Medical Branch.

We are also connected with the National Institute of Environmental Health and Science and we have already embarked up on a symptom survey to try and get a better understanding of how household chemicals are impacted in our community. We know what is happening outside, that has been there for years and we know how Benzene 13 Butadiene has impacted our health.

But what we don't know is how all of these chemicals together in our environment is having negative impact on our system. We know individually how it works but I think it is time that the Environmental Protection Agency send agents to heavy hit areas and talk with some of these medical institutions like UTMB look at the National Institute of Environmental Health and Science and then get those gradual groups together at the same table and ask them what is it they need? What are some of the stresses that they are dealing with and how can we address it?

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Thank you Elizabeth. Vernice Miller-Travis, Maryland State Commission on Environmental Justice and Sustainable Communities, hi Mathy.

MR. STANISLAUS: Hello.

MS. MILLER-TRAVIS: Welcome back. My question for you is about this concept you are talking about and its relationship to the Brownfield(s) Program. In 2013 I think we will be celebrating the 20th anniversary of the Brownfield(s) Program and a program that started so deeply enmeshed and engaged in community and community reality I think has become so successful and so widely accepted that maybe its connection with community has gotten a little further outside of the circle than where it started.

How do you see this process being able to sort of build that relationship again back to community because now we are in the third, fourth fifth generation of brownfield sites but we still are facing the same challenges that we ever faced in communities that are beset by those problems. How do you see what you just talked about fitting into the Brownfield(s) Program?

MR. STANISLAUS: Sure. What I have already begun to do is to kind of reinvigorate the community connection with brownfield(s). In last year's solicitation we reaffirmed and added criteria to focus on economic distress communities and the need for communities to be involved both pre-application and post-application.

But also something that I did in New York is --- my planning program to really bring about a community based planning focus in economic discharge communities so that the end uses meet community needs but also look at the surrounding conditions.

From an area-wide perspective and economic discharge community you are not going to revitalize, re-develop those properties and meet community needs without looking at the surrounding conditions, without looking at the elaborate infrastructure and this investment. Without looking for the need for street scape investment, those kind of area-wide improvements that would revitalize the community.

So we just announced an initial pilot about three weeks ago, 23 pilots around the county. But we also both in terms of that pilot as well as the sustainability partnership policy, if that is all we do then all we are affecting is that set of communities.

What we plan to do with our other Federal Agency partners is how do we change our programs to make it more community based? The fact is there are too many programs of individualized criteria that doesn't look at how they fit together and then in some cases in the past have had a destructive effect where you invest separately in neighborhoods. So, we would be consciously looking at that as well.

MS. YEAMPIERRE: Shankar?

MR. PRASAD: Nice to see you again and welcome. You hit the nail on the head when you said whether we should be thinking about the existing areas with ---. So one way to think about that, can we take a different approach in areas that have the problem today? When we think about any other context how do we --- recognize the problem in the future so that we do not create those kinds of areas.

Again, because of the brownfield sustainability programs and there is more in need as the climate changes should come within the next five years or anything, the infield and the smart growth all that will happen so there will be a multi-zoning coming back into the picture.

So having said that, one of the things most important there are more communities than any time the CARE Program can provide for. It is to prioritize and identify in each of your Regions and have a CARE Program such that those --- area depending on your level of funding five percent of the top areas, 10 percent of the top communities that come into play and put a sustainable program with a multi-year funding because in order to bring out some change it needs more time so that is one way to look at it.

Also, you may want to take a look at this prior project that has been started also it also called CARE Program from the barrier district where it identifies six zones, six areas, reach out consider it on the map, community impacts taking into consideration exposure, demographics and the health and have identified six areas where that putting more money and they are doing a sequel analysis differently, they are now going back to the board thinking of changing the threshold for permits.

Also, they are working with San Jose which is also one of the areas slated to look at their general plan guidelines of 20, 30 and 20, 50 goals how to incorporate these kinds of principles into their growth patterns.

So there are some models that are working and this is something if you look back in the community impact's report, EJC's report, all the permitting guidelines that was done by through this council over the last 15 years it has always been pointed out that identify then think of a multi stakeholder process and make a long term commitment to bring about a change.

The last comment, we are also handicapped by this threshold based approach. Through the extent we cannot characterize the risk and the degree from multiple pollutants. It is an important part of the --- program which will go on beyond our lifetime to come to any kind of a consensus ---.

On the other hand, if we move away from the context of the risk but instead of exposure it changes the whole approach. All we are doing is actually mitigating the exposure not the --- indirectly the risk. So, it is sort of thought process to think about this, can we move away from this risk and threshold based approach to an exposure modeling or an exposure based approach would also be a good way to consider.

MR. STANISLAUS: One thing I would like you all to think about is I don't think we would have to do both, we can either do the science but in my mind the CARE example is a good one because its effects have been risk reduction.

You look at common exposure and risk reduction and so what I want you to think about is again we are constrained about the total amount of money we have but there are lots of ways of bringing the key entity to the table in a legitimate authenticate way to bring about a risk reduction even in the absence of conclusive risk determinations, that is one of the things I would like to kind of explore. The potential role of EPA, the potential role of states and local governments working with communities in the private sectors and communities.

MR. PRASAD: I agree with you but have a slightly different --- from that. When we talk of reducing we are only reducing the exposure. By reducing emission not at a discharge we are reducing the exposure not necessarily the true risk.

MS. YEAMPIERRE: Edith?

MS. PESTANA: Hi, I am Edith Pestana and I am with the Connecticut Department of Environmental Protection. Just a couple of notes on a variety of the conversations that have gone around to follow up on Kim and Shankar and your own comments on the CARE Program.

THE CARE Program I know in the State of Connecticut has been quite valuable. We have had some recipients of that grant and it has been really good to bring people around the table.

But to address what Kim had brought up for those communities that don't have the benefit of receiving the funding for it, I think that model could be used. I don't know if all the Regions in EPA have facilitators.

Region 1 has excellent facilitators that they make available to communities throughout New England and they have had a model that they have been using where if a community needs to talk to a number of entities and they are frustrated because it doesn't appear that their concerns are being heard and often times that is because they may not be able to articulate what it is that is frustrating them.

So they need a facilitator that will help them sort of think about what it is that is really their issues and how to articulate that to the entity that is creating the problem and Region 1 has been really excellent at doing that and with just coming down, working with communities, working with a variety of State and Federal Agencies.

We had on several occasions had them facilitate meetings with the Department of

Transportation including the Federal Department of Transportation, I am sure I didn't name them correctly, but they were able to -- you can imagine with the American Recovery Act there is a lot of construction and repair going on in highways and these are affecting EJ communities with noise issues at all hours of the day, vibration problems, dust, a variety of things, having their streets torn up and their lives pretty much changed.

So it was so wonderful to be able to call Region 1 and they offered their facilitation and it worked out so well that the State Department of Transportation actually got together with Region 1's Environmental Justice Coordinator Amy Braz and they developed a model for training of other DOT employees on how to better communicate with the public and address the public's concerns.

So it not only facilitated the problems and alleviated a lot of the issues the community was feeling but it also trained other State people on how to work with other people together and that didn't require grant money. It just required that that Region was willing to do that and offer that service.

The other thing that Region 1 has is that they have an urban environment initiative and that urban environment initiative is a wonderful model. They have dedicated staff in the Regions that are assigned to different cities that they have identified that has, as Shankar and some others have alluded here, that we know are overburdened and need the assistance now.

They have dedicated staff that work with the communities in Rhode Island, Massachusetts, Connecticut providing them with technical assistance they need. If there are grant monies available throughout EPA they help them to show them how to apply for grants, help them to understand the process, the resources that are available, act as facilitators in those communities to bring together the municipality if it is an issue.

The industry if it is an issue and get them to talk and come to the table and that has been really successful at just building the communities, just technical knowledge on process and laws and connecting them with individuals that they need to be connected with as well as EPA has also learned and created relationships which are so important to Regions for the EPA to actually create relationships with these communities. So those are my comments and thoughts.

MS. YEAMPIERRE: Lang?

MR. MARSH: Lang Marsh, National Policy Consensus Center. Thank you Mathy for involving us in your deliberations about the community based kind of approach to solving problems.

You asked for some particular examples and I thought I would just give you a few. One is, we recently came out with a report on the goods movement and in that report which was basically a diesel emission reduction strategy affecting the distressed communities but from a variety of different sources, not just one kind of facility.

In our report, we recommended that you need some kind of multi-stakeholder process partnership process community based facilitated process if possible or a process that is more top down from, it can be by the Government, to bring everybody together around the table.

In its response, EPA gave us I think 19 examples many drawn from the CARE Program of where elements of that kind of process have been included so you might want to look at EPA's response which was prepared by Region 9.

In terms of multiple risk reduction, I think sort of staying in the diesel emission reduction arena I think some of the clean air plans that the ports, particularly in the West Coast but also some other ports have adopted over the last few years to address multiple sources of risk reduction that have had significant benefits from the communities that surrounds those ports are worth looking at.

The one I am most familiar with is Seattle Tacoma but there are others as well. Then looking beyond the traditional EPA arena there has now been about 20 years of experience with watershed councils and I think they have some, they are problem solving organizations that deal with water and water quality and endangered species issues and so on.

But the way they are organized and have developed means of getting things done and accountability unevenly, I have to admit some have been a lot more successful than others, may have some application in the fields that you are interested in.

For example, they are basically land owner based but if you are dealing with brownfield(s) and you want to expand the outcomes around the site then having all of the landowners involved in some process that provides them an opportunity to contribute to the solution is perhaps relevant.

We have been experimenting for the last 10 years on a program in Oregon which is convened by the Governor but it could be by any political leader to bring people together around solving

problems if any of them environmental, some of them Environmental Justice issues that might be looking at because the effect of it is to bring more resources to the table from non-traditional parties and there are many other processees like that around the country but those are the ones that I am familiar with.

MS. YEAMPIERRE: Thank you. Father Vien?

FATHER NGUYEN: I don't know if I could really answer your question but if you want to have a genuine community base action, by the way it is Vien Nguyen from MQ of VNCD, they have genuine community based action, there has to be community based organizations. There has to be community based capacity.

Hilton mentioned about communities that are hardest hit, what if they surface on the map? How do you know where they are? There are many issues that have to deal with, I am thinking of pre-communities Mossville, Louisiana. I was surprised that we had a comment from them.

This is a total surprise because that community is employed by a company that is producing toxic stuff. It is hurting them, it is killing them but they wouldn't even give us their names when we talked to them for fear that the company would fire them. That is one side of it, Mossville, Louisiana.

Another community in Oakville, Louisiana. This community has been fighting a landfill that is 150 feet from their homes, not the --- from their homes for the last 22 years to no avail. They are just exhausted.

Without outside help I don't know what they can do. I am thinking about bayou --- where it is a conglomerate of Asians and Southeast Asians and none of them have enough critical mass to really pull the whole community together and we cannot even talk about --- they don't have the capacity to apply with that. What do we do with that?

MS. YEAMPIERRE: That was a good question. So there are two questions before us. One is, what are examples that can be replicated? The other one is, what are circumstances that can benefit from a community based approach and I would ask that for purposes of time that we just answer those questions.

We do know that the community in Mossville, Father Vien has come before us I think in the last three meetings we have had and they have submitted testimony and it should be in your package and you might want to look at that.

So, I am going to call on Savi and then Sue, then Jolene and then I will circle back to Kim.

MS. HORNE: Hi Mathy. I was just thinking, I am Savi Horne with Land Loss Prevention Project out of Durham, North Carolina. So we do some work on CAFO's and because of Margaret's enthusiasm with the CARE Program and being its champion, I was just wondering if there would be opportunity to kind of fund a CARE project around some kind of CAFOs looking at community health and environment to begin and get that conversation rolling within the Agency but also within a community using a community based approach which hopefully you could get someone from one of the integrators at the table with the community and try and approach the problem in a different kind of way.

If that wouldn't be a template to kind of get the EPA moving to get something on CAFOs because it seemed to me you have got to kind of build a base up because it becomes so politicized and that might be one way in which we can do some creative thinking of looking at CAFOs especially when you already have community based movement working in areas on the issue.

MS. YEAMPIERRE: Okay, Sue?

MS. BRIGGUM: Hi Mathy, it is Sue Briggum and thank you. Actually, there is some connection between what Savi just said and what I would like to mention from our discussion this morning.

We talked in terms of Environmental Justice and permitting and addressing cumulative risk about the importance of focusing on your community and then using maximum leverage to achieve Environmental Justice through the use of permits.

I know that at the moment and OSWER in particular is kind of at a dividing point where you are making the policy call with regard to what is the scope of your authority over waste issues. Do you in fact have authority over CAFOs, authority to issue nationally enforceable regulations and permits for public utilities and coal action poundments.

I would just encourage you to think as you are looking about the arsenal that you can bring to Environmental Justice that you have a moment when even the utility industry has said we believe you have that authority on industrial waste streams, we urge you to use it. I think that that will be an important strength for your office going forward.

MS. YEAMPIERRE: I would like to make a comment because I haven't had an opportunity to say anything yet. There is a model obviously in New York City with the BOAP Program, the brownfield opportunity area program that has been replicated in the City where you have developers working closely with community groups and the community groups cannot access the State or City funds, I mean the developers cannot unless they work the communities on a community driven vision.

It really has been transformative, it has been adopted by the Mayor's Office and it is something that I think can be replicated all over and you helped create that but it is an example of how lands that would remain toxic or noxious can be re-developed consistent with community priorities and I think it is a good example.

The other problem, the other thing that could be as an opportunity to look at is these models of community resilience that are being developed all over the country where communities are dealing with issues like climate adaptation that has been mentioned by Shankar and Jolene.

In our community for example, we are worried about the significant Maritime Industry areas because there is a possibility of a storm surge in the next 10 years and we have hundreds of manufacturers and we don't know what chemicals they are using.

So if there is a storm surge it means that they can create a huge brownfield out of the entire community and so in developing these community resilience efforts we are trying to bring a multiplicity of stakeholders together to look at not only preparedness but also adaptation and how do we talk about things like attenuation of sea level rise? How do we give manufacturers the resources they need so that they can protect the industry so people can continue to walk to work?

How do we make sure that communities have insurance so that their basements when flooded they will actually get paid? What happens with mold and mildew? The questions are really complex and really require community at the table but with a variety of technical expertise and so it is also an opportunity, and interagency opportunity, so I am thinking when you are talking about community based approaches that we not lose sight of the fact that it is important to do this in a way that engages a variety of agencies in addressing these issues.

So I just wanted to share that with you. Kim? Jolene, I am sorry.

MS. CATRON: Just a quick thought. When you are talking about maybe perhaps a national CARE kind of program and some of the experiences that I went through as a small grass roots organization on a Reservation.

Almost one of the first things that happened after I signed the grant paperwork and the Board approved it and everything is we got hit with a desktop review of all of our policies and procedures. So, as a small struggling organization we spent a lot of resources, a lot of our general support resources making sure that all of our policies could pass Federal review of that.

So my thinking is, if you are doing a CARE Program on a national level for Tribes there are a lot of things that are very Tribal specific, unique to our communities. Perhaps, the coordination needs to come for that CARE Program through the Office of the, the Indian Office, I don't even know what it is called anymore. I call it the AIEO still but I know it has a different name.

But perhaps that would also encourage Tribal Governments, Tribal Agencies to be thinking at the community base level.

MS. YEAMPIERRE: Mathy, do you want to respond or should I go onto Kim?

MR. STANISLAUS: Yes.

MS. YEAMPIERRE: Kim?

MS. WASSERMAN: I am sorry, I found the rest of my notes. I didn't get to finish talking about the CARE. What I was suggesting was is since CARE is such a great program for other departments within the Federal Government to adopt the CARE Program that they would fund themselves.

So like the Department of Transportation would run a CARE Program or something like the CARE Program. Number 2, I think one thing that has worked for us that we learned about and knew nothing about were SEPs. We did not know what SEPs were.

Region 5 filled us in on what they were and helped us guide that conversation and what we realized was that a lot of the big greens knew what SEPs were and were taking full advantage of that to fund things on a citywide level or organizational level but our communities were missing out on that.

So I think that working with communities to explain what SEPs are and guide them through that is a really great thing. I think helping create better lines of communication from the Federal Government down to the State and city level is really important. A lot of states, State offices, are behind

the Federal Government when it comes to a lot of different things from permitting to just a lot of different things.

When we are talking to them and talking about the great conversations we are having here, that doesn't necessarily resonate on a State level and so I think having more fluid conversations with the states might benefit pushing community based approaches.

Finally, I just think that continuing this conversation with community on the solutions that are coming from the ground are key to this because I think it is one thing to just have a conversation but it is another thing to implement that and I think that that is incredibly key because it says in there it is a community based action and so I think continuing not just here but in the community in large to have that conversation is going to be key for this part of the plan.

MS. YEAMPIERRE: Thank you. I think Mathy, also we make the assumption sometimes that agencies have the cultural competencies to work with our communities in meaningful ways and we are talking about a variety of agencies, some of which have no experience working on issues of Environmental Justice and so just as communities need to get the attention of a variety of agencies so that we can start dealing with complex problems, I think the community should also be a vehicle of educating agencies on how to work with our communities.

So for example, if you are talking about Jolene's communities are you talking about a cultural set of issues where that community can be a resource in helping the agencies to work more effectively. If you are talking about undocumented communities or folks that are immigrants that is another set of things that are required.

So there should be resources for these communities to be able to educate the agencies so that they can be more strategic and more intentional in the delivery of services on the ground. Nick?

MR. TARG: Thank you very much. Nicholas Targ representing the ABA here today. I want to –

MS. YEAMPIERRE: Nicholas we cannot hear you, can you move closer?

MR. TARG: I want to scoot over a little bit more to set myself in front of the mic and I want to thank you very much for your leadership and your leadership in helping pull together diverse coalitions to attack issues of Environmental Justice involving hazardous waste sites in particular brownfield(s).

Your area wide planning grants for which a client of mine, the City of Richmond applied and did not receive, inspired us to get together with some of the community based organizations to look at a particular area of Richmond that really needed attention with respect to about 15 acres of impacted land and look at ways in which we could collectively address these issues.

While again we didn't receive the grant, it did inspire us to get together and create that kind of incentive that is going to propel the City forward and I wanted to thank you very much for that leadership and encourage you to continue to put forward grants like that for which the City of Richmond is likely to apply again. But it focuses our attention and it helps them move faster by getting all of the oars moving in the right direction. Thank you.

MS. YEAMPIERRE: Thank you. Wynecta?

MS. FISHER: Hi Mathy. I just want to echo what everyone is saying, you and your office have been phenomenal and thank you so much for the guidance.

I am thinking about something that Edith said and Kim and Jolene and I know with a lot of community groups they don't have a lot of resources but Edith mentioned this in Region 1 how they have the facilitators and what came to mind in an area where I live is the RC&D councils. The RC&D councils are all across the United States, someone is shaking their head so they know what I am talking about, they provide technical assistance.

The unfortunate thing is they don't necessarily advertise like, hey we are here we can do this, but they provide technical assistance. They are affiliated with NRCS so they have soil maps, they have any and everything you can think of and that might be a resource that communities can tap into and then what I thought about when you were talking about these brownfield(s) area wide planning grants because I am quite sure there is an urban garden component in one of those grantees.

This would be a nice way to do as a pilot, a partnership because that is money that that particular grantee could save by tapping into RC&D and getting that free technical assistance.

MS. MILLER-TRAVIS: Excuse me Elizabeth, can you just ask what is RC&D?

MS. YEAMPIERRE: You just did. Go ahead, could you say what that is?

MS. FISHER: It stands for Resource Conversation and Development Council, c-

o-u-n-c-i-l, I am getting an accent.

MS. YEAMPIERRE: Thank you Wyneckta. So Mathy, do you have any final comments that you would like to share with the council?

MR. STANISLAUS: Sure, one I enjoyed this conversation (laughing), but I want to continue the conversation. So, if you have any immediate thoughts right after that Pat Carry, Pat where are you? Stand up (laughing). Okay, shoot her an email but I would like to kind of schedule kind of a series of calls to really kind of hone in on a strategy.

So after this meeting let's kind of think about a sequence of that and I think I have also served on the NEJAC before. I did real productive work like it happened, if we do this in kind of an --- way so I will leave it up to you to kind of figure out a schedule for doing that. Thank you.

MS. YEAMPIERRE: Thank you so much for that offer and thanks for joining us.

MR. STANISLAUS: Thank you.

MS. YEAMPIERRE: Thank you. If the next panel can come up and in the meantime Lisa Garcia is going to be making an announcement.

MS. GARCIA: Good afternoon, hi everyone. I just wanted to let everyone know that EPA is releasing its new draft for voluntary guidelines for selecting safe school locations and so this is where EPA provides new tools for communities making school siting decisions and it is going out today at 2:00 so I guess that is happening right now.

It is out for public comment for 90 days and comments will be accepted until 4:00 p.m. on February 18th, 2011. You can go to the EPA schoolsiting.icfi.com for information or I am sure it is going to be on our main website.

But I would definitely encourage you, I know some of you were actually part of the committee that helped to draft some of the recommendations for that guidance, so I would encourage you to look at that and certainly go back to your communities and other members to talk about the school, the draft that is out. Thank you.

Environmental Justice Challenges Facing Rural Communities Panel

MS. YEAMPIERRE: We are very excited to have you join us today. This is the first time, unless someone wants to correct me there is always that one person around who does that and I may be wrong it happens, but I think this is the first time that we actually have an opportunity to engage rural communities that the NEJAC does that and we think that it is extremely important.

Some of us come from urban communities but we understand the important relationship between our communities and yours and the interconnectedness and we think that it is impossible to address Environmental Justice issues without addressing rural issues. So welcome.

I am going to introduce you. I am going to begin Vanessa Frazier. Vanessa Frazier is Executive Director of Howardville Community Betterment a non-profit community based organization that works to initiate and implement programs that address health disparities and the pressing health needs of at risk infants and youth in undeserved communities in the Missouri boot hill.

The community betterment also offers educational presentations on health topics and serves as a resource and referral contact for other rural communities. The impact of the environment on human life in rural areas caused Ms. Frazier to pursue studies in child development with a focus on psychology and the fusing of environmental laws and dispute resolution alternatives that contribute to the development, health, well being and productivity of every citizen.

She has over 33 years of experience in community based organization, volunteering, coordination, supervising, budgeting, surveys, data analysis, budget monitoring, assessments and working with diversity in communities.

Marcie McLaughlin is the Chief Executive Officer for the Midwest Assistance Program and she recently joined that program as its CEO. For the past six years, Marcie McLaughlin served as the Director of Constituent Relations for the Rural Policy Research Institute in Washington, DC which conducts policy relevant research and facilitates public dialogue to assist policymakers in understanding the rural impact of public policies and programs.

In 1995, Ms. McLaughlin found at Minnesota Rural Partners the State Rural Development Council and served as its Executive Director for 10 years. She was a Bush Foundation Leadership Fellow in 2002 and holds a master's in public administration from the Kennedy School of Government at Harvard University. Welcome.

I don't have biographies for the other two members of the panel, so when it is time for

you to get to the mic if you could just say a little bit about yourselves I would really appreciate that.
So, we will begin with Ms. Frazier. Welcome.

***Presentation by Vanessa Frazier, Executive Director,
Howardville, Missouri Community Betterment***

MS. FRAZIER: Thank you. I do have a presentation prepared, there it goes thank you very much. I will begin by requesting the next slide please.

MS. YEAMPIERRE: I just want to let the members of the council know that you actually have her presentation in your package if you want pull that up. They were handed out this morning.

MS. FRAZIER: I included this slide to I guess give you a general idea of where the community is that I am from in Missouri. This is basically known as the boot hill of Missouri because of its shape as the heel of a boot.

(Slide)

MS. FRAZIER: These counties in the boot hill of Missouri serve as the portion of the state, the only portion of the state, that is included in the Mississippi Delta which is mostly absent in this part of the State of Missouri but it is good news to know that the Department of the Delta Regional Authority is working with EPA, I got that on a list --- and so I am proud to know that. I hope some good things come from that.

(Slide)

MS. FRAZIER: Most of you who have this presentation I am not going to cover all of this because you have the information but there are some things I would like to say about it just to give you some of the ideas about how our community started, where we went, where we got stuck and now that we are moving forward.

Changes in the Department of the Boot Hill Regional Planning Commission which is agency that served six counties of the boot hill. President Clinton authorized a changing of structure department heads and these structure of changes were to take place in 2010 which it has done and that is the causing of some of the grass at the lower bottom part of the presentation is the ones that we recently received.

The Mayor has a meeting tomorrow with the contractors and the Regional Planning Commission people to get these projects started. Some of the, I guess you would say more communities that have a lot of things going for them are kind of upset about those two sewer projects because mostly no community has ever received two grants and being this is a minority community they are really upset as to how did they achieve that success of getting those two grants. So they are really going to be upset to find out that we have another street servicing project coming up on the Hills.

(Slide)

MS. FRAZIER: Some of the EJ challenges in the rural community, I will not go over this slide as well, you have that information in your presentation but it will serve as I guess a reformer if you will, to speak to the next slide.

Speaking the exploitation and degradation of rural communities in the Boot Hill of Missouri and I would like to say across the country, I have been to several rural communities across the country and have traveled this country extensively.

They are in particular in our area there are universities and organizations who use our negative health data to write grants and these grants create jobs and to sustain these jobs for two to four years and the citizens of these affected communities are asked to volunteer.

But this ensures the cycle of poverty continues and one university in particular, Southeast Missouri State University, have professors there who are concerned about the plight of rural communities. They sought after and received a grant to study the poverty in the rural communities of the Boot Hill of Missouri.

That is where you got your 95 percent of the tumors that were extracted and analyzed they contained pesticides. This study was not accepted by the University but they did allow them to present this information to the public.

(Slide)

MS. FRAZIER: Some of the challenges from the local and State government is with the elderly and grants and housing loans and more particular that is a serious barrier in the rural parts of the country because the way things are set up the elderly 62 years and older can get the grant which is \$7,000 to repair their homes.

Adults have to get a loan which is low interest rates, they say one to two percent, but when you live in a poverty stricken area of the country that is no good, you can not afford to get the loan and plus your credit rating is not 750. So, if it was hard in that we wouldn't be living there. But they massed to me either attachments to the grants that are given to seniors, they somehow encourage them to seek the loans as well.

They have to live in these homes for three years after the grants are completed, if they don't then this whole entire and this property reverts back to these agencies that provides these loans.

The weatherization programs, they have been given a boost of stimulus funding to repair homes in these rural communities that are very much dilapidated and the houses are basically rotting from the frames. You see new agency vehicles with their new logos but you do not see any housing repairs taking place and when you call and get your application in they will tell the waiting list is two years and that fusion of funds was there designed to remove and alleviate their waiting lists.

But within two days after you get your application in and call to see where you are on the list, you are still informed that the waiting list is two years old. So, some of their local and State agencies that have grants to help the communities get needed services they require a match and it is not in kind they want a cash match and how can you provide cash match when you have not tax space?

(Slide)

MS. FRAZIER: Some of the Federal challenges to small and rural communities is that grants are not designed with rural communities in mind. You have city lifers who are the reviewers and they know nothing of the rural areas and they have friends and cohorts and supervisors and they make sure these grants are geared towards their city.

Debriefings are good because you get to tell them the problems and you get to hear why your application was not successful. Some of the pointers that they pointed out of why the application was not successful were insulting. They were just designed to use the so good opinion to reject the application so rural communities suffer with that.

There are frequent re-writing of guidance which is good and it causes people who write grants in rural areas to pay close attention to the guidance because it often changes. There is a parasite versus a welfare mentality among our Congressmen. We do have one in our area who have been given eight million dollars to an agency in Washington, DC every year to study poverty and we are her constituents who is living in poverty who better can tell her what the problems are.

The criteria is hard to meet meaning the private sector partners do not exist. In rural communities you have nothing, all you have are the citizens in their homes and whatever transportation means that they have.

So some of these criterias that are written in these grants, they are very hard for rural communities to apply for them so sometimes there is a mistake in presumption that there needs to be capacity building within these communities. The capacity building is there, they just cannot meet the criteria because they are designed more for urban and cities.

(Slide)

MS. FRAZIER: Some additional challenges to Federal grants are an assistance and investigations are glazed over, requirements for minority contractors are an area of workers in the effected community they are not honored, they are not honored.

We need LEED in the middle of the country. I visited the LEED building here in Kansas City a couple years ago. I was here for the nuts and bolts of the brownfield conference and we had the opportunity to visit this LEED building that was of green design and I know in a rural community that is exactly what we could use.

We do have buildings that are brownfield(s) within the community and communities are isolated in rural areas. If they could have a building such as this to accommodate their community citizens in case of a disaster something that could contain them and the Red Cross can come and assist them.

There is a lot of different things they could do with this building if it was designed in the way that it could give the most benefits to communities, but without that those objectives are hard to obtain as well.

We have some organizations there that are paying \$5,000 a month rent with Federal funds which equates to \$60,000 a year but they cannot buy buildings but you can rent and we also have only one State Certification Inspector so how can we get a grant and honor the contracts of requirements, WBE contractors when they don't exist.

We have a long list of people who are in line to wait to be certified but with only one State certification inspection that is going to be hard to obtain too so grants are elusive in those areas of compliance. Some of those on a liable cause are a big need and would be a great thing to help and rule communities across this country.

(Slide)

MS. FRAZIER: A culture competency issues, there is a many short story that I could tell regarding my own life but I would save that for later if anyone is interested, but that is the primary root cause of rural communities ethnocentric that has been feeding and encouraged by the other two competencies beneath it blindness and imposition.

(Slide)

MS. FRAZIER: Acculturation is what we call sell outs that live in your community, so don't ever forget that, there are those that do that. An assimilation is basically something that we don't normally deal with but in one community in particular, Kennett which is in Duncan County, has a very large Hispanic population and one thing I can say about them is they will not change their culture.

They will not talk to you. They will not open their doors. You are going to have to meet them where they are and it is a hard, hard thing to gain their trust. So that is one population that I know will adhere to assimilation tactics that are forced on them.

These two competencies is what is really needed in rural communities all across the country when you are addressing environmental issues.

(Slide)

MS. FRAZIER: My final slide I would basically like to say that immune systems, one point in particular is so stretched and so thin that people do not understand it and some of the things that you have to do in order to help the people is to educate them. You have to tell them exactly up front what is going on and let them decide the best issues of recourse of action that they need to take.

One primary example is we had an HIV/AIDS Program that came to the Missouri Boot Hill, the very first one in the history of the HIV epidemic. The powers and brokers that be in the Boot Hill part of Missouri wanted that program, they wanted to initiate it and the funders knew that they were not going to do what they were supposed to do by the grant and the people who were suffering with the disease.

So, instead of them allowing a minority organization to spearhead their program they refused to give them space to operate the program from so the program left the Boot Hill and went two counties up over in north, it finally phased out. So there is no HIV/AIDS Program. We do educational presentations but that is a critical need because with the contamination of our drinking water, one glass could be the end of their life and this is information most of them don't know.

But I know all of them just about in the Boot Hill, the six county areas, because I do presentations to local councils, city councilmen, who also some of the Aldermen are farmers so it is hard to get them to understand things that are important to their communities.

But if you are having a community based organization we should make sure that it is community based. Our community based organization is composed of citizens that live in Howardville, all citizens. Our Board of Directors are seniors. We have youth and senior committees, so whatever goes on in their community you can be rest assured that they are citizens at the table and not other organizations are representing their own interest. Thank you.

MS. YEAMPIERRE: Thank you. Marcie McLaughlin?

***Presentation by Marcie McLaughlin,
Chief Executive Officer, Midwest Assistance Program***

MS. McLAUGHLIN: Thank you. As you flew to the middle of this vast and diverse country you saw the effects of human actions on the land. Rivers were damned for power production, flood control or recreation, mountaintops were removed for their mineral extractions, forests were harvested for their timber, groundwater pumped for irrigation, ribbons of highways and railways across the landscape for the movement of people and goods.

Livestock operations were concentrated in open areas, wind towers on the hillsides, a patchwork of fields, farm fields and pastures, oil refineries producing energy and much, much open space.

In that open space you saw small rural communities dotted across that landscape that were distant from metropolitan areas and from the resources that those metro areas can provide.

Yesterday you heard the results of those land use practices of the people living in the space. Those folks were in urban, suburban and rural areas and as you have mentioned so often there is indeed a connection.

I want to thank you for this invitation to meet with you today and to discuss these issues with the panel members, with my other presenters and to put before some of the specific challenges that rural communities face. I was privileged to be here yesterday for those comments and many of the issues raised in communities are the same whether they are rural or urban.

I am the Director of the Midwest Assistance Program called MAP. MAP is one of six organizations that are part of the rural community assistance partnership that covers the entire country including Puerto Rico and the Virgin Islands. MAP states include Minnesota, Iowa, Missouri, Kansas, Nebraska, North and South Dakota, Montana and Wyoming and the community that Vanessa represented is one that we have worked in as well as the Wind River community that Jolene occupies.

So right there you may see the diversity even within the nine states and complicate that by six more times and we know that each landscape is unique and each approach to their environmental challenges need to be place spaced.

The communities we work in are under 2,000 with an average size of 800 and most often these communities are first cited by EPA or State agencies of having their wastewater or their water systems out of compliance.

Now, these communities are too small and too poor to afford consultings on their own. They are geographically remote with limited availability of professional consultants. They are unable to independently compete for those limited public grants and low cost loans.

They have limited knowledge of the process and the procedures related to the regulatory compliance. They possess limited understanding of the ownership responsibilities that the local community or the local boards would have related to operation of a large wastewater system or water system.

The community has high unemployment or underemployment. They not only have aging systems that need attention but they have aging populations. What they do have is great passion for living in their space and wanting to make their communities the best that they can for themselves and for their children.

So the RCAP system, the Rural Community Assistance Program, was started during the war on poverty in the 60's as a water demonstration project, finding its home within the community action agencies and over the past 40 years thousands of small rural communities have been served throughout the nation. MAP and the RCAP partners funding sources are public and we receive and manage several of EPA funds including the EPA Drinking Water and Wastewater Technical Assistance Program, EPA National Brownfield Training and in our case EPA Region 5 Work With the Tribes in Training Program.

We also received funding from USDA Rural Development and you will hear more about that as well as many of the State agencies that have past due funds from the Federal Government in the revolving loan, if I get this right, the State revolving loan, right.

Okay, a critical part of our funding however comes from through the Department of Health and Human Services through the Office of Community Services and this is for capacity development. It is a very unique amount of small unique flexible that allows my staff to respond to community requests to do the pre-development in the capacity developing work in communities that don't have a Vanessa there to convene, identify, help them through the technical as well as the community system to get grants, to get operators, to get their environment and their facilities up to code. So we work with these communities in the construction, the repair and the operation of the systems.

So I have provided you with some information about MAP, about our newsletter and the executive summary of our past year's work. So as I said, I joined you yesterday for the public comment period. You heard from people on the land about their specific place spaced environmental challenges. Many effects are the result of a globalized economy, the movement of good and services concentration of animal agriculture are manufacturing production and natural resource extraction.

So much of what I have to say of course will endorse the comments that you all have made over the last 24 hours. But changing settlement patterns are also affecting the place that these activities occur in rural places.

Once located in urban areas, many industries and productions have now moved to rural areas where land is readily available, perhaps the public response would be more welcoming with communities considering the jobs created by these activities as a fair trade off to the perceived

environmental threats.

Rural communities across the United States are and have been for a long time places where poverty, political disenfranchisement, environmental degradation are common place. Rural residents are on the front line of experiencing the negative impacts of many of our nations environmental challenges.

Rural communities are also evolving contrary to the conventional images most people in rural America do not farm, they are increasingly new immigrants to this country and are people of color.

So the situation in rural America is not monolithic and will not be solved with the traditional frameworks that our nation has used to address poverty. The problems rural America faces in relationship to the environment differ from urban areas and perhaps their role in improving that environment are different too.

So just quickly some of the challenges as requested, we are talking about water quality and quantity. We talked about mountaintop removal, the effects of pesticides used on human health in rural communities, the mobile workforce that is employed in those fields and subject to those pesticides, the effect of concentrated animal agriculture activity not only in the production but also in the processing and the effect of pesticide use on traditional cultural use of native plants, animals, waterways and this is particularly true within Tribal communities.

Climate change. Climate change impacts on health, rural health, and economies particularly in communities where fire adapted eco systems, long exposure to smoke and all this during the fire season. Effective climate change on the coastal communities, on the fishing and commerce and on those communities that are impacted by hurricanes, floodings and disturbance which I don't have to tell you all about.

Certainly hazardous and nuclear waste disposal and special risk to youth and problems associates with inadequate housing. We will be discussing, I hope there are questions about the financing piece but a challenge about the finance I am here to say that probably the most recent challenge to financing of any of these projects is the huge national debt that we have and the recent elections.

Just by way of information, 15 of the 25 Democrats on the House Ag Committee were defeated in this past election and there is where much of our rural funding comes from. So, we will definitely see some impacts there.

I know my time is limited here but the lessons learned quickly are we need to build capacity within rural communities within those rural individuals. We need to be innovative and have cost effective solutions.

There are jurisdictional and structural challenges to those communities and we indeed need to partner with anyone and everyone who would help those communities including the RD&C councils, so good for you, there is a myriad of local, regional, State and Federal organizations that impact rural as quickly as all of those agencies can be working closer together I think benefits all of us. So, I look forward to your questions when we are done. Thank you.

MS. YEAMPIERRE: Thank you Ms. McLaughlin. Joining us also is Michael Linder who is the Director of the Nebraska Department of Environmental Quality. Welcome.

***Presentation by Michael Linder,
Director, Nebraska Department of Environmental Quality***

MR. LINDER: Yes, thank you. Oh my gosh, you all have been seating here two days, you must be getting tired. I would not offended if you took up, not all of you, left but if you feel the need to get up and stretch please feel free. Hopefully this is very informal.

It is a pleasure to be here. I have been Director of Nebraska's Department of Environmental Quality since 1999. I had the pleasure of serving at the same time as Lang Marsh was Director of Oregon DEQ. In fact, in talking about small communities and outreach to small communities which I will be talking about, I think Oregon is one of the first states really to embark on that and I think it was probably under Lang's guidance if my history is correct.

I set up a little PowerPoint based partly on the thought that maybe a couple of you haven't been to Nebraska or if you have that you weren't just going across it on the Interstate, so I want to give you just a few facts about Nebraska because it is helpful to the discussion and I am going to be talking about very small communities in our state and the challenges they face and so I think you need to understand a little bit about the demographics of our state.

(Slide)

MR. LINDER: Population is just under two million people. We generally track a little bit behind the National meeting household income, as you can see on that slide.

(Slide)

MR. LINDER: And the distribution of the people in our state is we have a lot of very small communities in our classification system the villages of our communities are one to 800 and of the 530 some communities, 383 of those are villages.

We have a lot of counties, it is a big state, we have 76,000 square miles divided up into 93 counties and some of those counties are very small and have only one community in them.

(Slide)

MR. LINDER: And here is a picture of the state of where the communities are. The brown dots are the communities larger, now I am talking about 300 population, communities larger than 300 are the brown dots, the yellow dots are less than 300 and actually half of the population of the state is east of Lincoln which is in the eastern practically fifth of the state. So most of the rural population or the least distant kind of isolated rural is in the western part of the state.

(Slide)

MR. LINDER: As far as the movement of people in the state, you can see the larger yellow squares or green I guess squares there are the larger communities and the yellow dots represent communities that are under 300 and are losing population and the brown dots are smaller communities that are gaining in population since I think 1950.

So you can see that our rural areas are largely becoming depopulated essentially and I am going to show you some specific facts about this area up in here and in particular Blaine County which is here.

This is a rural area, largely ranch country, it is the Sand Hills if you have heard of the Sand Hills of Nebraska ranchers, cow cap operations and small communities.

(Slide)

MR. LINDER: I am going to show you the five lowest meeting household income counties in our state, Blaine County, Boyd, Keya Paha, McPherson and Rock Counties. Some of these, I don't know if they still have a distinction of being among the lowest income counties in the country. In one of the recent rankings of the 100 lowest income counties in the country we had something like six or seven of them and these were among them.

(Slide)

MR. LINDER: You can see, if you remember the medium household income for Nebraska is about \$42,000 so these counties have significantly less income and I am just going to take the top one, they are alphabetical. I just took the top one yesterday and kind of broke it down into the communities that are in that.

If you remember I pointed to this county that is kind of in the middle of the state up in the Sand Hills. Three communities, the county seat is Brewster which has a population now of 27 people. They didn't designate that as a county seat because it was the big town, it happens to be in the middle of the county.

But you can see that these are very small communities. They are pretty isolated Dunning to Halsey is probably 25 miles, so any hope of trying to regionalize drinking water or wastewater is economically not viable and out of these towns in Blaine County I will just point out Dunning, Dunning is a town that is on our -- my agency does the State revolving fund for wastewater and drinking water projects and Dunning happens to be on our intended use plan.

Its lagoon system is really pretty much in complete failure. It was built in I think with some of the early construction grant money probably back in the early 70's has pretty much been neglected since then. The cost to upgrade is almost a half million dollars and as you can see that is divided by 65 people which is probably half of probably 30 hookups.

So, the affordability index I think that EPA recognizes it being affordable is two percent of medium household income which would be almost \$600.00 a year, pretty significant when your income is, your household income, is \$28,500. So, some real significant challenges for these communities.

A couple more things about Blaine County, the average age or the percentage of people living in Blaine County at 65 years or older is 26 percent as compared to Nebraska's average of 13 percent so it is an aging county population wise. As you can see, the population is declining.

Persons per square mile is .8. The Nebraska average is 22 folks per square mile and

less than one in Blaine County and it is about 711 square miles so it is a pretty good sized area.

I tell you this not just because of Dunning but just as an example of some of the challenges these communities face, aging population, a fixed income as you can see a fairly low income and so a number of years ago we started several efforts in my agency in dealing with environmental issues that face these communities.

(Slide)

MR. LINDER: We started with the very modest grant program where we formed a team within the agency and also within other State agencies and gave communities a very small amount of money, I think it was like a \$10,000 grant that would allow them to look at all the environmental issues facing their community and to rank them, prioritize them and then we would work with them on kind of working down their priority list.

By far and away the biggest challenge these communities face is water and drinking water systems and aging infrastructure and wastewater. So, we really even kind of stopped the broad focus of that because it was almost just obvious with working with the communities that at least in the things that my agency does water and wastewater were the main focus.

So, we were able to give these small grants. We had actually direct them appropriation for Nebraska to work on this project and have since run out of money in that program. But the takeaway from that is that we had tremendous success in getting communities with that small amount of seed money to at least look at their issues and begin a planning process.

Since that time, that has probably been 10 years ago that we began that, many of those initial modest planning efforts have realized with a project in the community which as I mentioned a small amount of money and a great deal of patience in working with the communities directly is kind of the key to success there.

We still maintain one or two staff people that work with those communities directly and keep in contact with them. We find by far and away the greatest success is keeping in contact with the clerk, often a part time clerk that works in the town, and our agency has kind of struck up a relationship with the State Association of the Clerks, I am not sure exactly what their acronym is, and that has been very beneficial because they are the ones who decide whether the letter from our agency goes in the trash or goes to the Board or the council, so we found it very important to keep in contact with them.

Another effort that has been, I think pretty successful in our state is what we call the WWAC, the Water and Wastewater Advisory Committee, and that is made up of my agency, our Nebraska Department of Economic Development which has the CDBG block grant money, USDA Rural Development, which we are going to hear from in a moment, and also our Department of Health and Human Services which has some funding available as well.

That group literally looks at communities that have gone a modest way in planning for a project, literally takes that community and figures out the best funding mix for the town with the goal of keeping the monthly fees that will result from a project well below that two percent because we feel that two percent is a very high number for a lot of our communities. So, we try to keep that at less than a percent of meeting household income if we can.

So, it often results in a mix of ESDA money and State Revolving Fund money, whatever pots of money that group can find has been a real successful, I think, advocacy group that meet every month and has yielded a lot of results.

The last bullet there is we are really meeting in-house and trying to figure out how will these communities survive? If you listen to a number of the environmental and senator initiatives and necessary initiatives are dealing with nutrient standards and other very aggressive wastewater standards that these communities literally cannot afford to meet.

So, we are internally trying to come up with an approach that will look at the demographics of a community, economic base of the community, the long term viability of communities and hopefully give us the ability then to determine the best type of facility for that community.

A lot of times with working with engineers it is just off the shelf, we will get a 20 year design and here is what it needs to be, et cetera or some of our loans are 20 and even 30 and I think even maybe longer than that years of payback.

Well, many of these towns may not be around that long and so does it really make sense to commit those communities that far into the future? So, that is kind of a work in progress still at this point.

I guess the main takeaway if you are looking for the best ways to work with small

communities I think the little bit of money, seed money, the little bit of attention there but really good communication and a lot of patience are the best remedies that we have found. So, I will turn it over to Richard.

MS. YEAMPIERRE: Thank you. Mr. Richard Boyles is Area Director of the U.S. Department of Agriculture. Welcome.

***Presentation by Richard Boyles,
Area Director, U.S. Department of Agriculture Rural Development***

MR. BOYLES: Thank you. Since you didn't have my bio I will kind of string my bio through my presentation if that is okay with you all and I guess I am kind of the last one in the long stream here, so I may be between you and a break, so I recognize that right up front.

Thank you for inviting us here today and bringing some light into rural communities. I could echo everything everyone has said, rural communities are not unlike our urban partners. The complexity primarily is in the fact that someone like me, I am from Jewel County, Kansas. Jewel County, Kansas may not mean anything to you all but we out migrated two-thirds of our population in that county. We are the poorest county in Kansas since the 1950's.

So, I have worked the majority of my 20 plus years on the policy side of this agency and have decided that through a lot of searching and deciding that maybe the best place for me is actually back here working and implementing some of the things that the policymakers in DC have tried to accomplish.

(Slide)

MR. BOYLES: So one thing that we like to do is we like to look at ourselves as being an agency that can ask the tough questions, what is needed to improve and maintain quality of life in rural America? We offer some 40 programs. They are strung between three business areas. Many of those areas have been described by Marcie, Mike and Vanessa, successful and we struggle in some of those areas.

We are a big agency and I don't think anyone that works for the Department of Agriculture Rural Development is going to say that we don't struggle because maintaining quality of life and improving quality life in rural America is very different and it is very challenging.

Understanding the mechanics of rural America, many times you have farmers or businessmen or housewives on councils and we are talking about four in six council members and those people are affecting the lives of the whole community or the county and the water rates that Mike described that is right where we go. We are a lender in a lot of ways.

We realize that these councilmen are putting the real dollars for the income earners on the table when they decide they need to update their water systems or when they talk about capacity building or when they talk about improving the EMS or the fire stations, some of those things that cost lots of dollars.

It is half a million dollars, it is millions of dollars and in some cases five million of dollars to correct the deficiencies of their systems, arsenic is in my part of the world in south central Kansas, arsenic is a major problem and communities cannot just solve that overnight and they cannot solve that by themselves in a lot of cases.

We are looking at regional approaches to solving water quality problems. We are encouraging communities to work with KDHE which would be Mike's counterpart in Kansas looking at feasibility studies, trying to determine what is the best scenario to make sure that that water quality problem is corrected and what is the least cost, real dollar cost.

We are talking about some of these families pay for fresh water \$100.00 to \$110.00 a month for five thousand gallons. That number is staggering and that is for fresh water, that is not sewer, that is not their taxes, that is not their insurance on their home, that is not their mortgage payment, that is what they are paying for water for five thousand gallons. So, it is staggering in rural communities.

(Slide)

MR. BOYLES: What we really encourage communities to do is not unlike anything that you all have talked about, it is visioning, understanding what the capital needs are and also understanding that communities don't want to and should not put their community in a situation to where they are buried in debt.

I am throwing around lots of big numbers here but at the end of the day someone has to pay the bills and we are talking about communities incurring debt to fix their water quality problems.

(Slide)

MR. BOYLES: Many things affect that, you all have identified that. I have way more slides here than what we can go through but what we look for is a spark plug, I often call them silent kings. Those folks that sit around the coffee shop who are the go to people. Those are the ones that usually are the ones that are in the know, maybe they are the non-profits, maybe they are the community action groups, those are the people that actually get things done and those are the ones that we look for.

If they are not in the room I encourage we say, okay who are the leaders whether it is the mayor, whether it is the banker, whoever it is those kinds of people will shepherd the project along. These are big projects, these are complicated projects.

An engineer like Mike said will pull it off the shelf and say, okay here it will last 20 years go build it. Well, that is overwhelming to a rural community, they are not equipped. They are not equipped for go build it. They don't have the engineers, the architects, they may have one attorney in the county if you are lucky.

(Slide)

MR. BOYLES: We look for partners, partners are critical. We want to layer in as many partners as we can possibly find. Those partners can help spread those funds around whether they be KDHE, whether they be Department of Commerce, whether they be CDBG grants, those will reduce the costs.

What we are going to look for again, I am going to put my lender hat on just for a minute, We are going to look for cash flow. We are going to see what the individual cost is to those homeowners. The Agency does have grant ability to where we can put some grant dollars to that and make that more affordable but in a lot of ways it is a loan.

These small communities, I hope you are getting this message, small communities are incurring enormous amounts of debt in order to maintain their water systems.

(Slide)

MR. BOYLES: Briefly who we are, what we do. We are a rural lender. We provide our technical assistance, our dollars to rural communities. Based on the program is the size of the community. The water program that I am talking about were in communities of 10,000 and less.

Many of the communities that I work in have fewer people as users are sitting around this table, imagine that and you have six people of you deciding the fate of your freshwater or you sewer treatment plan.

(Slide)

MR. BOYLES: There is a myriad of programs that we offer. Our utility programs. Broadband is a big thing of what we do, our housing programs and we provide technical assistance.

(Slide)

MR. BOYLES: You got this in your packet, our water programs I mentioned were in population areas up to 10,000. In Kansas, there is a lot of Kansas that is smaller than 10,000.

(Slide)

MR. BOYLES: The program itself it is a priority. Many of you have heard of the stimulus dollars and we are open and transparent about this. Lots of dollars went into water quality from stimulus programs. We didn't change the program but a lot of dollars went into that.

We thought we were doing a pretty good job as far as meeting the demand, things like that. Well, you talk to my counterparts across the country we were overwhelmed by the applications that came in to either protect their water rights or provide clean water, provide sanitary sewer systems, updates, storage, reducing chemicals, we were overwhelmed by the number of applications that we got. We will be dealing with those applications for quite some time.

(Slide)

MR. BOYLES: Under the Water and Waste Disposal Program what we look at is not only what is possible capacity wise but we also want to look at who are the eligible entities? Pretty much any community type based organization is an ineligible entity for our water programs and what I mean by that is it is a municipality accounting of special purpose districts. Indian Tribes are eligible and not for profits.

(Slide)

MR. BOYLES: Some of the purposes, I will get to those probably through a picture or two pretty soon.

(Slide)

MR. BOYLES: Some of the ineligible things we cannot do, we cannot pay for finder's fees. One thing that Marcie brought up is critical to rural communities is they don't have the resources to

go out and engage an engineer or hire an architect or do a feasibility study. They are lacking those funds.

Not only do they not know where to find them but many times they cannot access them because of their size. So many times the opportunity for a large community to look for an exploration grade doesn't exist in a small community.

(Slide)

MR. BOYLES: Just a picture slide of a few things that we do, distribution systems.

(Slide)

MR. BOYLES: Protection and improvement of the water sources. This is a picture of a lake, a lot of communities still pull their fresh water from a reservoir.

(Slide)

MR. BOYLES: Water plant improvements, again you can kind of get a sense for a small community this would be a big decision on moving forward.

(Slide)

MR. BOYLES: Water storage Greensburg. When the tornado came through Greensburg I think you heard from the Mayor of Greensburg totally wiped that thing out. We partner very closely with Greensburg in a lot of ways, water was one of them.

(Slide)

MR. BOYLES: Sewer treatment plants. Different solutions based on what the need is.

(Slide)

MR. BOYLES: Helpful hints. I wanted to provide this in my slide presentation. This is directly out of what we give communities, what they need to do because a lot of times they need a roadmap. They need to, what's next? How do I do this? What is first? What is next?

So, we provide critical path for them, a little overwhelming so some things we want them to look at is pursue a funding package not just a grant. A lot of communities are grant driven, they need to look at the whole package at the loan piece obviously because that is the capacity piece.

Keep in mind that you are financing a system, there are a lot of different options out there. Rural communities are not that different from our urban partners is, they need to operate their water system as a business. That is a concept even though you are an elected official you still need to operate that thing as a business.

(Slide)

MR. BOYLES: Develop a relationship with your funders, know your funders, explore those funders. Have an engaged board. Again, it is critical when you only have a small number of leaders in a community that those people that are on these systems or on these boards are elected to be engaged.

That is the end of my slide presentation. Thank you for your time. I think we will be around for questions.

MS. YEAMPIERRE: All right, thank you and thank you for joining us. This presentation reminds me of the impact that the presentation from the community of Mossville had on me when I first heard then it was really transformational, so thank you for sharing this.

Questions and Comments

MS. YEAMPIERRE: We are going to take questions and comments from the Advisory Council. We are going to first defer to those members of the council who come from rural communities, the members of the council who come from those communities come from a variety of communities, all very different from each other. So, I am going to call on Peter Captain.

MR. CAPTAIN: Thank you and congratulations on your reports, you know, your reports are synonymous with every village we have up in Alaska. We do have all these problems and the fact that we do get down to 60, 70 below further and I just want to say that the healthful hints that the USDA is really what we need to look forward to and partnerships, we do a lot of partnerships up there in Alaska solely because that is the only way we can get by.

A lot of communities up there are foregoing their food because they have to heat their homes, so it is an either or. Goods up there are three or four times higher than down this way so without any road system and infrastructure it is just about your plight, a little bit more but I do want to thank you for your presentation.

MS. YEAMPIERRE: Savi?

MS. HORNE: Yes, Savi Horne, Land Loss Prevention Project. We work in Durham

which is not rural it is an urban center of North Carolina but we service 100 counties in the state with legal services, economic development and Environmental Justice representation and I just want to thank the NEJAC leadership including its DFO and EPA for the vision to have this panel before us.

I do believe it is the first that I have seen and the viewpoints, diversity of viewpoints, but what it does paint is just how much there are really two Americas, one rural, one urban and just when it comes to the rural intersection then it kind of dichotomizes into one black, one white and now of course we now have a growing Latino presence in these rural states.

I am assuming Nebraska is one of those given the population optic. I cannot imagine it being otherwise and so it seemed to me given your presence here that it would be just a really brilliant moment in time and an opportunity for the EPA and the USDA to really have a serious partnership to develop rural communities especially some of the small grants programs that EPA has really benefitted rural communities including those rural communities having brownfield issues and food security issues.

So, while I think and I am not really sure world development, do you have like you have to have a match when you do your granting?

MR. BOYLES: It depends upon the program. We do have some programs that do require match or I should say the applicant gets additional points towards their application if there is a match.

What we do obviously encourage that if the community can provide any resources towards their project it is usually a more successful project. It is not always required.

MS. HORNE: Okay, well thank you. I just want to uplift the issue of access to clean water which also becomes rationalize in these rural counties where African American populations that Ms. Frazier represents throughout the U.S. are excluded from clean water access to it and that is one way in which world development and USDA could work in partnership.

I just see a continuation of this dialogue would really benefit these communities, so I would really encourage it and again I just want to compliment the NEJAC and EPA and yourselves for making yourselves available to us. Thank you.

MS. YEAMPIERRE: Thank you. Hilton?

MR. KELLEY: Yes Hilton Kelley with the Community In-power and Development Association in Port Arthur, Texas along the Gulf Coast area.

I commend you all for coming forward and speaking on the issue of what is happening in rural communities, I mean I am really floored. I was born and raised in Port Arthur, Texas even though it is a small town I always thought it was a big city until I went to other communities.

But yet, when I think about the water issues and food issues in the United States you always think that we have enough and when I think of food issues I think of other countries where you see people desolate because there is no food or in the desert because there is no water and no way of getting any.

But you never think of that happening right here in the United States and I think it was our last council meeting where we had that issue come up with water variances and that is a very serious issue with me because I love to drink water, my wife always tells me you drink so much water, I love water and I cannot imagine not having a good cold glass of water whenever I need it.

Yet, it really disturbs me to know that there are so many people across this country who don't have safe drinking water and yet our young men and women are called upon whenever there is an issue abroad. The communities provide those people, to make a strong nation you have to have a strong community.

To make a strong town those communities come together, those towns make up the city, the city makes up the state, the state makes up the nation. I think that the United States Government should put first priority on ensuring basic necessities for all Americans in this country and I think we should find ways in which to provide safe clean drinking water for everyone whether it is rural or whether it is urban.

It is time that our Federal Government look at ways in which to make this happen because if we can do the celebration overseas or at sea, I was in the Navy and you can take salt water and turn it to fresh water, why can't we do something here in our country to make water safe to drink for all Americans?

So, I commend you all, keep bringing this issue forward and anything I can do to assist I would like to get all of your information to see what we can do to bring some census to your area.

MS. YEAMPIERRE: Thank you Hilton. Jolene?

MS. CATRON: Thank you panelists, my name is Jolene Catron and I am Executive Director of Wind River Alliance.

I live in a small town in Wyoming, the very middle of Wyoming called Hudson, there is about 400 people there so I live in a very rural area and the communities on the Reservation, I am just south of the Wind River Reservation where I reside, the communities on the Reservation are probably no more than 1,200 at the most probably even smaller than that.

There are a couple of thoughts going in my mind, I don't necessarily have questions but just kind of trying to think about the Environmental Justice component of what you have presented and Mike I would like to take some of your examples as a point.

When we talk about Environmental Justice we talk about giving a voice at the community level to those most affected, those most affected in small rural communities are everyone in the community.

So, how do you -- I am wondering how EPA is framing Environmental Justice Small Grants, say that is one of the programs that they have Environmental Justice Small Grant to a small rural community when it is the whole community and are they able to apply for those grants? I guess I just don't know the requirements of those grants very well.

Just kind of thoughts flowing through my head, the issue about clean water, drinkable water and the availability of that water is, you have heard it from the other commentators, that it is one of the top priorities.

I am lucky in that, I live at the headwaters of this great Missouri river that is flowing right next to us and I am always telling my community this, we live at the very beginning we are really lucky in that our water source, our drinking water source, our surface water source is fairly pristine. That is not to say it is not impacted.

Travel 40 miles down river from the top of the mountain down the river, the river has already been polluted by uranium impacts, legacy waste from uranium melt hailings, non-point source from pesticides and fertilizers to just oil and gas waste and things and suddenly our surface water source is very polluted and suddenly on the Reservation the drinking surface water source is very polluted and so it is really interesting how you can go from a rather pristine source to a rather dangerous kind of source of water within 40 miles.

So, these are some of the things that I am thinking about. I guess just the one quick question that I had, Richard you talked about you do septic rehabilitation programs, do conservation districts do they get funding from you? We have like two conservation districts, there are three in my watershed, and they do a lot of septic rehabilitation programs. I am wondering if they are part of your program?

MR. BOYLES: It is different. That is a USDA NRCS Program where they do individual updates of septic systems and they provide at match grant for that update.

MS. CATRON: Okay, because I think that is another one of the real big issues that we should flag and that I would like to flag in this opportunity is really the issue of septic rehabilitation on our lands and on our waters.

MS. YEAMPIERRE: Teri?

MS. BLANTON: My name is Teri Blanton from the Kentuckians for the Commonwealth and Vanessa I just have to hand it to you, you are truly brave and being an Appalachian I know what it is like to -- and also I grew up in a Federal superfund side, and many, many people made a lot of money over my community's misfortunes by their grant writings and their studies of my community.

And your bravery for talking about the fact that many people are making a living off of your plight and your community's plight and I refer to those people as poverty pimpers because lots of people make money. I mean, I come from Appalachia and my people are the casualties of many wars just like yours, the first one being the war on poverty and now we are separating the casualties of the war of drugs.

So, thank you and thank you for bringing that our attention and I think it is really sad when we sit here in the land with so much water and we cannot have access to clean drinking water and when we talk about the expense that it would put onto the people to have access to clean drinking water.

I live in a state that has 40 to 50 inches of rainfall annually and also the headwaters of the Mississippi, the Cumberland River, the Tennessee River, the Kentucky River, the Ohio River and that is where I come from is the headwaters of these rivers and cannot have a clean drink of water.

I think that when we start putting that expense onto the people maybe we should start

putting that expense of the people or the industries that are taking it away from us and making them be responsible for the fact that we don't have access to clean water.

So thank you Vanessa for bringing that to our attention and being brave enough to sit here in front of us and remember that term poverty pimpers.

MS. YEAMPIERRE: Wyneckta?

MS. FISHER: Hi Wyneckta Fisher, E2, Inc. I want to commend everyone and I am really glad that we had an opportunity to hear exactly what you are going through because a lot of us are from mainly urban areas and there are some issues that impact you that we don't necessarily think about as we go about our days but I actually have a question, I actually have two questions.

But the first one is, and you might not see it as much as where you are but where I currently live in Louisiana and I notice this when I lived in the Metropolitan DC area, one year it is farmland and then two years from now the suburbs decided that they needed to grow a little bit further.

So, what used to be farmland now becomes a new subdivision and at what point, we have to realize that there are some people that really like their space and as I get older I am liking my space more. I used to want to live on top of someone but now I have no longer that desire I want some acreage.

But saying what I have to say is, what you are looking at is it is an impact on your infrastructure and based on what I saw there really isn't a lot of infrastructure to begin with and so I don't know if you are experiencing this but when these new suburbs come out there or when these new subdivisions come out there, do you benefit from it at all? That is one question.

And then 2, at the NEJAC body we provide advice, correct Victoria, advice? Okay, so what advice would you like us to give to EPA. I mean I heard Vanessa what you said, that really I really thought about that especially when you have a grant reviewer and that is something I struggle with when I was at Region 6 and we would sometimes look at our grants and then someone in the northeast reviewed and they are like, well why didn't you talk about density in the cycle? We don't want density here, you might want density but we don't want density so I can relate to that.

But, what advice would you like us to give to EPA? I would like for each of that to answer that if you can.

MS. McLAUGHLIN: Well, let me just start out first that it is the whole rural urban interface and I think what you are talking about impacts the rural, formerly rural places, that are closer to a metropolitan area.

So there is not one rural and I think we are all clear about that. There is the middle of Nebraska rural, there is the Tribal space rural, there is what is going on in all of your communities.

But to the point of urban, supposedly urban encroachment, there is a social issue that certainly goes out and encompasses all the things that you have talked about from land use and zoning issues to who is responsible for the infrastructure to even the housing crisis that we are in right now.

I grew up in Chicopee, Minnesota which was 30 miles from the metropolitan area and in order to go into Minneapolis we would like plan it for a week, it was a big deal. Now, there has been a bridge across the river, people have work in the cities and live in the countryside and it has just gobbled up all kinds of farmland and cost huge investments in infrastructure.

The community that my office is located in went ahead and invested in, it is a fairly medium sized rural area, invested in the infrastructure to support these developments and now almost 20 percent of the housing stock in that community has been foreclosed upon and for those that remain in the community, they are responsible for those dollars.

I don't know how we unravel ourselves from this but it is the connection between the financial system and the investment system, it is the Federal grants or local economic development grants that were given to the developers in order to build the housing stock.

So I guess I started it just to give you a look at a formerly rural county that has now felt the impacts of urban sprawl and is left with the remains of what is happening in the economy.

MR. LINDER: Well, advice to EPA is sometimes, and not just EPA, but sometimes we all in government tend to over engineer things in fixing a problem and there have been attempts to address some of these issues like growth by adding additional requirements on the State revolving fund for example or require planning whenever these loans are made.

But my problem with that is I need that fund to be flexible so that it can be competitive with the private market to provide a low interest rate and the more restrictions you put on it, the more costly that money gets. So the community is now spending more money to do planning, more money to

do additional design, more money to show a smart growth.

We don't want to lose our flexibility in administering those programs I don't think and the other part of that on growth is, you saw our state there is kind of two types of growth. There is communities that are growing too fast and they have to try to keep up with infrastructure and there are communities that are losing population and they would love to have some growth.

So we cannot have a policy that is going to stifle all growth and so I guess the advice would be to make sure you are not creating more problems by solving one.

MS. YEAMPIERRE: Thank you. So, oh I am sorry.

MS. FRAZIER: Yes, I would just like to offer the advice to EPA, I have been watching the guidance and I have seen some changes in the debriefing sessions that we had with EPA and the grant proposals are bringing equality in distribution to rural areas as well as to cities.

So I see improvement in that and I do believe EPA has an honest sincere effort for all humanity to find ways to create and alleviate their health issues in their various communities.

I also think that some terms are used because it sounds good but they actually need to grow legs and walk off the paper and that speaks to accountability and transparency as particularly with the partners that have their own agendas that doesn't comprise of anything that has been official to the communities.

We did receive environmental grant from EPA back in 1998 for three years, it was the Child Health Champion then and we had so many struggles and barriers with that grant that we ended up being the pilot model for the Nation. All we could do was raise hell because we couldn't get anything out of the money.

The benefits that we didn't see the grant, we didn't know what it entailed for us to do. It was a grantee who turned out to be farmers, so a lesson learned that we took from that was to organize our own organization and become 501C3 to hand out our own funds.

The next grant that we applied for was an EPA Small Justice Grant and what we did with that grant the citizens in the community, as I mentioned earlier, were helpless, hopeless, full of apathy, they just didn't care anymore about what was going on.

We worked with youth in the 11th and 12th grades and that inspired hope in the citizens who saw that they were doing something so people climbed on board and because of that assessment that they did about our drinking water we addressed indoor and outdoor air.

We addressed solid waste, illegal dumping, refrigerators, stoves, the community was just saturated with those things because we didn't have a police and people would come through in the disguise of night and just throw out things that just piled up over the community, we addressed all of those things.

Under this past Administration that we had 14 years, he just sat there and didn't do anything but my husband said back there, Jesse was the current Mayor here now and he was elected in 2008, now that grant was from 2005 and 2006 but we were so proud of what we had accomplished we held on to the results of that grant and submitted it to the Missouri Community Betterment and our youth won first place in the state because they got out and addressed those environmental health issues themselves.

But Jesse took those outcomes from our project and addressed the illegal dumping. He saw enough funding in the city budget to get a part-time police and he moved on with some of the other things and just from his second term he has managed to get two grants to readdress our sewer system.

So, we are making some small improvement but they are priorities for the citizens and they see that and that is what needs to be done, the Environmental Justice Small Grants are wonderful for minority rule and other underserved communities across this country that just need someone who is adamant about making sure every dime and dollar goes toward their benefit.

MS. YEAMPIERRE: Thank you. We are over time but I feel that before we end I have to make a few comments. Yesterday I made a comment about mainstream organizations supplanting local leadership instead of facilitating that and I called it contemporary missionary and some people responded negatively but today the word poverty came up, I didn't take it there the sister did.

So, let's see what you hear. But the issue of Latinos came up twice and I feel that I would be remiss if I didn't address the issue because I think that as a movement, as part of a movement, it is important for us to work in solidarity and understand each other's history and our presence in the United States and how we could work with each other in a way that lifts each other.

So I want to do that not so much for you but for folks in the audience that may not have

an understanding of our presence here in this country, partly because I am one of the very few Latinos on the Advisory Council.

So, I come from Brooklyn, New York where Latinos come from, 21 Spanish speaking countries. Some of African ancestry like yourself and like me, some of indigenous ancestry I am of both, some of color, some not, some of privilege and some from struggle.

When you refer to Hispanics in your community, I don't know who they are or where they come from, what nationality are they? How can we provide you some guidance on how you can reach them? I was happy to hear you say that they don't want to change because that said to me they are not acculturating and so they are not selling out and that is a good thing, right?

But and also that half of this country was Latino before it was invaded by the United States so there is this perception that we just got here when in fact we have been here and we just keep coming, right, whether people feel that or not, right?

So, I want to say that because there is always this misunderstanding and like we are new and so we have to deal with these new people. So, cultural competency as you said is extremely important and how we work with each to lift each other is extremely important and so it is probably much easier in urban environments when we are right next to each other and we have kids names Shaniqua Garcia and it is all good, right?

But in rural areas where people are much more segregated and divided it becomes a challenge. But I would urge you to reach out to places where we understand how to reach out to those communities so that we can help you with that because that only makes you stronger and that makes them stronger too and I think that it helps build consensus and gets communities to understand that we are all in this together.

So I just wanted to share that with you. But thank you so much for coming before us. This is an extremely important issue and I am sure, I know that this is going to be part of the work that we address moving forward. This has been a truly inspiring and transformational. So gracias.

We are going to break for 10 minutes because we are behind and I think we need a moment. So, 10 minutes please and we will be right back.

(Whereupon, a break was taken.)

MS. YEAMPIERRE: Plan EJ 2014 we have a committee that has been working very hard for the last few weeks led by Kim Wasserman who is a new member of the NEJAC and she will be presenting what that process was like and what some of the recommendations made by the committee were. Kim?

But before Kim begins, Lisa Garcia would like to make another announcement.

MS. GARCIA: All these announcements, I just wanted to mention that we went back to SEQ and the White House on the request, well the two requests on the White House Forum and so we will be able to do a video, an online video stream of the conference and so hopefully we can get that information out since it was requested. So that is one request and we did go back and say of course that we need to visit the question of grass roots groups and potential scholarships.

But at least for folks who cannot come or have other commitments if they can hop online for a few hours that would be good. So thank you.

MS. YEAMPIERRE: Thank you. Kim?

NEJAC Comments to EPA Plan EJ 2014

MS. WASSERMAN: Sure. So again my name is Kim Wasserman, I am with the Little Village Environmental Justice Organization. I would first like to thank our Chairwoman and our Co-chair and Victoria for allowing me the opportunity to take on this initiative my first time into NEJAC and so it was a very exciting process and I would also like to recognize the Administration Agency for the priority that they are putting towards Environmental Justice and its anniversary.

I am going to really quickly go over the names of folks that worked with me on the subcommittee. We had Jolene, we had Wynecta, I am sorry should I do last names too? Okay. Wynecta, Stephanie, Savi, Langdon and Nicholas working with myself, and Elizabeth I am sorry, working with me on this endeavor and so thank you all very much for all the time and effort that was put into this.

As many of you know, we have actually passed the deadline for comment on EJ 2014, however we were fortunate enough to get a draft put together in time and that was submitted to the EPA and this is our chance now to review that draft and make comments and changes to it and hopefully submit pretty quickly our final comments.

The workgroup that was formed did a number of conference calls as a subcommittee. But aside from that we also had two public calls, one in Region 5 and one, I am not sure where the other one was at, but there were two public calls we had around this plan if I am not mistaken.

I would like to proffice that, this is my first time doing this and so the structure for this and how this works is a little bekownst to me so I kind of figured it out as I went along. So please bear with me in that sense.

Everybody should have in front of them a summary of the Plan that was created today and this basically gives you a summary of the recommendations that we are making and so there is also a PowerPoint that we made today in regards to that.

So, I am going to go ahead and go through the PowerPoint that focuses on the summary and if I speak too fast please let me know, I tend to get nervous and talk a mile a minute so I do apologize.

(Slide)

MS. WASSERMAN: So from the beginning, one of the kind of a few things that came up repeatedly throughout this process was that the Plan needs to provide explicit criteria and outcome measurements by which the Plan will be assessed.

I think we hear Mathy speak earlier specifically to the community part and how that process was going to be taking place and I think it was very difficult for us as a subcommittee to give a lot of hefty feedback based off of the lack of those measures, those outcomes.

We did try our best to provide guidance but we are asking that the Plan have more teeth at the end of the day in order for us to provide solid feedback. One of the first charges that was given to us was the question of are the cross agency focus areas the correct ones?

Starting with the very first one, incorporating Environmental Justice into rule making, overall what we were looking at was the need for the overarching goal, the overarching goal should be to have environmental just rules and so really what we are looking at is not just the incorporation but the overall tone for this cross section should be Environmental Justice.

Looking at the second cross agency focus considering Environmental Justice concerns in EPA's permitting process. We really felt strongly that this needed to be rephrased as ensuring environmental just permitting decisions. We are at a point where Environmental Justice can no longer just be considered, it needs to be implemented and so this was definitely something that the subcommittee stepped up to in wanting to make sure that the language was changed.

There was questions around cumulative impacts as well, hold on a second, oh there it is sorry.

(Slide)

MS. WASSERMAN: The longer term focus around cumulative impacts leads NEJAC to have follow-up questions, what will this process look like? How much longer term is it?

So, there was a request originally that in this November meeting we have those questions answered and I don't think that happened and so I think for us as a subcommittee it is important to get answers to those questions in order for us to be able to provide concise feedback on the Plan itself. Within the original document you will see a list of longer questions as well.

Item number 3, accelerating compliance and enforcement initiatives. The NEJAC subcommittee generally supports this focus area as an important component but there is also the question of developing the necessary details to address the listed questions and concerns and again our original goal was to have those answered by today but I don't think that happened if I am not mistaken.

(Slide)

MS. WASSERMAN: There was also some subgroup questions in here that we are looking at for 3A, target specific compliant strategies and enforcement actions to address problems that affect overburdened communities.

There was a question but the EPA needed to evaluate how specific compliant strategies differ from what is required under current regulation and statute if there was going to be a change in the structure that is currently there now.

Under 3B, seek remedies and enforcement actions that benefit overburdened communities affected by non-compliance. NEJAC recommends that EPA evaluate whether the existing enforcement structure provides benefit for affected communities and whether there are specific ways in which the set policy supplemental environmental projects can be enhanced to aid the overall goal of Environmental Justice allowing greater flexibility for Environmental Justice projects.

(Slide)

MS. WASSERMAN: Under number 4, supporting community based programs. We felt that providing support for community based organizations to participate in community or government can deem collaborative processes was really the way to go and I think our conversation today with Mathy really extended that point and more fine tuned it.

One of the things I forgot to mention was that in your handouts yesterday, Jolene and Peter put together comments to Plan EJ 2014 and so one of the things I wanted to do was in italics, both in your handout and on the screen, you will see there are three summarized points that were added on through their comments.

These were not included in the final document but these are an attachment to the final document and one of the things that they were looking at was developing more effective mechanisms for supporting community based action programs in Indian country and throughout Alaska.

I think when we come back to conversation, if there are any questions those can, Jolene and Peter, can chime in on that point.

(Slide)

MS. WASSERMAN: Okay number 5, fostering administration wide action on Environmental Justice. The NEJAC feels that all Federal investments that affect communities suffering from disproportion impacts should go through an appropriate process to identify and if necessary eliminate or mitigate Environmental Justice considerations.

So really putting some teeth to that cross agency point is important. Again, in italics what you will see is what came from Peter and Jolene around developing effective mechanisms for fostering administration wide action on Environmental Justice in Indian country and throughout Alaska.

(Slide)

MS. WASSERMAN: Now I recognize that this was not one of the charges that was put to us, however when you have a room with a lot of opinion there are a number of things that will come up that people feel should be added as an additional cross agency focus area.

So in this case we were able to narrow it down to three and it is up for conversation on whether or not they should be added or they should simply be added on as an objective.

The first one being a sixth cross agency focus area ensuring environmentally just investment of capital and other funding. The seventh cross agency focus area was under science, that ORD produce by 2014 or sooner some robust results that will drive policy and implementation and the eighth cross agency focus area which again came from Jolene and Peter but was a point of conversation within the subcommittee in general was the cross focus area of climate adaptation.

So, these three again were things that came up as very strong points from the subcommittee that we felt could either be added on or added on as an objective.

MS. YEAMPIERRE: Kim, what is ORD?

MS. WASSERMAN: That is a good question and I apologize and I should say that we have a thing in our office when you say an acronym we have the acronym pirate who comes out and you say "arg" and you have to explain what that means and all day today I have been wanting to do this but I realize that nobody else knows what that means besides myself.

MS. YEAMPIERRE: Office of Research and Development.

MS. WASSERMAN: Thank you very much, I was looking at Lang because that came from him, but thank you.

The last charge that we were given on this was, how can EPA strengthen specific actions within the five cross agency focus areas? What you see in front of you is the note that the Plan is extremely general at this point and thus it is difficult to provide a very specific feedback.

Given its status, it is critical that EPA lay out a clear process for implementation with a timeline and expected outcomes and we do go on to give feedback in certain areas of this.

(Slide)

MS. WASSERMAN: Under number 1, considering Environmental Justice concerns and EPA's permitting process. Consistent stake items will be needed on incorporating Environmental Justice principles and permit actions and this is a theme I think we have heard throughout the day today and we will continue to hear that there has to be greater communication between the Federal level and the State level around permitting.

(Slide)

MS. WASSERMAN: For number 2, accelerating compliance and enforcement initiatives.

There should be more emphasis on enforcement and compliance activities being coordinated with each other and with other efforts to reduce disproportion impacts in individual communities selected for agency attention through the use of EJSEAT and other tools. I am not sure what EJSEAT stands for unless that is the name of it.

MS. YEAMPIERRE: Sue, why don't you. On the mic, Sue, thank you.

MS. BRIGGUM: Environmental Justice Screening and Enforcement Assessment Tool. It takes a village to get there.

MS. YEAMPIERRE: We should have a glossary at every meeting (laughing).

MS. WASSERMAN: Thank you Sue and Shankar.

(Slide)

MS. WASSERMAN: For number 3, supporting community based action programming. The NEJAC feels that this will require planning and ultimately funding at the end of the day.

From the attachment, recommendation to NEJAC to enhance indigenous voices. The request was to reconstitute the indigenous people subcommittee or an indigenous work group for the NEJAC.

(Slide)

MS. WASSERMAN: Finally, setting priorities among the five cross agency focus areas. We felt that each area is critical and it is impossible given the generality of the Plan to set a priority amongst the five. However, if we needed to the best we could do is raise the level of attention given to the focus areas of number 4, I am sorry, moving number 5 up to number 4, supporting community based action programs and number 5, fostering administration wide action on Environmental Justice to at least a level of priority given to the first three focus areas.

So it is a very quick run through of the charge that we were given. But again, I think that because of the quick turnaround time that we had, more than anything it was really hard for us to give concrete feedback on such a limited timeline and so I think for us what you see here, although very lucid, is really going at the heart of we just need more information and we need more benchmarks and timelines and we really need to know how this is going to work in order for us to give better concrete feedback I feel.

So, what I would like to do is open it up for discussion if possible.

MS. YEAMPIERRE: Before we take questions, if Lisa Garcia could respond?

MS. GARCIA: Yes, I will just quickly respond because obviously part of this is really listening to the dialogue. But I think the general assessment that it is a little bare bones right now is correct and I think there was a bit of a purpose to that to make sure that at least before we start delving in, tackling things and coming out with recommendations and proposals that at least we go out to the public and say, are these the right ones and then where do we go from there?

I think you have heard from both Mathy and Janet working on two of the cross cutting focus areas that the next phase is taking in these comments. We did receive, by the way since it was also open for public comment for about three months, we received about 177 comments and Region 5 and Region 3 and one other Region, Region 1, had open calls and sessions.

So we have been out there trying to receive comments on once again are these the right topics and how should we tackle them? So the next phase is coming up with the implementation plans and the timelines as you are asking for. What are some of the next steps? What is going to be part of that implementation plan? How are we going to develop the recommendations? And then once again coming out to the NEJAC and going out to the public releasing that.

So the way that it is envisioned is hopefully at every step moving forward in tandem with the comments that we are receiving. But this is exactly what we were looking for so we appreciate all the work and I will just say also on the permitting charge and the subgroup Plan EJ 2014 so thank you very much.

MS. YEAMPIERRE: Thank you. Thank you, Kim, honestly for taking this on particularly because I think you have like one NEJAC meeting under your belt and I think that it was a tremendous show of initiative on your part, so thank you for that.

So we will take questions and comments and you may want to field those.

MS. WASSERMAN: No problem.

MS. YEAMPIERRE: Okay, thanks. I will call them and you can answer.

Questions and Comments

MS. WASSERMAN: Thank you.

MS. FISHER: I think Father Vien, he beat me to it.

MS. YEAMPIERRE: Father?

FATHER NGUYEN: You are forgiven (laughter).

MS. YEAMPIERRE: And you know I am a relaxed Catholic so you are looking out, you are looking out (laughter).

FATHER NGUYEN: Just for clarification Kim on slide 5, 3B the subgroup seek remedies in enforcement actions that benefit the overburdened communities. When you say benefit what are you talking about? Are we talking about eliminating the sources that are overburdening the community or compensating the community or both?

MS. YEAMPIERRE: Do you have, oh okay.

MS. WASSERMAN: So I think, you are talking about 3A or 3B? Okay, I don't know that either one of those is what we were going for. I think overall we were looking at -- I think ideally it would be great if we could get rid of the source of figure out financial compensation for the community but I don't think we got into that great of a detail in this conversation per se.

I think what we were trying to get to was, is there going to be a new structure that is going to be looked at or are we looking at the same structure that include SEPs to figure out solutions for seeking remedies.

So I think that if those two things are things we want to include we can put that in, otherwise I think we were just asking the question of kind of getting to the idea of when the EPA is looking to seek for remedies, is it in the current structure or are they looking for a new structure to do that in?

MS. YEAMPIERRE: Any of the members of the committee want to respond to that? Shankar? Wynecta, I think I have lost the order it is the end of the day.

MS. FISHER: Wynecta Fisher, E Squared. I want to first thank EPA for asking the NEJAC to submit some advice on EJ Plan 2014 and to the committee members who worked really hard, there is one thing and it is my day at horse is going to stand in the middle of us until something changes because I honestly believe that we can have, and I am going to defer to Patty in one second, that we can have a lot of policies that address multiple stressors and cumulative impacts.

But if community A is located directly across the street from an area that is zoned heavy industrial and behind community A there is a railroad track because it is that way. There has to be a way that we can somehow address the issue and Patricia spoke about it very briefly, I am not asking her to make additional comments but I would like to begin to somehow think about that because if land uses are not changing I don't know what we can do to really truly address EJ issues for those communities to sit in the middle of them.

MS. WASSERMAN: One of the things that is included in the report but not in the summary was the question of land use and zoning because that is something that came up repeatedly throughout our conversations was trying to figure that exact thing out. It wasn't in the summary but it is in the draft document.

MS. YEAMPIERRE: Yes, Lisa?

MS. GARCIA: Where is the draft document? I am looking at, this is something that is going to be submitted later?

MS. WASSERMAN: For us it is in this thing.

MS. GARCIA: Oh, it is in the packet.

MS. WASSERMAN: It is in the packet, yes.

MS. GARCIA: Thank you.

MS. YEAMPIERRE: I am going to go with Jolene.

MS. CATRON: Thanks for your hard work Kimberly. I know we were all working under really, really tight constraints and one of the concerns that I have, oh my name is Jolene Catron, Wind River Alliance, one of the concerns that I have voiced over and over again in this council is really representative voices from Indian country at the NEJAC table.

So I am always feeling the weight to make sure that I am doing a little bit of outreach, that I am talking to those that I represent and then I am providing the right comments and when it comes to something as important as this Plan 2014 being able to set up teleconferences, being able to waiting on our people's responses and things like that just really necessitated one or two more days, even a week please, so it was really difficult to work within those time constraints.

So with that being said, I appreciate that you have incorporated the comments, the suggestions that we have drafted and I would just like to really reiterate that this isn't just my own

personal feelings, these comments that are drafted come from several meetings with other stakeholders and from the NEJAC council also the members of the NEJAC council including Peter Captain.

So I think it is important to -- what I wanted to ask the NEJAC is that there are two documents that I sent out and one is just regarding the actual recommendations from the Tribal perspective on Plan 2014 and that is a three page document and then the other is comments specific to the NEJAC structure for Tribal input and that is a two page document.

I am not sure if- - I would like to ask the NEJAC council that we include that as an appendix both of those sets of recommendations as an appendix to the full report.

MS. ROBINSON: I am going to intercede on that. The direct comments and recommendations around Plan EJ 2014 really this is a consensus body, those things really need to be incorporated within the body of the letter.

Your suggestions about and concerns about the structure of the NEJAC in terms of being able to be responsible to allow our greater Tribal voice, that consensus needs to be reached around that but that can be a separate appendix item, okay, but the comments on the Tribal perspectives around Plan EJ really need to be incorporated into the body of the actual letter and the various appropriate places.

MS. CATRON: Okay.

MS. ROBINSON: Okay? Thanks.

MS. CATRON: Yes, that makes sense. I don't know if I need to go through and go over the majority of the comments that we provided since everybody was provided on the council with both of those are they are also provided with a one page summary that pretty much went directly into the PowerPoint that Kim just went through.

MS. WASSERMAN: I think depending on where we go with the process conversation after this, I think one of the things that will end up happening is unless we have a long delivered conversation about specifically the things that are being added in if it turns out that everybody is agreement with them I think what we will do is just incorporate them into the overall letter itself unless a larger conversation is had around them if that is okay?

MS. CATRON: Yes.

MS. YEAMPIERRE: Shankar and then Savi and then Patricia.

MR. PRASAD: Kim and the subgroup thank you for putting this together. Good start which have some changes that need to go in and just as the Plan had some vagueness in it, naturally our accommodations also happen to be a little vague in the sense.

For example, we continue to use this overburdened community across five or six places, I am referring to the main document, and I think as the Plan moves forward there must be some effort or some way of saying, what do we mean by that?

I mean everybody says it explains by itself or some as in implementation process something has to happen is when what is that overburdened community, how we want to define that it becomes critical as we move forward.

And then the whole issue of using the word consider is for me not a powerful word. It is something so in order to make something happen I would strongly suggest can we work up on some language changes on that specific piece.

Also, EJSEAT was mentioned in your presentation piece but I didn't get to pick that up in the whole part of the recommendations, in the summary recommendation it references to the cumulative impacts but not to the EJSEAT so we need to make sure that is referenced as well.

This whole issue of overburdened communities are, as Mathy presented, how do we do a community based action begs the question where and how soon where. So some kind of a prioritization process has to be implemented or talked about as the Plan moves forward. That a suggestion for all of us, you all agree.

But that is a consistent recommendation that NEJAC has made for about 10 years now starting from the cumulative impact subgroup and on goods movement report and also on the EJSEAT report. So, I think that theme needs to be carried through as we move forward I modify this.

MS. WASSERMAN: So, in response to the consideration that is one of the things that we are asking that the word considering not be used. That we actually use the word ensure because we are beyond, and I think I said this in the presentation, I think we are beyond considering Environmental Justice and we need to be ensuring it instead.

In regards to the EJSEAT, it is actually on page 5 about three-fourths of the way down in the second bullet point under, Accelerating Compliance and Enforcement Initiatives, so it is right here.

MS. YEAMPIERRE: Savi?

MS. HORNE: Savi Horne, Land Loss Prevention Project. This is more in the spirit of just, it is not really an original thought but it came out of listening to the last panel and I just really want to bring us back to when our committee essentially ranked the five cross cutting agency focus areas, particularly number 5, Fostering Administration Wide Action on Environmental Justice.

It seemed to be that there is a consensus around the NEJAC that the EPA needs to broaden that particular area to include conversation dialogues, partnership with other agencies that impact Environmental Justice to assist the communities and particularly the Department of Agriculture around access to healthy foods, safe and clean drinking water, particularly for already overburdened communities.

MS. YEAMPIERRE: Patricia?

MS. SALKIN: Just following up on the land use issue, it is in here on page 5 except it is sort of by way of background and my suggestion would be to consider adding a few words or a sentence under, Fostering Administration Wide Action on Environmental Justice, because that is where there recommendation is for action.

So right now although it is there, reading it you are just saying we need to pay attention to it but it is not listed really as a recommendation it looks as it is just background information.

MS. ROBINSON: Can I make a suggestion that when we are referring to page or whatever, if you are referring to the shortcut document that Kim has passed out today or whether you are referring to the full blown report that is in the packet because I am getting a little lost trying to figure out where we are going.

MS. SALKIN: Sorry, this was in the full letter because it wasn't in the short.

MS. YEAMPIERRE: I am sorry, John I didn't see you.

MR. RIDGWAY: John Ridgway, Washington State Department of Ecology. So I am referring to the full document, Appendix A, and it is what Savi was just referring too also. This would be the fourth page of that document under Fostering Administration Wide Action on Environmental Justice.

I think I understand what is trying to be said here but I want to be sure that we don't create confusion and specifically it is also referenced in the summary.

Some of these programs incorporate Environmental Justice considerations to some degree but all these investments should go through an appropriate process to identify and if necessary eliminate or mitigate them and I think that that is confusing. I don't think we want to suggest we want to eliminate Environmental Justice consideration.

We might want to eliminate or re-mitigate or reduce Environmental Justice barriers or some kind of wording but I don't think we want to eliminate the considerations. Is that correct? Okay, thank you.

MS. YEAMPIERRE: Jolene?

MS. CATRON: I am sorry to interrupt. We are having a lot of issues with trying to figure out which document we are actually looking at. I am wondering if what was emailed to all the NEJAC members that document that has the draft written across the top is different than what the document is that is in the binder and I think that is the issue because I don't have an Appendix A where you said page 5, mine said page 4.

MS. ROBINSON: Go to Day 2 and just before the school air toxics report presentation there is a version that has the NEJAC letterhead, Draft is stamped across it and it is several pages long, okay, and there is the draft letter. Do you see that?

MS. WASSERMAN: So if I could go back to Shankar's point in the question of making this a little more robust. One of the things that I will ask for as being a fairly new person onto NEJAC definitely members of the subcommittee did give us feedback in regards to the good movement and other documents.

But I will say to pay homage to work that was done in the past around cumulative impacts and other things it would definitely be helpful for myself and I think subcommittee members if there is language in there or parts of that we should be referring to that you think stand out. We would definitely love to have that from you because I think that is one thing that is definitely needed outside the subcommittee but within the NEJAC in general.

MR. PRASAD: Oh, I will send you the exact language and some paragraphs whatever I feel that could be.

MS. YEAMPIERRE: Thank you. So, I think -- Lisa?

MS. GARCIA: So one of the things that I was looking for as we continue to do this, one of the things that definitely stood out to myself that I was hoping we could discuss -- she said that we could keep going no?

One of the things that I was hoping talk about or folks to give their input on was really around the question of a six, seventh and eighth cross agency focus area because I really think that we have to as a group narrow that down.

Again, this was not a charge that was asked of us but I think it definitely showed the fact that folks had very strong opinions about adding those three things and I think it is important for us to make a decision if that is going to stay in the document or if it is not going to not stay in the document or if they are going to become objectives.

So, I would really ask that we have that conversation here if possible.

MS. YEAMPIERRE: John?

MR. RIDGWAY: Given the nature of this council in the past, some times offering more than they ask for from EPA, I would err on recommending it be incorporated into your report.

MS. WASSERMAN: And I appreciate that because again being a newbie I am not sure what it has been like in the past and so I am not sure about this. Langdon?

MR. MARSH: Yes, I feel strongly that the one investment should be included because that it is a huge part of what EPA does and they left it out of the initial list of cross cutting initiatives.

I also feel strongly that the Tribal goal be put in there as well. I feel less strongly about the science one because I was really more focused on addressing what Shankar brought up is we want a very strong statement in this document that the science of disproportionate impact should be given a lot of emphasis by ORD and other parts of the agency so that we can have some real benchmarks for the work that Mathy was talking about identifying communities, what is meant by overburdened and so forth. So, it doesn't have to be a different goal but it has to be a very strong statement I feel.

MS. YEAMPIERRE: So if there are no more comments I think what I am going to do is to defer to Victoria then for what the process of what this is going to be. Oh, I am sorry Lisa that is right.

MS. GARCIA: I wanted to make sure you were done at least with the deliberative part of it, but just to mention that on the, now I forgot what the recommendation was, for environmentally just investment of capital and other funding.

It wasn't necessarily called that but it was envisioned as part of the community based action programs that we begin to look at where the grants are going and across the board what are some of the grants programs. So, it doesn't capture everything that was recommended here but I just wanted to state that.

Also, in the tools development is looking at also again how we are funding some of those things and then just quickly I just sent over an edit trying to capture the word "ensuring" the recommendation was ensuring Environmental Justice and permitting and so we are, anyway so I just sent over an edit to get that through but also just to mention that on either next week or the following week Bob Perciasepe had mentioned the strategic plan and the cross cutting goals.

That is going to be out on the website and it does have Plan EJ 2014 as one of the goals and so the edit for ensuring Environmental Justice and permitting will hopefully be accepted and put out in the next two weeks. So, as we continue to move forward hopefully we can do this kind of work, so I just wanted to say that.

MS. WASSERMAN: Thank you very much Lisa, I am glad that our work is already paying off. Stephanie and then Shankar.

MS. HALL: Thank you. Stephanie Hall with Valero Energy. Just a quick comment and I am going to defer largely to Kim on this process but I just want to make sure that we have, particularly the subgroup, has a full appreciation of the comments that were shared so that when we re-group we will remember and fully understand what people were trying to convey because I think at the end of the day we really need to make sure that we have a substantive document that is responsive to the questions that EPA has raised.

To the extent that there are areas that are vague and need further defining or clarifying, I just want to make sure we give ourselves an opportunity in this setting if it is appropriate to make sure we understand and appreciate the comments and flush that out unless there is going to be other opportunity for kind of fine tuning that because I am just kind of looking at my sketchy notes and I may have missed something that someone was trying to convey and I am hoping there is a better note taker maybe in the room to capture that (laughing), that is right we have an official record never mind on that point.

MS. ROBINSON: Stephanie, your point is well taken and I will respond to that in terms of process because I have some questions to ask of the body but I think we will have Shankar first.

MR. PRASAD: This is a question for Lisa. You said that you will --- after consideration of the comments next year some time it will be final, so there will be a revised plan also published as we move forward or is just the implementation schedule that will be coming forth?

MS. GARCIA: We haven't decided whether or not it will be the whole Plan is reissued with the implementation because right now it is actually breaking out into the focus areas and so I think it makes more sense and given the timing of it we realize that there are certain priorities and so we would put out an implementation plan for ensuring EJ and permitting and like that.

But we do envision taking that implementation plan and putting it out with the recommendations and then hopefully getting comments from NEJAC and the public.

MR. PRASAD: Thank you. Will you still want to finalize this and send it as a formal document I assume?

MS. GARCIA: Yes. I think that if I could just add that we still need the recommendations and the ideas coming forward so that we can continue to work off the comments and of course I think the initial round was that at least ensuring that we have the right topic and it sounds like thankfully we have heard from many constituents and it seems like we are on the right path and I understand that there may be a recommendation for the two or three other ones.

MS. WASSERMAN: Thank you Shankar and thank you Stephanie. I think that one of the things we are definitely looking for is that folks feel like in a document there can be some buildup, we should definitely do that within the document and I think in regards to the process I think it is really helpful for us to know that it is going to be an ongoing process, that we will submit comments and plans will be developed. I think that is very refreshing to know that so that we know that as we are helping build this document we are able to get feedback on it.

So, if it is all right with folks I think we will go with Victoria and process on this.

MS. ROBINSON: Yes, thank you. Thank you all and I meant to say this earlier to the permitting subgroup as well as the Plan EJ subgroup, you guys did a herculean task of basically middle of summer vacation, school getting started, two public teleconference calls and prepping for this meeting to have put together two very comprehensive documents.

I am going to ask the same question of this group as I asked earlier of the permitting one, the first question of this group needs to ask itself does it feel that the document as it is given the changes that are being recommended is this document in such a state that simply identifying with and making the revisions based on the conversations that we can have the subgroup meet, just like we are going to have the permitting subgroup meet, via telecom to review the final changes and then submit it to the council in final draft as a ballot.

The other option is if you think there is significant changes that should be addressed and deliberated on then we need to make sure we set up a conference call as soon as possible to be able to do that.

So I need to get some feedback from you, figure out where you feel the next step is on this particular report in terms of additional discussions of the body or do you think it is in a state that simply making the revisions and having the subgroup review it and working together to make those things get incorporated and working with our contractor to then put together a final draft for ballot?

MR. YEAMPIERRE: John?

MR. RIDGWAY: I think we ought to accept this from the subgroup with these additions that we have heard of during this discussion and let the full council then review that when it is ready and leave it to the council to send it on forward.

MS. YEAMPIERRE: Anyone else? Patricia?

MS. SALKIN: I agree with John's comment, my only question just for clarification in response to Jolene's question about the comments that she and Peter put together the response was that they shouldn't be an appendix but they should be incorporated. Are we incorporating those thoughts into the letter?

MS. WASSERMAN: So from what I understand, we are incorporating the thoughts based on the Plan EJ 2014, the other document is something that we can discuss as a body.

MS. ROBINSON: The question is, is that something that should be incorporated as an appendix of the document or is a separate document to be addressed separately?

MS. WASSERMAN: I think it should be incorporated into the document, into the

document to be quite honest with you unless Jolene and Peter feel differently.

MR. PRASAD: I agree that, sorry, I also feel that Plan EJ 2014 that the comments must be incorporated into the main body of the letter not as a separate appendix.

MS. YEAMPIERRE: Unless anyone disagrees I think this consensus that they should be incorporated not separate. Okay, great thank you.

MS. ROBINSON: So next steps will be to, as I said, for the subgroup to work with the note taker to incorporate the comments as discussed. The subgroup will make sure that it is clean and then we will get that out to the full council for their vote by ballot.

Tomorrow after I have had a chance to talk to John and Kim and Elizabeth about a time frame, I will let you know tomorrow about will the time frame be for both reports so that we know the work in process over the next month, okay? Anybody have any questions about the process, where we are heading on this?

MS. WASSERMAN: I just wanted to thank all the members of the subcommittee and the committee for giving me the chance to do this. Thank you.

MS. YEAMPIERRE: Thank you (speaking Spanish). So we are going to move on to the last part of the agenda for today and John has graciously volunteered to chair that section. So, John?

EPA Response to NEJAC School Air Toxics Recommendations

MR. RIDGWAY: Thank you. First, so Richard if you want to come on up to the table and I want to check with you first of all, you have been very patient in waiting for us and the schedule change. Do you have a time constraint given it is already 5:00? No? Okay.

MS. MILLER-TRAVIS: John? John? Vernice, hi.

MR. RIDGWAY: Hi Vernice, go ahead, thank you.

MS. MILLER-TRAVIS: As I am running out the door can I just make a few comments?

MR. RIDGWAY: Please do.

MS. MILLER-TRAVIS: Okay, very briefly. Chet, thank you very much and to the Office of Air Quality Planning and Standards for your substantive response to the recommendations from the School Air Toxics Monitoring Workgroup.

We really are very pleased with the answers and we are looking forward to working with you further on it and to John, especially, and to Charles Lee, an absentia, and Candace and Laura and Victoria for arranging the conference call to work through the challenges that we had in meshing together OAQPS and OEJ.

We thank you so very much for that substantive dialogue and for the resolution of those issues and I hope you all hear and appreciate the depth of the response from Chet.

I have to leave, I have a flight at 7:00 but I just wanted to thank Chet and thank his staff and his colleagues for all the efforts and the work together before I run out the door. Thank you.

MR. RIDGWAY: Thank you and safe travels to you Vernice. Before Chet I turn the mic over to you, I have to agree that the response has been outstanding on this topic and it is a great example that I hope others in the future from EPA can follow your footsteps in this interactive communication, to let us know what happens when these recommendations go forward and provide an opportunity for helping that progress after a recommendation, My kudos to you and with that I will turn the mic over to you.

Presentation by Richard "Chet" Wayland, EPA Office of Air Quality Planning and Standards

MR. WAYLAND: Great, thank you John and Vernice I appreciate that. It has been an enjoyable process and while we had our rough starts at part of this I think we are a good example of if you work together and you have that interview process you can come to a positive conclusion at the end.

So, what I wanted to do today is get the presentation put up on the next one. I am going to walk through the 19 recommendations and just EPA's response. This is in your packet, the formal recommendations are there so you can just follow along there. The slides are more for me to stay on track.

Again, I do appreciate it. I know it is late in the day and I will try to make this as quick as I can such that we can get everybody out of here for dinner. So, if we could go to the next slide.

(Slide)

MR. WAYLAND: I just wanted to give everyone a real quick status. When I presented back in July at this meeting, we were nearing completion of the school air toxics monitoring project and I

am happy to say today we have finished all the initial monitoring in all 65 schools.

There were 63 schools in 22 states plus two Tribal schools. The final data release that from initial monitoring was in September, so all of the data that was collected from the initial round of monitoring is now available on the website.

There was a lot of data collected over that time, 73,000 data points and approximately one and a half million values from associated myrological data. But the project is not done by any stretch of the imagination. The monitoring is done and now we are going into the assessment phase and there are several schools from this initial assessment that are going to require additional monitoring.

Some of those are where we need to look, the screening analysis there may be something going on there and we want to do additional monitoring to further investigate and see if we can determine the source of what we came up with in the screening monitoring.

There were other schools where upon the investigation after the end of the monitoring we sat down and talked with local officials and we determined that the sources, nearby sources, of those schools were not operating at capacity. We want to go back and re-monitor when those sources are at capacity.

I think everyone is aware that we have been a fairly significant economic downturn, so many sources were operating near their normal capacity so there are a couple of schools where we are going to go back and do some additional screening monitoring now that the economy is starting to come back a little bit and some of these sources are gearing up to be more near full capacity.

The third kind of general area where we are going to be additional monitoring is some of the acrolein measurement concerns. When I spoke back in July we talked a little bit about the problems we had with the acrolein measurements. It is a very difficult pollutant to measure.

The existing method that EPA has while a fairly decent method it has to be implemented in a very precise fashion and one of the things we found out was that because of some of the different ways the canisters were cleaned, were they heated or not heated, it caused some problems with our acrolein measurements.

So we are not happy with any of the acrolein data that we have collected in this study and we are going to go back to look at some of the schools where acrolein was the target pollutant and read you some monitoring following a more rigorous approach, if you will, on our methods.

We are also going to be working with the Office of Research and Development at EPA to actually come up and develop a better method for acrolein. I think that is one of the big things we learned out of this project amongst many things was that we need to improve some of our monitoring methods.

Again, this going back and re-monitoring ranges from various issues. One is going back and redoing the screening like we have been doing, so again one in six day monitoring, you will do it for 60 days, get 10 to 12 samples and re-analyze that data.

But all the way up to from that to pretty high end sophisticated monitoring, we have a brand new continuous multi metals monitoring method that I just recently developed and we are going to be deploying that at least two or three schools where we are looking at manganese and heavy metals and it will allow us for the first time ever to get continuous metals information from an air quality monitor.

In the past, we have had to use 24 hour samples this will allow us to get hourly data on a continuous basis and that will be just terrific in trying to zero in on where the source of these metals may be coming from.

As of today, we have 21 final reports up on the website which encompasses 24 schools. The additional reports will be coming out sequentially over the next several months. We think we will have all those reports done by spring of 2011 and then we have a final project summary report that will be coming out in the summer of 2011.

All that data, all the reports, the final summary report are all going to be on the school air website, so I would encourage folks if you haven't had a chance to go out there lately to go out there and look at the latest reports that just came out about two weeks ago.

(Slide)

MR. WAYLAND: So as part of the working group, we received 19 specific recommendations that covered six general areas and I really thought that the recommendations were extremely well thought out, they put a lot of effort into this.

We put a lot of effort into the response and it has taken us a couple months to get our response there but I think it was obvious that these were not recommendations that just kind of flew off someone's head, these were well thought out from the standpoint of things that we needed to do in the

project or things that we needed to do for future projects.

So, it really was I think a very good learning experience for all of us but they kind of were broken into six general areas, community, collaboration and education, coordination among government agencies and NGOs, project scope and methods, potential mitigation measures to reduce exposure, data analysis, interpretation and conclusions and then kind of a summary.

Before I get into the individual recommendations and some of these, again I will be able to walk through fairly quick they are fairly straight forward. I wanted to talk a little bit about where we are going on the next steps because it does tie into these recommendations.

I talked in July about this initial phase of looking at 65 schools and trying to figure out what was going on and recognizing that there are 128,000 schools in the country and we will never be able to monitor every single school but we want to continue to focus on schools and look at schools in certain areas but we also became acutely aware that in some of these communities where we were focusing on schools there were more serious air quality risks in that community that may not be associated with the school but maybe somewhere else in the community.

So, as part of our second phase or the next steps if you will in this project, we are going to be moving towards the community scale air toxics monitoring grant which is a competitive grant process for State and local agencies which allows them to bid on a grant and to give resources to look at air toxics problems in their community.

We are revising the scope of that request for proposal. We have been working with the working group to do that, to put a heavy emphasis on community involvement, on Environmental Justice and also on schools. So in the past when we have done some of these grants years ago it was very focused on technology, you know, can we get some really cool monitoring technology out there and learn how to do some things better with toxics.

That component is not going away but it is going to be a little bit lower in the priority and the priority is really going to be, is the community engaged in this project? Is there a plan to go forward with mitigation after you find a problem? Is this an Environmental Justice area or not? So, we have kind of shifted the whole emphasis of these grants now to be more focused on the community and less focused on just the technology.

I say this up front because when you see the recommendations and I go through some of those we are going to refer to this CSATM, Community Scale Air Toxics Monitoring grants quite often in some of the things that we have put in there.

But that is where we are going with the next phase of this. It actually allows us a lot more freedom because in the past one of the restrictions we had was we couldn't give money to groups, we had to spend money on equipment and on data analysis because EPA cannot just give out money. We have to make it a competitive process.

By going through this, we will allow the State and local agencies to partner up with community groups. They can also get money for FTEs and resources whereas before we could only give them money to buy equipment or we had to buy the equipment for them.

So we think it is a lot more flexible approach, it also is a lot more resources than what we were able to bring to bear just on the schools project, it is about twice the amount of funding for FY11 than what we were able to put into the school's project on any given year.

So we think it is a better approach but it will be focused on schools but also a broader brush looking at community air toxics and other areas.

(Slide)

MR. WAYLAND: So the first recommendation was EPA should develop a community involvement and outreach plan for the next phase of this initiative that engages communities early in the planning process.

I don't think we could agree more. One of the things that we recognized in this process that having the community involved is key and we had some success and some failures in that in the school project to date where there was a good community involvement already it was really easy to roll out what we were doing and why we were doing it and they were engaged and they understood the results when they came up and even if the results were not bad that it was good news.

They weren't skeptical because the community was engaged in the process. There were other places where the community wasn't as engaged and so when we didn't find something the immediate response is, well we don't believe your data, we are a little skeptical.

If we did find something it was, well oh my gosh why didn't you tell us about this? So, I

think one of the things we learned pretty fast in this process that it is important to get the communities engaged.

As a result this part of this community scale air toxics grant program we have been sitting down with the working group to actually have them provide us with criteria that we will put into the RFP specifically to address community involvement and not just is the grantee going to have community engagement but is there going to be a part of the grant set aside to work with community groups and to involve them in the process of the actual monitoring as well just the communication and outreach aspects but actually get them engaged in some of the monitoring aspects of the grants.

So I think this is something totally new that EPA has never done on a community scale grant, monitoring grant, before but I think it is the right thing and something that we learned coming out of this process.

So we have also added this re-emphasis on the grants to look at Environmental Justice areas, so we have about four and half million dollars in the community scale grants and routinely we have awarded 15 to 17 of these grants a year depending on the scope of each individual grant.

The last two years we did not have this money available, it got pulled for other things. The first year was pulled to support the schools project, parts of it, and it was also pulled to support some of the regulatory monitoring needs that the agency had for the new nacks that were sent out for lead and other pollutants.

But this year we are planning to dedicate the full amount to the community scale project and so we are hoping to get again 15 to 20 grants that will come in and we will be able to get them focused on schools but also other areas in the community.

(Slide)

MR. WAYLAND: On the second recommendation was to provide adequate funding to support these community involvement and outreach plans. Again, this goes hand and hand with the work we are doing with the working group right now.

We were limited as I said earlier in our ability to move money because of this. We had money specifically ear marked for the school's project, it was 103 State and Tribal air grant money so we could not just give it to folks to uses as they see fit. We had to use it to buy the monitoring equipment and then we could use it to pay for the data analysis.

Under this new approach money will be, when someone wins the grant they can basically use that money as they see fit for any aspect of their monitoring program be it to give money to a community group, to actually do more to get more involved in the project to do some of the monitoring themselves.

They can use it to pay salaries of their own folks to go out there and do the monitoring and do the data analysis. They can use it for communication and outreach. So it gives us a lot more flexibility and I think it is going to hopefully bring a lot more of the community folks involved into these projects than we what we were able to do with some of the school's project.

But I think recognizing some of that, we are specifically putting criteria into the grant that talks about they have to have a line item in their grant request, how much money are you going to put towards community involvement and what is that money going to be used for?

The other big piece that we are putting in there is don't go out and do a monitoring project just for sake of a monitoring project even though it is interesting to find out what is going on. We also want money set aside in the grantee request for what are you going to do once you do find a problem? What are some of your mitigation plans even if you don't know what the problem is, if you find something what are your steps you are going to take?

I think I heard earlier today someone was talking about it is time to stop just doing projects for the sake of projects, we need to do projects that are actually going to solve problems and that is one of the things we tried to put into the grant language for this time is that specifically identify the problem and then go fix the problem.

Now, there might not be enough money in the grant to do all of that but it can at least start the process. So, I think there will be specific money allocated in these grants for community involvement.

(Slide)

MR. WAYLAND: The third recommendation was we should develop a feedback loop to assess the effectiveness of its communications during implementation of the project and to provide oversight on how our outreach activities are implemented.

Again, we agree with the working group's recommendation on that and that oversight is very important. We learned a lot of lessons I think through this project.

We had varied successes as I said in some areas, for example, in North Charleston, South Carolina where the State agency was extremely connected to the local community. They had been there before, they had done a lot of work with that community, they were a trusted entity in that community.

We had tremendous success. We went in there, they said you can monitor if you want, you can put the monitor wherever you want, we are behind you, we want to see the data, we will work with you, let me show you data that we have collected before from other studies locally and see if that helps you guys.

It was really tremendous the amount of interaction we had with that local community. There were other communities where that connection was not there and it was like pulling teeth to get a place to put the monitor, to get the local government to work with us, to get the community to trust us.

So I think one of the things that was very obvious as we went through the screening monitoring aspects was again, you have to get the community engaged because they need to be with you side by side or else they are not going to trust the results or they are going to be skeptical of ways that things that go on and you are not going to be able to communicate those results effectively.

So, I think the feedback loop in some cases was there in this project and some cases it was not. We began folded that into the community scale grant criteria such as that feedback loop has to be there or else these grant projects are not going to be successful either if we don't automatically force that loop to be in there and I think the language that we are putting in the request for proposals pretty much mandates that you have to have some kind of mechanism in there that you are going to feedback with your community before you would be awarded the grant.

(Slide)

MR. WAYLAND: The fourth recommendation was we should promote the website and I think this is probably one of the, there were a lot of good successes from the working group with EPA but I think one of the ones that is most visible was the school air toxics website.

I think it is the epitome of what a good website should be and I am not just saying that because it is an EPA website but I think the working group gave us a tremendous amount of input on how to communicate this information on a national scale.

We also worked with some of the PEHSUs Environmental Health Unit folks. We worked with CDC and helped with some language about how we communicate risk and I think this website is really a model for many folks in EPA to follow and either in other instances to follow about how do you take a project and communicate that information effectively?

One of the things we have done is we have presented this to EPA's web council which is in charge of kind of overseeing all the websites that the Agency has and they have kind of laid out the guidance and the rules for folks on how to do websites at EPA.

We presented to them a couple of weeks ago, it was very well received and they basically agreed to kind of use this as a template for other folks in the Agency to model their websites after when you are doing a data project or monitoring type project.

I think we plan to take it forward as well within the air program. We actually used some of this in the BP spill design and we would like to use it a lot more. That was such a big project that we didn't have full control on how everything was going to be done there.

But I think some of the things that we learned from the school's project we were able to try to push and get implemented into the BP spill response as well and I think it will help us with any future projects that go on for monitoring about how to take data, get it out there, be as transparent as you can but also make sure that you are providing it in a context that people can understand of all levels because you are dealing with school children all the way up to parents to Ph.D. active emissions who were working with some of these schools so you really needed to provide a variety of different levels of information.

I applaud the working group for their recommendations on that, I think they truly made it a successful venture.

(Slide)

MR. WAYLAND: The fifth recommendation is we should establish a Federal Interagency Coordination. I think we agree with that and there are processes in place for that already.

The Section 504 the Toxics Substance Control Act, EPA is directed to seek the advice of

the Department of Education and HHS about developing and issuing Federal guidelines.

We heard earlier today that the voluntary school siting draft has just gone out and that is a good example of EPA working with Department of Education and others to try to jointly issue recommendations and guidance on environmental issues that relate to schools.

I think there is more work in that that has come about in the last few years than maybe previously but I do think, I know EPA and HHS have reconvened a working group of these Federal Agencies to address some of these issues with schools and siting and again the draft report just came out today and we look forward to comments on that.

But, I do think there is a lot of work that could still be done there and we don't disagree that there needs to be more Federal interagency coordination on these issues. Is the school project started? We talked to the Department of Education there was some interaction but I think we will all agree it could have been more and we could have had more interaction with them and tried to improve upon that.

So, I think that is a lesson we have learned throughout this process and we are going to be working closely with the Office of Children's Health and others as we do community based projects. How do we roll in some of these other Federal Agencies and make sure that we are working together on those and partnering?

(Slide)

MR. WAYLAND: The sixth recommendation was that we should provide findings from the School Air Toxics Program to the EPA's Child Health Protection Advisory Committee, the CHPAC School Siting Task Group.

We did meet with CHPAC twice during the process of the initial screening to lay out what we were doing and then the plan I think they were very interested and they were already well down the road of coming up with their draft school siting guidelines, so we did not have results to share with them at the time before they came out with their draft school siting guidelines.

But one of the things that we agreed to was that as soon as the individual school reports come out and the final project summary is out we will come back to CHPAC and present those results because we do think it is valuable. I don't think it is going to drastically change the work that they have done. They have done some tremendous work I think in putting the school siting guidelines together.

But it may further support some of their recommendations by seeing some of the information that comes from the school's air toxics study. So we are going to continue to work with them and once we get the results there and we can sit down and we can brief CHPAC, then there will be a decision about do we need to convene a new group or reconvene the school siting task group? Is that appropriate or not?

I think we have been sharing the individual reports with them as we have shared them with the public but once the final project is done next summer, I have talked with Peter Pervock* and others in Children's Health we do want to sit down and have a formal meeting with the CHPAC and kind of walk through those findings and get their recommendations about how they think we should move on from there.

(Slide)

MR. WAYLAND: The seventh recommendation was we should form collaborative partnerships with external stakeholders to ensure appropriate funding of such interaction.

I think this is one where again we also agree with the overall recommendation and I think we recognize that we could have done more with this but we were also constrained. As I have said a couple of times, this project came up very quickly. It came up at the Administrator's confirmation hearing, within 30 days from that we were on the ground with a plan to go out and do this monitoring at the schools.

We took the existing resources we had from the community scale project and we said we are going to use that for the school project. But we were hand tied a little bit about how flexible we could be with those resources and so we couldn't get money to some of the community groups and some of the local agencies to do things beyond just monitoring that would have been helpful on this project.

I think that is one of the things I think we really learned along the way where we had some of those relationships that worked well, where money would have been helpful to have given to some of the community groups and worked with them and said, can you help us communicate what we are doing and why we are doing it and when we find the results it would have made some of the school areas go a lot better.

Where we had that I think things went great, I don't have any complaints. But again, this gets back to what we are going to do in the community scale grants to earmark that specific amount of money in those grants to go towards that so I think that will eliminate this problem in the future as we continue to work with communities.

We will have it specifically targeted and not have to kind of do it on a volunteer basis. Money always brings more people to the table than just asking, so I think it will really help a lot in the grants process.

(Slide)

MR. WAYLAND: The eighth one was we should coordinate with other agencies involved in environmental health. To some extent we did that. As I said earlier, we had a lot of engagement with the PEHSU, pediatric environmental health units and also with CDC and the ATSDR folks on the communications aspects.

We specifically sat down with ATSDR for a day and talked about risk communication and how do you communicate taking one sample when you are looking at long term 70 year cancer risks and they gave us a lot of insight about how to look at short term thresholds and long term thresholds and make sure that we were communicating those in a consistent fashion.

So we did reach out to those folks and the PEHSUs were great. They came back and said, you need to put this in a sixth grade level at least for some people because you need to make it not a --- but you need to make it that is easy to understand.

So we went over with them and shared language with them and they came back with us on the website on many instances to kind of help us do that, but we can always do more.

I don't think anybody would say we did everything perfectly so I think we fully agree that we need to continue to engage with these groups especially in the field of air toxics because there is so much, it is so difficult to communicate because of the nature of it compared to some of the other things we do like criteria pollutants, but we do need to continue to work with these groups.

One of the follow ups in that same recommendation was kind of how do we deal with children versus adults and I think we recognize the importance of considering children versus adults and I think a lot of the thresholds we deal with are based on they include children and adults in the analysis, some don't and where they didn't we recognize that and we recognize that you have to look at those thresholds a little differently when you are talking about children.

Someone said this morning about the difficulty in the multi pollutant and cumulative approaches, I mean the same thing happens here when you are looking at air toxics you are looking at children versus adults. The risks for many are the same, for some they are not it depends on the pollutant.

So one of the things we did when we went through individual studies with each school is we tried to take that into account when we wrote up our recommendations about what we should do and we even looked at the 95 percent --- above the mean. So you can see that we were very conservative when you look at the results of this is should we do more or did we feel that were fairly comfortable at our school?

Also, I just want to make sure in this point where we found something in the few schools we have found something, we are going to go back and do more monitoring, we are working closely with the State and local agencies and in some cases we already have mitigation steps in the process. There are some schools in Ohio where the State and the local agencies already going after certain sources to reduce the emissions from some of the pollutants that we found.

These were pollutants that they knew about before but we confirmed with our monitoring that they were still there and they are going to be going in and doing mitigation procedures to actually reduce those levels.

So I think there is no doubt that where we find something EPA will take full action and work with the State or local agency depending on the nature of the source. If it is a Federally enforceable issue obviously EPA has jurisdiction. If it is a local permitting issue we have to work with the local agency because they have the local jurisdiction.

(Slide)

MR. WAYLAND: The ninth recommendation was we should expand the scope of its air toxics monitoring program at schools. We don't disagree that broader is better.

The focus of this study was to look at ambient air outside of schools and we tried to stay on task with that and to continue to look at outdoor air. Having indoor air sampling obviously would

compliment the outdoor air sampling but it brings a difference to the challenges that are unique to indoor monitoring and that was not part of this study.

I think obviously if we find a problem at a school that we think warrants indoor sampling, EPA has the wear with all at its Regional Offices and Headquarters to do some additional indoor sampling and I think we will be working very closely with the Office of Indoor Air as well as with our Regional Offices where that is warranted we will look into that.

It is not like EPA does not do indoor sampling, there are several cases in New York and other places where we have done indoor sampling at the request of agencies to determine a source of a problem.

What we are trying to do here is determine is it an outdoor ambient problem and if so is that a problem that also would potentially be an indoor problem? As an example, ozone outdoors is not usually an indoor problem because ozone reacts so quickly that inside it is not much of a problem.

Fine particulars, for example, if you had that outside there is a good chance you are going to have it inside because it does seep in through just about every crevice. So depending on the nature of the pollutant we find if there is a case to go back at an area of concern and continue to do more we will consider the idea of looking indoor air as well and working with the Indoor Air Office.

(Slide)

MR. WAYLAND: Number 10, we should include Tribal schools or communities with an Indian country and future air toxics finding projects. This was a recommendation that came out early on and we took it to heart right away. We immediately went and added two Tribal schools to the list of 63 schools, that goes to 65.

But in addition we went a little farther on the Tribal Program. We set up a process through the TAMS Center which is the Tribal Air Monitoring Support Center to reuse the monitoring equipment at the schools that we had.

So what happens is when those two schools are done all the monitoring equipment goes back to the TAMS Center. The TAMS Center then farms it out to the next two sets of schools in Tribal country that might have an interest and when they are done it comes back and it gets shipped out to two more schools.

So we can do that through the Tribal Program, we cannot really do it through the State and local agencies, it is just too massive but the nice thing about having a TAMS Center and the way the Tribal system is set up is we can actually do that.

So the Tribal monitoring is going to be ongoing for many years. We are going to just rotate that equipment around and use it over and over and we have been able to fund the TAMS Center with some supplemental resources to help them kind of manage that.

So we have already finished the two schools, we are now in the process of having two more schools looked at in Tribal country and then again we will have two more after that. So that was an excellent recommendation and one that I was happy we could move quickly on.

(Slide)

MR. WAYLAND: EPA should include demographic data, the communities around the selected schools and its final report of Phase 1 School Air Toxics Monitoring Initiative.

Dr. Mohai from Michigan made this recommendation and he had been doing some independent work himself on that and when I talked to Paul about what he was doing he shared that information with us at EPA and it was really fascinating work.

So one of the things we are going to do is make sure we include the demographics work in our final report. So when we come out with the final report for the project we will be looking at demographics for each of the schools and what happened at those schools where we find problems and how that looked demographically.

So, again another recommendation that we think we can address fairly straight forward in the final report.

(Slide)

MR. WAYLAND: Number 12, we should identify areas of uncertainty about the data, analytical results. Uncertainty is always a big word especially with air toxics, it is not a perfect science there is a fair level of uncertainty.

We have tried to deal with that by looking at various aspects in the data collection process. For example, we looked at source activities. As I said, we are going back to some schools where the nearby sources weren't operating at capacity.

So we took some of that uncertainty out by saying if they are not operating at capacity we will go back. We have looked at meteorological conditions, so we monitored every day we took meteorological data we took a sample but we also took meteorological measurements every day for six months and some of them even longer at individual schools.

So then we could look at the day's sample and determine where the day's sample consisted with what would be kind of normal meteorological patterns at that school throughout a year and cases where that was not the case we will go back and look at monitoring because we don't think the sample days were represented.

But we have a pretty good database now, meteorological data, to show that on many of the schools the wind directions and so forth were very consistent with what they see most of the time at that school, so we tried to take some of that uncertainty out of it.

As I already said where there was some uncertainty about, well children are impacted differently than adults we are trying to address that in the individual school reports. But I will be honest, there is a fair amount of uncertainty in that analysis even when you talk to risk analysts at CDC and others there is still some unknowns out there with what levels may mean for small children versus older children.

It is not like some pollutants where you can put people in a chamber and you can test them for ozone and things and see what their reaction is, you don't want to put people in a chamber and test them for air toxics so a lot of this is based on research over years and we are trying to address some of that uncertainty in our findings by saying, there is an element of uncertainty here and here is an element of caution that we took in the analysis, so we still feel safe or we don't feel safe depending on that extra element of caution we put into the analysis.

(Slide)

MR. WAYLAND: Number 13 was we should develop and communicate detailed incompetents of protocols, pertinent to future phases. One of the nice things that came out of this program was we did have consistent monitoring protocols.

We used the same protocols that were out there from the National Air Toxics Trend Stations, the NATTS site and all that is out there on the website that is listed there, but what this is if you are going to do air toxics monitoring these are the protocols you need to follow.

At every site that we monitor for the schools we use the same protocols, so everything was consistent from school to school and I think that was really helpful when we started seeing some interesting results we couldn't say, oh well it is because they chose a different approach than somebody else. Everything was exactly the same.

I think one of the things we recognized that for future projects it is critical to have consistency and minimum detect levels and things like that. So we are going to be going forward from here with these community scale air toxics grants suggesting that people do use consistent protocols and as part of their grant requirement they will tell us what protocol they are going to use.

We are going to highly recommend that they use the NATTS protocols that are already out there because they have been approved, they are peer reviewed, I think people will support that but we want to make sure that if you are going to do monitoring you do it in a credible fashion so that no one challenges the results afterwards.

(Slide)

MR. WAYLAND: EPA should provide caveats and disclaimers to its findings. This was basically a recommendation that came out that said at one point the working group wanted us to put on EPA's website that the working group had some concerns with some of the findings based on the uncertainties.

We went back and forth a little bit with the working group on this and we finally landed on the point that we acknowledge that there are uncertainties and the school air toxics website is an EPA website where we post our findings and our conclusions and it really does not represent other people's opinions of that work nor is it probably appropriate to put other people's opinions on the EPA website.

We are more than happy and I think we came to a consensus on this to link to if someone has a comment on the findings from our report we would link you that from our website but we would not put endorsements or not endorsements of other groups on the EPA website because it just didn't seem appropriate.

Again, I think we kind of worked that out finally by the end and I think the working group is happy that we would be able to link to anyone who had a disagreement or an agreement with what we

had found. We would just provide that under other links on the website but not put it front and center as though EPA was saying, well yeah we agree or disagree with this.

The website is basically posting of the information and people are free to make their choices about whether they agree or disagree with those findings. Again, a little bit back and forth but I think we came to an agreement on that one.

We also agree that the finding in 65 schools doesn't tell us a whole lot about the other 128,000 and I know Paul Mohai had that comment about, what does that mean? It really doesn't mean much of anything.

What it means is that we looked at some of the highest risk schools that we could based on USA Today's analysis based on our NATA analysis and a majority of those schools we have not found problems but they are probably close to a third in the end that we found some reason to continue monitoring.

So I think what it says is that yes there are problems at some schools in this country, there are also a lot of schools where we don't problems but the 128,000 that are out there I don't think you could draw a relationship between a 65 school screening study and the other 128,000 nor do we want to try to draw that conclusion.

So we want to be very clear that this was a screening study and it is what it is. I wouldn't extrapolate it further to say that a third of the 128,000 schools are bad or anything like that. I think as we go through the community scale grants we will continue to see more schools looked at and more communities and we will start to gather a better picture over time.

(Slide)

MR. WAYLAND: Getting near the end here. We should evaluate cumulative exposures in its school air toxics monitoring model.

We don't disagree with that either. Cumulative exposures are a big issue and I think we have heard a lot today that they are difficult to do. Where we could that, where we had a target pollutant at an individual school that obviously is the primary pollutant we were looking at.

But if we were looking at manganese, we got measurements for all the metals at that school because that is the way the monitoring is carried out. We looked at risks from all those metals not just manganese.

So in many ways we did look at multiple pollutants and where we could do cumulative analysis we tried to do that but it is a very difficult analysis to do and we state that in a lot of the school reports that we did as much as we could on this but it is very difficult to do some of that and there are not a lot of tools out there to do some of that work.

There is a lot of work being developed right now that I think will pay dividends down the road for all of us in this idea of cumulative exposure and cumulative analysis but we did what we could with what we had at this point and I think the working group was fairly understanding that there are limitations based on what we could do but we are very pleased with what we could provide so far.

(Slide)

MR. WAYLAND: We should clarify NEJAC's role in evaluating any and/or all protocols mentioned above. I think as Vernice said, we had a good follow up meeting a couple weeks ago to kind of clarify the roles of the working group and NEJAC and I think we had a cleansing of the spirits, if you will, and it really was a positive meeting. I think we all realized that we needed to provide a clearer charge and we needed more frequent interaction with the working group.

I was very pleased with how all that came out and I think as a result we came up with two new items that we are going to follow through with the working group.

This project started a little rough, I will be honest, but by the end I think we were all on board and we recognize the importance of communication and being very clear in what we expect the working group what their charge was and they being clear back to us if they had concerns about that charge and want to amend that charge making sure we were all on the same page.

Once we got on that same page, everything was working great but it just took a little while to get there.

(Slide)

MR. WAYLAND: Next to last or close to next to last, we should fully employ the strength of the regulatory clout as needed to mitigate pollution sources around schools.

I don't disagree at all with this one. I think EPA is fully supportive of if we find something at one of these schools we are going to work hand in hand with the State agencies, the local agencies,

the community to mitigate the problems.

We have been working closely with the Office of Enforcement and Compliance at EPA, OECA where we have Federal issues. We have been working with State agencies, as I said one of the schools in Ohio already mitigation procedures in place and we are going to continue to monitor at that school just so you know to see if those mitigation procedures actually work.

So we are not just going to say, okay they are going to do something and walk away, we are actually going to continue to monitor that school for the next year to make sure that these mitigation measures actually do show a reduction in manganese levels around that particular school.

We also agree, one of the follow ups in this recommendation was the use of SEP money and we agree, we think that SEP should be explored in the context of enforcement actions that may be taken in response to air quality issues that monitor schools. I mean it is a source of resources and where we find a problem if there is an enforcement action that money hopefully can be used and I think OECA is very supportive of that as well.

Finally, we are moving forward with a multi pollutant sector based approach at EPA. We are trying to deal with the MAP Program and the Residual Risk Program and all that and we have kind of an umbrella effort to move all that forward and we are linking the community scale air toxics monitoring initiative under that so that we can actually monitor in some places where we are doing these regulatory actions to see if we are actually getting the benefits that these regulatory rules are supposed to give us.

We have made great progress in reducing our toxics nationally. We recognize there are still hot pockets in local areas and that is what these community grants are going to help us to target and help us to figure out where these problems are be it at a school or be it somewhere else in the community.

(Slide)

MR. WAYLAND: We should actively engage schools and other community members in discussions about how to mitigate identified air quality problems.

I kind of addressed this a little bit earlier where we had some success in some schools where they were really energized, we talked to them about what we were doing, the principal came, the School Board came and they were like yes this great, I am going to tell my school and we are going to tell the teachers and students are going to know what is going on and they are going to see this equipment in the playground, they are going to know what it is all about.

I have to be honest, there were other schools where we went with the local agency and we talked to the School Board and they were, fine do your monitoring we don't care and so it just ended there and there was really no effort to get the school integrated more than just, yeah they are doing some project out there in the playground.

So I think where we had success we were very happy with that, where we didn't we were a little disappointed and I think one of the things that we want to try to do to the community scale grants is encourage that local interaction be it at a school or community to make sure people understand why we are there, why is monitoring going on in your community? What is the concern? The fact that if you had known about this concern somebody is here to try to address it finally.

If a tree falls in the woods and nobody is there does it make a noise? Well, if you are monitoring out there and nobody knows what you are monitoring for do they care? So we really want to make sure people know why this monitoring is going on and that we are there trying to solve a problem that affects them and their community and it is to their advantage to get engaged and be a part of this process.

(Slide)

MR. WAYLAND: And last but not least, the recommendation was EPA should seek the advice of the NEJAC about designing and implementing the next phase of the School Air Toxics Monitoring Project.

We really appreciate the work of the group and I think it has been tremendous in providing us some feedback and one of the things as I said earlier where we are kind of going in this next phase is we are not going to line up 65 more schools and just go right out and do those.

We are going to go to this community scale grant process which has an emphasis on schools as well as other areas and one of the things we have involved the working group in, the new charge we gave the working group, was to provide input into the RFP process for the criteria about how we should award these grants and what are the criteria and what should the ranking of these criteria be?

We have had an initial meeting with the working group, we have another one

coming up in about two weeks and we went from having these down kind of and just listed this criteria to after the initial meeting I am proud to say that the community scale aspects of the grant criteria are now the highest ones in the grant.

They are the top three or four of the criteria for someone coming in with a grant is how are you going to work with your local community? How much money are you going to basically put into communicating and working with that community and how are you going to, what kind of plan do you have for mitigation if you find a problem?

I think having been involved in this grant process for many years to me that is a tremendous change from where we have been where it is let's go out and do some cool monitoring and learn about new technology to let's go out and fix a problem, let's actually solve a problem that somebody had.

I want to give a lot of credit to the working group for pushing us in that direction and getting these kind of criteria built into the RFP that will go out in January and I think it will be very well received by the communities.

One thing I want to put on the table for all of you is these grants are limited to State and local agencies because it is the nature of the grant process but there is nothing in there that says a local community group or a State community group cannot partner with a State or local agency.

So I would encourage you to get the word out to your community groups and others to call up their local agency, call up their State agency, if you have an air toxics issue in your community that you want someone to address and say you should apply for one of these community scale grants, we would like to work with you on that.

They cannot be the primary because it has to be State or local but they can be a partner in that process and when the grant comes in funds can actually go to a local community group through this process to help them be involved in the project.

So I think this is a tremendous opportunity to get communities engaged and to get these local groups involved in monitoring projects and I think it will take us a long ways to where we need to be.

Finally, I just wanted to thank the School Air Toxics Group, I know we are not officially done we have a couple more charges, the second charge by the way was to help us with recommendations on what should be in the final report which will be coming out next summer and make sure that we have everything in there that the working group wants.

They put an extraordinary amount of time into this. We had a lot of calls back and forth, it was difficult at times, we didn't always agree but we always heard each other and we considered the points that each side raised and I think the working group really made a difference not only in this project but it made a difference in future projects that we are going to go forward with from a monitoring standpoint.

I think it opened a lot of people's eyes to the value of getting community engaged into a project early on. I think it helped me personally a lot in the BP oil spill response because we were dealing with a lot of communities in that response and my knowledge that I had gained of working with the School Air Toxics Group about the value of that I think paid off tremendously in my ability to work with some of the folks in the Gulf area and talk to them about the air quality work we were doing there.

So I really think you never know how much you are going to impact something and I think a lot of people in the working group think they had an impact on the school's project but I want to let them know they had an impact far beyond the school's project and it is going to be for future projects that EPA will do but it has already paid dividends in the oil spill response and the community scale grants that are yet to come.

So I just want to thank the working group, they have been great to work with and really provided us a lot of very helpful information. So, John I will turn it back to you.

Questions and Comments

MR. RIDGWAY: Thank you Chet. Take a breath, have a glass of water (laughter) that was good.

Off the record I just want to say, good golly what a bunch of troopers we have around here in the audience as well as around this table, so I just want to say thank you very, very much for putting up with the extended day today and it has been a long one.

So given that this council has given more advice to you than you probably were looking for initially, I am not going to ask for any more at this point unless there is a burning question of clarification. I think we have given a lot of comments already. Please a question only. Go ahead.

MR. KELLEY: Hilton Kelley, Community In-power and Development Association, Port Arthur, Texas on the Gulf Coast. I kept hearing that more could have been done, just briefly if you could describe what you mean by that. What else could have been done you think that could have enhanced the program?

MR. WAYLAND: And I will do it very briefly. More that could have been done, I think we could have gotten more engagement with the communities and we needed a way to get resources to those communities to get them a little more engaged with some of the local community groups.

A lot of them came to us and said, well any way we can get funding to help you communicate the message, unfortunately in this process we couldn't get the funding. Under the new process we will be able to do that.

That is where I think a lot more could have been done to get more engagement at the local community level.

MR. RIDGWAY: Okay, there are two cards up, that is it, no more than the two and then we are going to move to some final close-out comments. So first, Jolene you put your card down or you are up? Go ahead Jolene.

MS. CATRON: Thank you John, I have three questions. Jolene Catron, Wind River Alliance. You said that the TAMS is working through the NTOC and the RTOC, the National Tribal Operations Committee and Regional, is there any qualifiers for them to be working within their own communities to ensure these projects that are happening on the ground? Can Tribes apply for the CSATM grants and also is EPA thinking of pulling out a one page spread in USA Today to report your (laughter).

MR. WAYLAND: On the grants with Tribes I will have to follow up with you on that, I am not sure they can apply for these grants but I will check. On the other one, any Tribe can call up the TAMS Center and get on the list and work with us. Laura McKelvey is our Tribal representative in OAQPS and we are more than encouraged to have any Tribe that wants to work with the TAMS Center and get the equipment.

But I will have to follow up with you on the grants, I am not sure about the CSATM.

MS. CATRON: Okay, because the NTOC and the RTOC they don't operate in the public realm, they have closed meetings and so there is no community based action within.

MR. WAYLAND: Okay, I will follow up on that. On the USA Today, actually all joking aside sometimes good things come out of health situations and I think this has put a spotlight on air toxics. It has allowed us to do some things that we have been wanting to do, so I have no hard feelings about the USA Today story, I think it moved us in a good direction.

MR. RIDGWAY: Nicholas, you are the last one please be brief. Thank you.

MR. TARG: Hi, my name is Nicholas Targ, I am representing the American Bar Association with the Law Firm of Holland and I appreciate the opportunity with you about this and also what a marvelous job you have done, thanks for your presentation.

Question is about presumptive mitigations and whether you are developing on the website a list of presumptive mitigations and whether you will be reporting out further the kinds of mitigations that the schools are going to be implementing?

MR. WAYLAND: At this point we are not putting anything on there about presumptive mitigations because we don't want to tip our hand to what we might be doing and who we might be looking at specifically because at this point we are still zeroing in on some of the sources and as soon as someone knows where you are coming they all of sudden things get better real fast.

So we will be putting out anything that we find obviously and like in the case of Ohio, the State and local agencies are doing the mitigation right now because it is not a Federal permit issue it is a enforceable issue on a State and local permit and so some of that is already public on their information.

We will be making available any kind of mitigation stuff that comes in and gets done we will put it out there. We are just kind of holding off on the presumptive stuff right now until we are a little bit farther along and make sure we know who we are going after and what the problem actually is.

We got a little nervous even when we were doing the monitoring, we didn't tell everybody exactly what day we were doing the monitoring because we didn't want people changing operation schedules just because we were out monitoring that day.

MR. RIDGWAY: Thank you Chet you did a great job. Thank you very, very much. I am going to pass it over to Victoria who wanted to comment on a couple procedural things and then we will close out. Elizabeth, thank you go ahead.

MS. YEAMPIERRE: I have to say it is really hard to put 22 passionate people in a room and get them to pull back. It is a challenge but at the end of long days like today whenever we have these meetings I am always blown away by how I think of every single person in this room as a contemporary worrier and you may think that sounds corny but I mean it from the bottom of my heart that you come, you leave your families, you leave your job and you come here ready to deal and you come and you are brilliant and you are strategic and you are thinking out of the box and you are listening actively to the people that are coming before us.

You know how many times we go before hearings where people are not listening to us and you know they are not listening and you are all engaged on a level that is the reason why you are exhausted by the end of the day because it is not just intellectual but it is emotional and I know I can feel the energy and that everyone here is so respectful and so considerate and so thoughtful I think and so loving throughout this process is just something that is not usually talked about in these spaces but it needs to be recognized because I think we do this out of love for our communities.

So I just wanted to say that and I wanted to say that in front of the public because I don't know how many of you know that people give up a lot to do this. They don't get paid and this is just one day in the life of a NEJAC member between all of the phone calls, what a conference call involved and it is a just a piece of our lives.

So to have this collective of amazing people is really humbling and it is just a really wonderful thing. So I want to thank you from the bottom of my heart. I get into this emotional space but I just really want to thank you.

I think that today's meeting was extremely productive. It was a real learning experience and tomorrow what I would like you to do is I want you to really think tonight about those things that need to be covered that we didn't cover, those things that we should be moving on so that we discuss them tomorrow.

Don't bring them up when we are walking out of the door. Don't bring them up at the last minute. Some people are going to be leaving at different times so if there is something that you think needs to be put in that time piece where we have an opportunity to discuss it, if you could just think about it tonight and then share the information with Victoria so that we can cover it, I would really appreciate it.

MS. ROBINSON: I just wanted to do a follow up with Chet in terms of process. Again, thank you Chet very much for all this and thank your team which would be Laura and Candace for all they have done, I mean they have been wonderful.

Just a follow up, the work group has still been reconvened it is to address these two tasks kind of small tasks, one is identifying criteria for the RFP as well as to identify those elements it feels that the Agency needs to incorporate into its final report on all the schools.

The work group will be producing within the next month, two months, they will have a draft letter for the council which is the last bit of recommendations that will then come from the council.

The agencies are already apparently reacting to some of the input they are getting in this process of the work group. I just want to let you know there will be a letter coming some time in the next month or two months, probably in early January given the holidays with some draft recommendations for around these two topics, okay? If anybody has any questions about it let me know and I will provide some more information.

MS. YEAMPIERRE: So the meeting is adjourned for the day, see you tomorrow morning. Good night.

(Whereupon the meeting was adjourned at 5:53 p.m.)