

EPA

**Moderator: Victoria Robinson
August 26, 2010
12:00 p.m. CT**

Operator: Good afternoon. My name is Vanessa, and I will be your conference operator today. At this time, I would like to welcome everyone to the National Environmental Justice Advisory Council national public teleconference.

All lines have been placed on mute to prevent any background noise. Should anyone need assistance during the call, please press star then zero and an operator will be back online to assist you. Thank you.

I would now like to turn the call over to Ms. Victoria Robinson, Designated Federal Officer of NEJAC. Please, go ahead, ma'am.

Victoria Robinson: Thank you. Hi. Welcome everybody. Welcome to the 35th public meeting of the National Environmental Justice Advisory Council known as NEJAC. I'm Victoria Robinson and I am the Designated Federal Officer for the NEJAC.

As most of you know, the NEJAC is a federal advisory committee of the U.S. Environmental Protection Agency and has been providing advice to the agency for more than 16 years.

First, I'd like to go ahead and welcome and thank all the members of the council who took – who are taking time to participate in this important call. We know that three hours of your day is a pretty big – a significant contribution.

I'd also like to extend a thank you to all the members of the public who are listening. Again, three hours is a big time. We'd like to thank those who will be participating as presenters as well as those who will be providing a statement during the public comments portion of the meeting.

Now, more than 200 people have registered to listen to today's call. The purpose of today's call is to discuss two topics. One, the council will be discussing EPA's Plan EJ 2014. That's EPA's Plan Environmental Justice 2014 and EPA's charge on incorporating Environmental Justice into the permitting process.

Now, first, a bit of housekeeping, EPA's efforts for transparency and access to information is always ongoing. To that end, this teleconference meeting is being audio recorded and a verbatim transcript is being prepared. We're also preparing a written meeting summary and posting an MP3 file along with individual podcast segments within the next several weeks.

In the meantime, what we have is an encore audio recording will be available early next week in which you can play back the proceedings.

This, as such, I'm reminding all NEJAC members and presenters and those who are providing public comments that when you – it's your turn to speak, please state your name and affiliation clearly for the record before you begin speaking.

And also, please recognize that we have approximately 25 members of the council as well as a variety of public commenters, that to flow the conversation through the Chair – to get the Chair's attention so she can call your – (inaudible) can call your – recognize you to go ahead and give comment. That will help make the process flow smoother and also enable the note takers and the transcriber to be able to accurately reflect who's actually speaking.

Please also talk directly into your handset so that everybody can hear you. If you have – if you're on a cell phone, please put on mute when you're not speaking. There's often that feedback. If you're on a car particularly, make sure you put your phone on mute.

Let' see. And if you're on a speaker phone, please, again, put it on mute to reduce that time. So at this time, I would like to do a forum call to make sure we have all the members on board. I'm going to ask Aaron Bell, the NEJAC Program Manager to conduct the quorum call.

Please just – when he calls your name, go ahead and say, "Here."

We're getting feedback from background. If your – please put your phone on mute if you're not speaking.

Aaron, you want to go ahead?

Aaron Bell: Please acknowledge your presence when you hear your name.

Chuck Barlow.

Don Aragon.

Don Aragon: Yes.

Aaron Bell: Edith Pestana.

Male: I beg your pardon?

Aaron Bell: Elizabeth Yeampierre.

Elizabeth Yeampierre: Here.

Aaron Bell: Edith Pestana.

Edith Pestan): Present.

Aaron Bell: Hilton Kelley.

Langdon Marsh.

Langdon Marsh: Here.

Aaron Bell: John Ridgway.

John Ridgway: Here.

Aaron Bell: Jolene Catron.

Jolene Catron: Here.

Aaron Bell: Kathryn Brown.

Kathryn Brown: Here.

Aaron Bell: Kimberly Wasserman.

Kimberly Wasserman: Here.

Aaron Bell: Margaret May.

Margaret May: Here.

Aaron Bell: Nia Robinson.

Nicholas Targ.

Patricia Salkin.

Paul Mohai.

Paul Mohai: I'm here.

Aaron Bell: Peter Captain, Sr.

Savonala Horne.

Female: (Inaudible).

Aaron Bell: Shankar Prasad.

Stephanie Hall.

Stephanie Hall: Here.

Aaron Bell: Sue Briggum.

Sue Briggum: Here.

Aaron Bell: Teri Blanton.

Vernice Miller-Travis.

Vernice Miller-Travis: Here.

Aaron Bell: Vien Nguyen.

Vien Nguyen: Here.

Aaron Bell: Wynecta Fisher.

Thank you.

Victoria Robinson: OK. (I show) Don Aragon, Edith Pestana, Elizabeth Yeampierre, Langdon Marsh, John Ridgway, Jolene Catron, Kathy Brown, Kim Wasserman, Margaret May, Paul Mohai, Stephanie Hall, Sue Briggum, Vernice Miller-Travis and Vien Nguyen.

Did I miss any members?

Paul Mohai: Victoria, this is Paul. I'm wondering if there's a bit of a glitch here and that this is the reason why some of the other members haven't called in. Your message yesterday gave a different caller ID than the one that Aaron sent out today.

(Inaudible) when I was – when I tried calling in the one you sent out yesterday, the operator said that it was invalid. So I'm wondering if they may be trying to get through on that, on the ID number you sent yesterday and can't get through.

Victoria Robinson: OK. We'll go ahead and have Lisa and our contractor also track down those individuals—Chuck, (inaudible), Nicholas, Patty, Peter, Savi, Shankar, Teri and Wynecta, OK?

Savi: I'm on the line. It's Savi.

Victoria Robinson: Wonderful. Thanks, Savi.

We have quorum. We have 15 members present. So we're going to go ahead and get started. I'm going to now turn the – this portion of the agenda over to our Chair Elizabeth Yeampierre.

Elizabeth Yeampierre: Well, thank you, Victoria.

And welcome, bienvenidos to all the members and to members of the community that take time out from their really busy schedules to address issues that are so important to our communities.

This is a very different and exciting meeting, we've had quite a few of those this year, but this is the beginning of us really thinking deep about how we're going to address environmental justice into permitting and rule-making. And so it is actually not just

the 35th public meeting, but it's also a really historical time for us. So I hope that we approach that with that thinking.

Moving forward, the agenda is really packed. There's a lot to do and a very short amount of time to do it. So I would underline what Victoria had said in terms of the members keeping their comments to at least three minutes and making sure that there's time for everyone to weigh in, hopefully, not repeat things that have already been said and really sort of speak and stick to the issue at hand.

We also want to make sure that we make time for the public to weigh in. As you all know, there are a lot of grassroots organizations out there with little or no resources really working hard to address the legacy of injustice in our communities and taking three hours from their schedules to listen and weigh in on issues that are essential to the ability of our communities to thrive is something that has to be respected.

So I want to welcome all of you. And there are some announcements that I want to make. The EPA charge on incorporating environmental justice is to – permitting is going to be chaired by a Vice-Chair, John Ridgway. I'm very excited about that.

John really is the kind of a hardworking person that brings – will bring to this effort the kind of energy and thinking that is necessary so that we can actually get quick results on this important charge.

And I also want to announce that Kim Wasserman who heads up Little Village for Environmental Justice in Chicago and is on our NEJAC as our advisory counsel is going to be chairing the Plan EJ 2014 workgroup. I'm excited about that. Kim, with her grassroots experience, working both on the ground and on policy issues, I think is ideal for chairing that workgroup as well.

So let's begin. You've all received materials from Aaron on both Plan EJ 2014 and on the permitting. And I hope you've reviewed it so we can get started right away on getting feedback unless Victoria or John want to make any comments at this point.

John Ridgway: There are none from John.

Victoria Robinson: None from Victoria. Go ahead.

Elizabeth Yeampierre: OK. So we can begin on Plan EJ 2014. I reviewed the comments that were made at the previous NEJAC meeting and I was really impressed by some of the

comments that were made by the members. This would be a good time for us to provide the workgroup with some guidance on how they can move forward.

At the end of this process, the NEJAC will make the final recommendations after the workgroups have reported back to us. But this would be a good opportunity to look at the discussion page that's been provided to you in advance and to look at some of the guideline criteria issues that were presented on that page and respond to some of those questions so that the group can move forward.

And just to repeat them for you, there was – the questions are, "Are the five cross agency focus areas the correct ones? Can EPA strengthen specific actions within the five cross agency focus areas? And, how would you prioritize the five cross agency focus areas.

The plan, outline, five areas—incorporating environmental justice into rule-making; considering environmental justice concerns in EPA's permitting process; accelerating compliance and enforcement initiatives; supporting community-based actions; and fostering administration-wide action on environmental justice.

So let's begin.

Victoria Robinson: I believe, Charles is going to give a little overview for about five minutes, Elizabeth?

Elizabeth Yeampierre: OK, great. Go ahead, Charles. Is Charles on the call?

Charles Lee: Hi everyone. Good afternoon for the participants. I want to start by saying that EPA really wants to get your comments to the plan. And we see that the comments from both the NEJAC members and all members of the public as being really important to making this as effective as possible.

What I'm going to do today is to – one, is to walk through the plan and then to talk a little bit on the question that you proposed to us at the NEJAC meeting which is the relationship between the Plan EJ 2014 and the EPA strategic plan.

So in terms of walking through the plan on 2014, the overall goals of the plan are to protect the environmental health of overburdened communities. Two, is to empower communities to take action to improve their health and environment. And three, is to establish partnerships with local state, tribal, and federal government – government and organizations to achieve healthy and sustainable communities.

Elizabeth gave you the five – no, let me backtrack a little bit – the plan is structured into three parts. The first one is cross agency focus areas which are a number of issues which Elizabeth kind of described as being something that we want the entire agency, all the offices to focus on.

And these – Elizabeth said was rule-making, permitting, and compliance and enforcement, community-based action, and inter-agency actions.

The second are tool development in the area of science, law, information and resources.

Then thirdly are the program-specific activities, things like brown fields or urban waters or air toxics and there are many, many others.

Some examples of the cross agency activities are, one, in terms of rule-making, recently EPA issued its guidance on incorporating environmental justice into the action development process which is a rule-making process here at EPA. And we look forward to implementing that and the input on how this step will be really appreciated.

Secondly, permitting is the – our first step in getting started on this is to pose a number of questions which you will be discussing today to the NEJAC.

Thirdly, in terms of enforcement and compliance, EPA addresses an enforcement and compliant – environmental justice and enforcement and compliance in three ways. The first is the selection of a national enforcement initiatives. Secondly, in terms of targeting, where we would do our enforcement, inspections, and other activities; and then thirdly, in terms of how we set our penalties.

And then in terms of cross agency or community-based activities, what we're seeking to do is to really look at across the board all of our community-based activities and make sure that there's better coordination, better leveraging of resources, better partnerships and then of course, better results, outcomes in communities.

And lastly, inter-agency administration-wide efforts, CEQ Chairperson, Nancy Sutley, at the last NEJAC meeting announced Administrator Jackson will be convening or reconvening the inter-agency working group on environmental justice at the principals level in September.

So that's the quick walkthrough. The relationship of the Plan EJ 2014 to the EPA strategic plan is the following—the EPA strategic plan is a five-year plan. It goes from 2010 to 2015. And that is the overarching plan around which the entire agency carries out its work per the administrator's priorities.

And within there there is a number of cross-cutting strategies which will be carried out by all offices. And one of those is to work through – to work – to advance environmental justice and children's health. And what we are now doing is developing an action plan. The action plan is related to that cross-cutting strategy.

So this is where Plan EJ 2014 comes in. EJ 2014 is an implementation plan if you will. These are the steps that we are going to take to carry out the strategic plans. And at some point after which we get everyone's input and we put together all the specific steps within the ...

Male: (Inaudible).

Charles Lee: ... implementation in the Plan EJ 2014, we will have the kind of deliverable that we will use to carry out that larger strategic plan. So I want to stop there. And I guess I'll turn it back to you, Elizabeth.

Elizabeth Yeampierre: Thank you, Charles. Does anyone have any questions on what Charles just presented? I don't have any visual queues, so this is a little challenging sometimes.

OK. If there are no questions, let's move forward to addressing some of the questions that were raised in the discussion framework. And those questions were specifically about the cross-agency focus areas and how EPA can strengthen specific actions and how we can prioritize.

But I'm certain that based on what I read from the comments of the advisory council members from our earlier meeting that there may be other recommendations as well.

Vien Nguyen: So how shall we proceed, Madam Chair?

Elizabeth Yeampierre: I'd like to hear from the advisory council, to hear what questions or comments they'd like to make on this so that we could provide the workgroup with guidance.

Vien Nguyen: May I begin then, with just the cross agency focus area, if possible?

Elizabeth Yeampierre: Who's this?

Victoria Robinson: Can you introduce yourself? We can barely hear you.

Vien Nguyen: Yes. This is Vien Nguyen.

Elizabeth Yeampierre: Hi, father, if you could just state your name a little louder and then make your comment?

Vien Nguyen: OK. This is Vien Nguyen.

Elizabeth Yeampierre: Thank you.

Vien Nguyen: And looking at the five cross agency focus areas, one of the things that I feel that I – I feel lacking is the educational piece. I don't know how it would fit in, but if we only do enforcement and rules and regulations, but at the state and at the municipal level or tribal level, there's no change of mind and heart so that environmental justice is integral to the thinking as second nature to the people in charge of implementing this, there will always be an attempt to push back or to try to skirt the policy.

And so I don't know how we can include that in there so that I know it's a long-term thing, but somehow – so the people could actually, would reach the point where everyone would see this as a valuable value to uphold instead of having – always having to have external imposition of rules and regulations. I don't know if I made myself clear on that.

Elizabeth Yeampierre: Let me – let's (inaudible) that back to you and let me know if this is what you're trying to say.

What I'm hearing you say and anyone can jump in and correct me is that there is a disconnect between what the federal agencies are trying to do and what may happen on a local and state level that is inconsistent with those environmental justice objectives and how we can have more consistency; what can make – well, what may be the federal government can do to ensure that there is consistency throughout and that there's a commitment to that or am I – did I misunderstand?

Vien Nguyen: You're very close to it.

I would say that there needs to be an educational component so that people would come to understand and then come to take to heart the value – the environmental justice values.

Elizabeth Yeampierre: OK. Thank you.

Stephanie Hall: This is Stephanie Hall of Valero. I'd like to make a comment.

Elizabeth Yeampierre: Yes, Stephanie.

Stephanie Hall: This is kind of stemming from the comment that was just shared by our fellow council member. I understand and can appreciate that comment. I think that it is very difficult to legislate matters of the heart which is seen by – which environmental justices may be seen by some as such.

And so maybe a question, an overarching question we should be asking ourselves on to determine how best to incorporate it in our comments is, "How do you encourage environmental justice?" What kind of incentive can be offered in connection with the desire for regulation to actually encourage it? It's somewhat of a carrot versus stick approach in many respects.

So I just throw that question out there for the council to think about as we dig into the details of trying to provide useful commentary and advice back to EPA.

Elizabeth Yeampierre: Thank you, Stephanie.

Edith Pestana: Hi, this is Edith Pestana from Connecticut.

Elizabeth Yeampierre: Edith, could you repeat your full name please, a little louder?

Edith Pestana: Edith Pestana from Connecticut.

Elizabeth Yeampierre: Thank you.

Edith Pestana: Can you hear me? OK.

Yes. I just have – I have two comments. One is that you can actually legislate behavior. You can legislate that certain activities require the businesses that are conducting the activity or the government that's conducting the activity to provide significant outreach efforts.

You can legislate that, in detail, "What it is that you want in that legislation?" So that actually can be – and it's not really as difficult as it may seem. That's my first question and I think that that needs to be seriously considered in the EJ Plan as well as in the permitting plan.

My other comment is that – and it's really a (common) question is, "Do we really think that we can submit a final response to the administrator by October 1st?" And that's – and I'll leave you with that.

I don't really think we have enough time for the charges.

Elizabeth Yeampierre: Thank you.

John Ridgway: Madam Chair, John Ridgway. I have a question to clarify.

Elizabeth Yeampierre: John?

John Ridgway: Yes, John Ridgway from Washington State. I'd like to ask Father Vien to clarify when he's asking or noting that there's – education seems to be missing in the five focus areas.

Is he thinking about education of EPA or education in a broader sense to the many communities, states, tribes, et cetera that are involved with the work that EPA is doing as well.

Vien Nguyen: It is in the broader sense, John. And even with the people and the children still in school.

John Ridgway: Thank you.

Elizabeth Yeampierre: If you take what Father Vien and what Stephanie both said, it sounds like there is a recommendation there. I don't if anyone else sees it, but it would seem to me as though you might be able to tie federal (data) to state and local initiatives so that there is an educational component and there are incentives to incorporating environmental justice in to state and local initiatives.

Any other members of the council? We've got – just so you know, we've got some time. We've got until 2:10 and at that time, John will be chairing the permitting part of the meeting. So we've got some time.

Vernice Miller-Travis: This is Vernice. Elizabeth, I just have a question. Should we hold our permitting questions until 2:10 or are you taking general ...?

Elizabeth Yeampierre: Yes. I think unless they are particularly relevant to this discussion which is possible, that it would be helpful to hold them until that part of the meeting. So if you think that it's something that the group that's going to be working on Plan EJ 2014 needs to consider, then I would urge you to put it on the table.

Vernice Miller-Travis: OK. I'll try and make it as generic as possible. At least in my mind, it's generic.

So I'm looking at the piece on page six of the document that was sent to us. It says, "The initial focus of this work will be on EPA issued permits that are important to the public health and welfare of overburdened communities."

Does that mean – and this is the question for EPA really – does that mean you're not initially going to focus on permits that are issued by states (for) delegated authority because that's where most permits are issued? So that's one question.

The other question is, is generically about the rule-making piece which is the agency has hundreds of rule-makings that are going on right now as we're speaking. A big one on coal ash is coming up on Monday and going on for the next two weeks. Does this – when we called this plan EJ 2014, does that mean that the ultimate implementation of the plan is going to take off in 2014 or will you be kicking it off you know, between now and fiscal year 2014?

And I ask that question because as these rule-makings are happening now and as they're being finalized now, how do you integrate this plan EJ 2014, the permitting, the rule-making, the integrating EJ into agency actions, how do you integrate that into processes that are happening right now and that are going to have long-term regulatory repercussions for communities, for industries, for states going forward? How do we make sure that what we're trying to do now influences the process that's happening now and that really has a beneficial impact for communities going forward?

Is that generic enough, Elizabeth?

Elizabeth Yeampierre: No. That's extremely helpful.

Charles?

Charles Lee: Yes. There are two questions I think, if I heard it properly Vernice? The first one is you know, the – around the permitting. And I think that one should be addressed at the – during the permitting discussion because that specifically deals with the actual charge which is somewhat separate than the larger permitting strategy.

In terms of rule-making, are – and I guess that's the most generic question about plan EJ 2014. I guess, the way I would answer that is 2014 is just a marker. It's the 20th anniversary of the signing of the executive order on environmental justice.

And this is meant – that supposed to be like the – an important in the future where we would target a point where we will see how far we've come. So – and the implementation of this plan is starting now. And it's – and a lot of the things that are in it have already been started.

For example, the – in the situation – in the case of rule-making, you're absolutely right, there are hundreds of rules (inaudible). And the agency has already started to do EJ analysis and incorporated them into some of those rules, for example, the NO2 NAAQS rule, which was issued in the beginning of the year.

And the rule-making guidelines (I feel) that's existing now – that was issued is going to be implemented by all offices in the agency. We are also developing more guidance specifically of a technical nature.

And you know, more specifics we can get into, but I think that's the general overview.

Elizabeth Yeampierre: OK. Thank you, Charles.

Don Aragon: Elizabeth, this is Don Aragon.

I'm only getting every other word on some of what Charles is talking about. It's very hard to follow.

Elizabeth Yeampierre: Victoria, is that something that you can help Don with? I know there's a number. I think that if you, if you press star two zero, the operator may be able to help you to have a better connection.

Victoria Robinson: Yes. Elizabeth, Don, and everybody on the line, I think part of it there is we're hearing, even on our end, we're phones ring, we're hearing conversations and some background.

So if you're not talking, if you could put your phone on mute, that will help a lot in terms of – because I know Charles was right on top of the phone. And so, there shouldn't be any problem. But if you're hearing like every other word or portions of the sentences it's because the voice is being knocked out by another ambient sound.

So if everybody can just go on mute unless you're speaking, that would be very, very helpful, OK? Particularly, if you've got a phone ringing – if you're in a room where another phone is ringing kind of thing.

And then also if you are having a problem, as she said, you can contact the operator by pressing star two, I think to ...

Elizabeth Yeampierre: Star two, zero. The other thing guys is if you have – if you're using a landline and you've got a cell phone right next to it, it creates static. So, if you could your phones on mute, I think we'll be able to hear each other.

John, can you better now?

John Ridgway: Yes.

Elizabeth Yeampierre: OK. Great. All right. Any additional comments from the Advisory Council?

Nicholas Targ: Sure. This is Nicholas Targ.

Elizabeth Yeampierre: OK, Nicholas.

Nicholas Targ: Building on the – Father's question which or observations that there could usefully be an item that addresses hearts and minds that helps integrate more fully Environmental Justice into the work that different stakeholders are doing.

I believe this is an issue that we talked about at our meeting back in Washington. And under the first item cross-cutting agency focus, under the fourth sub-item supporting community-based action programs, we had discussed the possibility of broadening out that particular element to include issues of collaborative problem solving.

And that could include issues such as capital building, partnering, training. It could include issues such as broader integration efforts and, again, collaborative problem solving. That might be a way of addressing it. And I would put that forward.

The other element building off of something that Charles had said and that is the linkage between Plan EJ 2014 and the strategic plan. In order to cement that relationship, it would be helpful, I believe, to establish specific metrics or to establish the process by which specific metrics will be established addressing Environmental Justice under Plan 2014 and linking those up to the specific goals that are called out in the Agency's Strategy Plan.

That would help ensure both that we understand what in fact has been accomplished under Plan 2014. It gives the agency and others something to shoot for and establish that critical link between what's a generalized policy document and the specific (inaudible) goals that are called out under the strategic plan.

Elizabeth Yeampierre: Thank you, Nicholas.

Langdon Marsh: Hello. This is Lang Marsh.

Elizabeth Yeampierre: Lang.

Langdon Marsh: I have a few comments, one of them similar to Nick and I'll start with that as one of the questions we are given is what priorities would we assign among the five cross-cutting areas. And I think that the community based one should be at or near the top partly for the reasons that Father Vien and Nicholas both said.

But also because, I think that's unlike the other cross-cutting areas, that's where the rubber really hits the road. So that was my suggestion on priorities. And I also think that that area could be strengthened in the way Nick suggested by more emphasis on collaborative decision making and so on.

Another area of strengthening is in the compliance arena of making sure that fines and penalties to the extent possible are either through supplemental environmental projects or otherwise directed towards addressing the impacts that are caused by the violations in the communities in which they are located.

Another – like this really goes – the next time it goes to the completeness of the five cross-cutting areas, I think one area that's not given enough emphasis in this plan is

the investment area, EPA through the Clean Water – the Clean Drinking Water Funds and the Superfund and Brown fields programs invest a lot in communities.

And I think the linkages there – while they're made in the plan could be emphasized more. And with the notion that if possible some of those funds should be directed towards the kind of capacity building for collaboration, and decision making, and involvement by the community that NEJAC has been talking about for years.

And I know that's difficult, but I think if the plan doesn't make it a direction, then it's still going to happen very slowly, the use of funds for collaborative processes. Superfund can be used for community involvement and it's not a far step from that to doing the kind of broader based collaborations that we've been talking about.

And then the final comment I will just mention because I said at the last meeting, but I think the science arena that could be beefed up more in the plan to focus on inter-generational impacts and on the life cycle impact of projects and activities that affect communities. Thank you.

Elizabeth Yeampierre: Yes. Thank you, Lang. I really – your recommendations really resonate because you know, we're talking about the need to have inter-generational approaches, but also the capacity building is actually central to any collaborations because what happens often is that when the funds are made available for collaboration is that you find that groups that aren't necessarily Environmental Justice groups who want to access Environmental Justice funds partner with an EJ organization, but they are really leading the charge and not the grassroots organization.

So I think it's extremely important that the resources be made available to strengthen and lift those groups that are doing the work on the ground so that the partnerships are driven by Environmental Justice principles. So, thank you for that comment. Any other comments?

Kimberly Wasserman: Hi. This is Kim. And in lined with what you just talked about, I think one of the things for us that would be important is to talk about giving more support to things like the EJ Small Grants and the CARE Grants because I think that's one of the difficulties for organizations on the ground is that it is such a big fight right now with states loosing funding and foundations loosing funding.

Elizabeth Yeampierre: Kim, you're breaking up. Can you please repeat what you said? I'm sorry.

Kimberly Wasserman: I'm sorry about that.

Elizabeth Yeampierre: It's OK.

Kimberly Wasserman: I think one of the things that we would be looking to and on is to ask for more support of the EPA's Grant program ...

Elizabeth Yeampierre: Yes.

Kimberly Wasserman: ... because there is less funding out there to states and foundations. And so, I think it's important for EPA to up their funding if you know, the EJ Plan really is going to be able to support EJ groups on the ground. So, that's one thing.

And then the question I had was in regards to climate change and adaptation that being a part of this plan as well. I know we (had) had a conversation in our meeting in D.C. And we talked about that a little bit, but I was wondering where folks were at on that (inaudible).

Elizabeth Yeampierre: Thank you, Kim.

Kimberly Wasserman: (Inaudible).

Victoria Robinson: This is Victoria. Let me ask a question. Do you see that, Kim, that the climate change and adaptation is a separate line item or something that might be integrated across the five cross-cutting areas (in that one) because climate change is a broad topic, but what this plan is actually looking at, "OK, here is (inaudible), this is how we plan to approach it with these major functional areas if you will."

So, do you see that as something separate from these five functional areas or something that's really needed to be integrated and considered within each one of those items?

Kimberly Wasserman: I'm going to be a double advocate and say that I think it's a combination of both. But I'm open to suggestions.

Elizabeth Yeampierre: You know, Kim, this is Elizabeth, I you know, I was the person who has first thrown out the issue of climate change adaptation and resilience because particularly for waterfront communities, we are now faced with the issue of not only addressing

the traditional Environmental Justice concerns, but also preparing our community for potential storm surges and weather and incorporating that into planning and policy.

So I would, you know, I would support what you're saying and say that, in addition to incorporating it into everything that there also needs to be a separate look in case there's anything that was missed because it's something that is really going to impact our communities more than other communities. So that's what I would say.

But I want to, you know, – are there any other – any comments? Anyone who want to say something about that or about the collaborations or any of the issues that had been raised? There's been quite a few that have been actually really helpful.

Jolene Catron: This is Jolene Catron in Wyoming. I have a question, I'm not sure if it's simply a comment, but my question is about – and this goes back to our initial meeting that we had before the actual public comment, I mean, the public meeting in Washington D.C.

To what degree are we defining Environmental Justice and Environmental Justice concerns?

Elizabeth Yeampierre: Jolene, I heard only a part of your question. Could you repeat it, please?

Jolene Catron: Yes. I'm sorry.

Elizabeth Yeampierre: Sorry.

Jolene Catron: I've called in from a landline hoping that the connection would be better, but obviously it's not. My question is regarding to what level are we – is EPA defining Environmental Justice in this EJ 2014 Plan?

I am wondering because we had this discussion, the NEJAC Council had this discussion prior to the public meeting about what Environmental Justice means to us individually. And I think we need to be considering that and what are the tools being used to quantify what is meant be Environmental Justice and disproportionate impact.

And so, will EPA be using, for example the EJSEAT tool as part of this process?
How is EJ being defined I guess is my question?

Elizabeth Yeampierre: Victoria, Charles?

Charles Lee: Jolene, that's a great question. And I think that there are a lot of issues in there that are – issues like that are reflected in different aspects of the Plan EJ 2014. So, we need to get – we need to get – but the most important message that we want to send is that this is a – this plan is action oriented.

That we need to – we need to get the agency to take action that has results in communities. And we know a lot about how to identify those communities and you know, what the issues are. And so, that is the primary – that's the primary emphasis. And within the context of doing that, we should address those issues.

Elizabeth Yeampierre: Jolene?

Jolene Catron: OK. And then I have a follow on comment. I know that our Alaskan representative isn't on the call but one of the comments we received, a public comment from Nikos Pastos who is – I'm not sure if he just submitted a written comment or if he actually is going – is he on the call and he will be presenting his comments.

But the issues of Alaska representation and EPA consultation with native Alaska villages and I think that's something that needs to be paid attention to and looked into. I don't know enough about it, but I think because that's not whom I represent on the NEJAC, but I think it is a very important aspect of this whole EJ 2014 Plan.

Elizabeth Yeampierre: Jolene, just to support what you're saying and to say that we rarely hear from the people from Hawaii and Puerto Rico as well. And I think as an advisory council, we really need to make an effort to try to get, to learn about what some of the issues are in communities that are not represented on the NEJAC and may not have the resources to actually come to advisory council hearings.

So, I would just add that to what you're saying.

Jolene Catron: Thank you.

Elizabeth Yeampierre: OK. All right. Council members? We've got about 10 more minutes.

Sue Briggum: This is Sue Briggum. And I just wanted to make sure that we pick up the point, I think it was that Kim had mentioned before with regards to the comment on environmental grants to Environmental Justice communities, the importance of the CARE program.

She mentioned that we've had letters before. I think, it would be good to repeat that as well because it's a wonderfully robust program in terms of both capacity building and developing very protective collaborations.

Elizabeth Yeampierre: It is, Sue, I agree. I think it's one of the gems of the EPA and it really provide us with a template of how the work can get done in a way that can be meaningful not just for our communities, but for the agencies in terms of their involvement.

Sue Briggum: Thanks.

Victoria Robinson: Elizabeth, this is Victoria. I'd like to have about five minutes before you know, to 10, to kind of layout the next steps for where we're going to be going with this effort, OK?

Elizabeth Yeampierre: OK. So, what time do you have there, Victoria?

Victoria Robinson: I have 1:57, so about 13 minutes.

Elizabeth Yeampierre: Oh, OK. So I've got a different time here, it says 2:01 on my clock. So, thank you. Yes, I think, unless anyone has any additional comments that we should really move towards how we want to proceed so that the subgroup has some marching orders from us.

We have – you've raised issues having to do with incorporating an educational component. How do you incentives Environmental Justice was an overarching question raised by Stephanie. Edith talked about legislative – that behavior can be legislated. There was a discussion about collaborations and problem solving and how to create a matrix so that we know how the strategic plan and Plan EJ work together or don't.

Lang talked about prioritizing community-based work and building capacity into generational impacts, a discussion about this being action oriented. There were quite a few issues that – and certainly I've left some out. So, unless – is there anything else that you want to add?

John Ridgway: Elizabeth, this is John Ridgway. I'm wondering if Charles or Victoria could a comment to Edith's initial question about timing concerns on this.

Elizabeth Yeampierre: OK, great. Charles, the issue was raised that October 1st is too soon for a response.

John Ridgway: Let's think about that and we'll get back to you. I think the over – there are several questions here and I think the biggest one I want to share is the fact that we really want to move forward and finalize this so that in the spirit of what Vernice said before, we want to really get to implementations and action and results.

So to keep that in mind and you know, I ask that you'd be understanding of that. And so, you know, so we'll get back to you. We would hope that in the meantime, you'll try to make as much progress as possible.

And you know, one of the things that I will say is that sometimes the worst enemy of the good is the perfect. And you know, whatever you come up with is going to be very, very valuable.

Elizabeth Yeampierre: So, as we mentioned earlier on the call, Kim Wasserman is going to be chairing the Plan EJ 2014 group. I don't know if you have submitted your names to Victoria to indicate your interest in participating in that group. I'd be curious to know who's going to joining that group.

That group is going to be meeting bi-weekly. And as was mentioned earlier, the deadline is October 1st which is really right around the corner. So, I'd be – I'd like to know who so that Kim has an understanding of who's going to be part of this. And you can be strategic in terms of where your skills will be – will have the most benefit.

I know a lot of people have indicated an interest in participating in the permitting group. But this group is extremely important because while one deals with nuts and bolts. This I think speaks to really the heart of EJ.

Victoria Robinson: Elizabeth, this is Victoria. I want to layout a couple of things.

Elizabeth Yeampierre: OK.

Victoria Robinson: One, as the members know, there are two subgroups that will be addressing these, both the Plan EJ and the permitting charge. And given the timeframe and the fact that there is a lot of heavy lifting, if you will, between now and October 1st on Plan EJ and basically through October for the permitting preliminary response, that we're asking that people only serve on one or the other of the two subgroups.

Elizabeth Yeampierre: Right.

Victoria Robinson: And that the effort for the – the purpose of a subgroup is to actually kind of help frame and focus the council's intended response. They're going to be working – we'll have a contract to help support – actually drafting the response document working very closely with the subgroup and the members.

I've talked today with Kim. I know that we have several people who have already indicated that they were interested in the Plan EJ. Nicholas Targ had indicated that he would be interested in serving on this one. Elizabeth, you had also indicated that you were interested in serving on Plan EJ.

I believe Jolene, correct me if I'm wrong, you'd indicated when we were at the July meeting that you're interested.

Oh, before I go any further, one thing that we also have to do is we have to balance the perspective. We need to make sure that we have enough of the different perspectives from the council members represented on the council.

So we need to have some community-based members. We need to have at least one state government, at least one business and industry so that we have a broad spectrum of the stakeholder perspective that the council represents.

And I know that Stephanie had indicated she wanted to be on permitting but I've talked with Stephanie and I still have to see if she still would be interested and still doing Plan EJ. So, those are the names I have right now—Nicholas, Elizabeth, Jolene have indicated that they were interested on that.

Elizabeth Yeampierre: Well, Victoria what I would suggest is that as of today or you know, by the end of the call or maybe early tomorrow, you could send out an email to the members letting them know who has agreed to serve on each of the subgroups so that if people want to move from one to the other or want to participate, we'll know before the end of the week.

Unless people are willing to step up today and say, "You know, I want to serve on that particular committee." We really don't have a lot of time. And I'm assuming that there's going to be a meeting scheduled as early as next week. So, we really need to move on this quickly.

Victoria Robinson: All right. That's great. Good idea. So, unless we hear – unless there's anybody that – whose name I called and they say no, they're not available. This is really, I think, going to be a weekly call. Correct me if I'm wrong, Kimberly, that we (inaudible) – possibly this will be a weekly call for about an hour ...

Kimberly Wasserman: Yes, that's right.

Victoria Robinson: ... time for everybody – for all the members to just kind of go through this, layout the format for what the response should look like, and figure out who we need to have on the calls to actually answer questions (inaudible) Charles or things like that, related to that.

So, that's (inaudible) time commitment, at least about an hour to an hour and a half on a weekly basis for about four weeks.

Elizabeth Yeampierre: OK. Yes. And I hate to sound like a cheerleader but I think this is really exciting. I mean, this has never happened at EPA before. So I would encourage whoever is not on a group to participate in one of these and to make a decision really quickly. OK. So I think would this be a time to, I guess, you would be following up with Kim so that we could schedule the next meeting?

Victoria Robinson: Right. And well, what I'll do is, as you suggested, I'll send an email out to the members today indicating these are the two subgroups, these are the people who have indicated so far to me that they are interested in serving and those who, you know, we've already agreed to put on there and then, you know, that we have some opening spaces.

There's a limit to 12 maximum on each of these groups because of quorum requirements. But I – an ideal working group is really like five to seven, but if we have more who are truly interested and are willing to participate and have the time available to work on an accelerated schedule during the next month for Plan EJ or the next two months for the permitting one then that would be great.

Because all the members will be weighing in on the conversation, OK? Because these are going to be discussed in two public teleconference calls. So your voice will be heard. You'll be weighing in on it. So don't think that by not being on the subgroup that you won't be able to have your perspective.

Elizabeth Yeampierre: Right. Right. You know, the final recommendations will come from the advisory counsel. So I guess at this time, if there are no more comments I think that we could I think switch to the charge on incorporating EJ into permitting, Victoria?

Victoria Robinson: Yes.

Elizabeth Yeampierre: OK. So John Ridgway has generously agreed to chair this committee and this work group and he will be chairing this portion of the agenda. When John is done, John will change back, you know, pass the mike to me. And then we will be engaging the public in their comments. So, John?

John Ridgway: Thank you, Elizabeth. And good afternoon, everybody. What I'd like to do here is give just a very quick verbal outline of where I think we'll go in this conversation from an agenda standpoint, a little more detail. And we'll have a couple of presentations and then there'll be ample time for the council to ask questions and provide us some clarifications, et cetera.

So the plan is to go until, I believe we have 3:30 Eastern Time to cover this permit stuff. So the first thing is we're going to hear from Charles for a few minutes, so just again, a little bit of an overview on the charge here.

And then we're going to hear from Suzi Ruhl with EPA. And I understand she's going to give about 10 minutes of a legal framework background for us, somewhere around there, time-wise.

And then I again, will just quickly review the timeline of this charge and how we're going to cut through it and then I'll talk a little bit about what the subgroup's role is going to be as I understand this, and what the council's role will be after the subgroup passes the work back on to the council.

So with that, I'll ask for Charles to step up to the phone and again, give us just a general overview of this charge and then if we have any questions, we'll let you know, right away. Thanks, Charles.

Charles Lee: That's John passing the mike over tome.

Female: Yes. Don't drop the baton.

Charles Lee: OK. Thank you, John. I'm going to be real quick. And because I think we really want to dive into the substance of this, one way to look at this is that you are, we hope that the NEJAC is a very important part of the implementation of that cross – of the development and the implementation of that cross-agency focal area around permit – around incorporating environmental justice into permitting. And so this is going to a long-term effort and we're just getting started.

And the charge that we gave you is really just to get all of us started (inaudible). And you know, the thing to keep (an eye on) is the, you know, we are – this is a really daunting era. It's enormously complex both in terms of the types of premise, the types of issues, the type of legal policy and technical questions that are associated with them and then the kinds of players that are involved. And it's much more than EPA or other federal agencies, the state, tribal and local government and multiple groups of different stakeholders.

So this is like I said to get us started. And so the – that's why the – it will be enormously helpful for EPA to hear from you around the – on what you think will be what we should be concentrating, what we should be focusing on. And the way we chose (a frame) that would be types of permits. And this now speaks a very (inaudible) question.

The first question is just to say, you know, "What are the EPA – type of EPA issue permits that EPA should focus in the context of those three questions, into three questions which we will be discussing today? The first is being, you know, the (inaudible) ones that are (inaudible) to communities; second, which will have the greatest environmental and health benefits or impact; and then the third would be, you know, by virtue of the permit structure and the processes, otherwise most amenable for incorporating environmental justice.

The second one is similarly a similar question but it's not just EPA that covers then the vast majority of premise which are not issued by EPA. And then, it focuses on what we should do to not just the types but the players that need to be involved in engaging to address those – that types that you recommend.

So that's the overview. And John, if you want, I can answer some questions. But I think that it would be really good to dive into what the substance is.

John Ridgway: Thank you, Charles. On that advice, unless there are any burning questions for clarifying what Charles said, speak up now and/or we'll have a chance to get to you a little later before we bring Suzi Ruhl on next.

Vernice Miller-Travis: This is Vernice. So I just want to ask if you all are planning, this workgroup is planning to review the work that the NEJAC has produced in the past on permitting and our recommendations and our reports?

John Ridgway: This is John and the answer is yes. I expect that the subgroup will absolutely need to start by getting familiar with those reports and I'll site those a little more specifically in a moment.

Vernice Miller-Travis: Thanks, John.

John Ridgway: Yes.

Sue Briggum: And, John, this is Sue Briggum. I have a clarifying question.

John Ridgway: Thanks, Sue, go ahead.

Sue Briggum: I'm not sure I understand what the phrase EPA issued permit means. And that's important because that's the classification that's being evaluated in all three questions. Does that mean only the individual facility permits that EPA itself directly will be administering through regional staff or does it mean the permitting programs where EPA sets out the specific permit criteria and then sometimes the state pick it up and in a few instances, they don't. And EPA enforces directly because that would give us a much different universe.

John Ridgway: Charles?

Charles Lee: That's a great question, Sue. And I think the, you know, rather than trying to answer it now, I think we'll try to answer that in the course of the presentation and the discussion that follows after that. Because I don't think there's a straight answer for that, and does that work for you, Sue? You know why there's no straight answer, right?

Sue Briggum: I do. That's why I asked it.

Charles Lee: OK. So just ...

Sue Briggum: I'll wait.

Edith Pestana: I'm sorry. This Edith Pestana. I don't know why there isn't a straight answer for that. Could you please clarify that for me?

Charles Lee: Yes, why don't we just go on (inaudible) ...

Suzi Ruhl: Yes. Hi, this is Suzi Ruhl and I think to get closer to a more straight answer, Charles, in charge, have articulated two different questions. Question number one is meant to a very limited universe of those permits that are issued by EPA and not the permits that are issued to an EPA delegated program to the state or a tribal government. So the charge question number is looking at that smaller universe of those that are actually signed off by EPA and not the ones who have delegated state program. Tony, is that correct?

Tony Guadagno: Yes. There is one exception though for the air program, for the prevention of significant deterioration permits, where they are federal permits, they're EPA permits ...

Suzi Ruhl: Right.

Tony Guadagno: But they're issued by a state or local area.

Suzi Ruhl: And so that's ...

John Ridgway: And for the record, I'm sorry could you clarify who clarify who is just Tony, somebody?

Tony Guadagno: Tony Guadagno.

John Ridgway: Thank you.

Suzi Ruhl: With OGC. EPA's OGC.

John Ridgway: OK that answers the question about charge number one. Let's just presume that charge number two is broader to whoever is issuing the permit.

Suzi Ruhl: Yes. That is our understanding.

John Ridgway: OK. Edith does that kind of answer your questions at least initially?

Edith Pestana: Initially, yes.

John Ridgway: OK. Thanks. Well, hey, (Sue), Suzi Ruhl. Thank you. If you could go ahead and give your presentation, I'm sure that will help us better understand what we're working on here.

Suzi Ruhl: OK. Well, thank you John and Elizabeth and members of the NEJAC. And I certainly hope this clarifies it. Obviously, this is a complex field. So our goal is to try to lay out the conversation in as many simple building blocks as possible.

And so as a prelude to the discussion of the legal aspect, I want to emphasize a couple of points, is that these remarks that I'm making are in direct response to NEJAC's request for more background information on you know, what permits are we talking about. So it's in direct response to that.

I think the second context is that we felt that it was important to provide you with basic information and then today, receive your comments in the form of you know, affirmative statement or even question and that process itself will be helping to inform how we go about it and the debarkation.

So want to you know, present that we're not going to have answers to all of the questions in terms of numbers of permits being issued. But the questions that you raise about things like that are very important because they help, you know, direct the attention.

So having said that as the background, what I'm going to do pretty quickly because we're laying the foundation here is first I want to give you a roadmap on what I'm going to do. I'm going to think of the different media that we have—the air, land, water and other categories—and just give you the menu of the permits that are issued by EPA pursuant to the statutes. And also discusses the pollution source that it covers and some of the environmental conditions that it tries to receive. Like I said, kind of thinking through this constructively and rationally, so that's what's I'm going to do for every media.

So we're going to start out with air. Obviously, the statute primarily addressing air is the Clean Air Act. Within the Clean Air Act, there are actually two categories of permits which can be issued first if the new source review which predominantly looks

at construction. It deals with new major stationary sources or modifications to existing major sources that would increase their pollution emission.

Within this, there are two types. One of them is prevention of significant deterioration, the PSD permits that is for sources that are going to be located in attainment areas, areas that are in compliance with the National Ambient Air Quality Standards. So that's one type of construction permit.

The second type would be the new source review permit. And that is for permits that are issued in areas of attainment. So ...

John Ridgway: Non-attainment.

Suzi Ruhl: Non-attainment. I'm sorry. Non-attainment. So located in non-attainment areas. So like I said, within the construction for new sources, there's the type, the PSD that goes to attainment, there's (NFR) for the non-attainment.

The Clean Air Act also has another type of permit which they call the Title V permit. And this predominantly focuses on the operational aspect. And this permit will include emission limitations and other conditions for governing the practice of that operation such as monitoring, record keeping, and reporting. This type of permit goes to major stationary sources of air pollution and certain other sources that we could talk about later in more detail as we know with law, there are exceptions and additions. But the main focus is the major stationary sources.

And the environmental condition is to try to make sure that the existing air quality control requirements are being applied to the facility emission unit. So that's air.

OK, let's move over to land/soil. The predominant statute governing this from a permitting perspective you know, putting aside the Superfund law (inaudible), but the law we're focusing on here from permitting is the Resource Conservation Recovery Act, affectionately known as RCRA.

And within RCRA, there are actually two general categories of waste that are governed. One would be your hazardous and one would be your non-hazardous. I'm going to focus in on the hazardous. And under the hazardous permit, it is a subtitle-C permit which is designed to deal with facilities that are associated with hazardous waste disposal.

And this type of permit gives both the authorization to operation to operate. You have to have that to be able to operate but it also goes into the operating standards for the individual facilities, again, under the office of protecting human health and the environment. It deals with things such as financial assurance, closure, corrective action and so on and so forth. So that is the permit that in some instances EPA does issue.

Now, I want to pause for a moment and not go to a lot of detail, but we cannot talk about RCRA also talking about the non-hazardous waste, which would generally be considered the Municipal Solid Waste. And there's also some waste coming from small quantity generators or household hazardous wastes. This activity is governed by Subtitle D of RCRA. And going back to (Sue's) point, these are not permits issued by EPA. It's activities that are – that is addressed by the state or the tribal government.

So, in one sense, for purposes of question, one, our focus is going to be on the hazardous waste permit, the Subtitle C permit.

All right, moving on to water, focusing first on surface water and wet lands, again, this is governed by the Clean Water Act. The predominant tool, one of the, I think, probably the highest number of uses of permit period would be what we call our National Pollutant Discharge Elimination System, the NPDES permit. And these permits are directed toward regulating discharges of pollutants through point sources to waters of the state, you know, point sources of pipe as opposed to just general runoff. And that's just – this is the general sense.

The conditions that it addresses are really two-fold. The predominant focus is on achieving the pollution reduction through particular equipment or processes that are required. And in the second level is that there can be more stringent limitations to provide more control by looking at the receiving water so that they achieve the water quality standards. But, again, I think the operative piece here is that you've got the NPDES permit dealing with point source discharges into our surface waters.

Again, a little bit of a sidebar, there's another major permitting activity under the Clean Water Act. It is Section 404, which deals with dredge and fill permits. The important point to remember is that the Army Corps of Engineers is the predominant permit issuing agency as opposed to EPA.

EPA does have a role in terms of review, but it's a secondary role. So, again, this – the Section 404 permits – would not be the direct EPA issued permits that are subject to this question number one.

All right, moving on, going to our groundwater, the statute that regulates the permitting activities in terms of groundwater is the Safe Drinking Water Act, and it's the particular activity on underground injection control. And there are underground injection control permits which are issued to regulate the discharge of fluids through basically a pipe into the subsurface which has underground sources of drinking water. The types of activities could be industrial, municipal, hazardous waste disposal wells. There can be oil and gas wells. There can be carbon dioxide geologic sequestration wells.

But, again, the Safe Drinking Water has a permitting regime for UIC permits and, again, some of these permits are issued by EPA. And, again, the environmental condition and the focus is to prevent the endangerment of underground sources of drinking water.

All right? So those are – those are the media statutes. There are two other statutes where EPA plays a role and we're kind of (inaudible) them as either pollutant-focused or the other category.

The first statute is the Federal Insecticide, Fungicide, and Rodenticide Act, which deals with pesticide registration from the quasi permitting role. In this case, it's not called a permit, but rather EPA registers or licenses each pesticide product that is intended for distribution or sale in the United States. And the focal point in terms of the environmental conditions would be protection of the environment, but also specifically human health, from exposure to pesticide.

And, finally, the last EPA action focus would be under the Toxic Substances Control Act, TSCA, for approvals of PCB related activities. And in this particular circumstance, the "permit" would be an approval issued by EPA for certain facilities to conduct PCB disposal and other related activities. And, again, the focus here in terms of the environmental conditions would be protection of the environment and the public health from exposure to PCB.

So, like I said, what we wanted to do here as part of this discussion is give you that menu by statute of the particular permits or licenses or approvals that are directly coming from EPA. And that is the focal point of question number one.

And, again, the follow-up conversation that we would like to have is you know, all the questions that you give us can help us shape the interest and the type of permits that may be of interest and, also, it will give us the ability to go back and work with the other EPA offices as well as regions to get the information, the additional information that you need.

So, John, that's a wrap for me at this point.

John Ridgway: Suzi, thank you very much. There's a lot there. And I know from experience that if anybody on this phone call understands it all in detail, they're doing better than most because it's so comprehensive. So thank you.

What I'd like to do now is just reiterate the realities of this charge and for the council to consider whether you want to volunteer to be on this group.

Edith Pestana: I have a – I'm sorry, John, this is Edith Pestana from Connecticut – I have a question on the Safe Drinking Water Act underground injection control permits. Are you including the fracturing process that the oil industry is undertaking now?

Suzi Ruhl: Yes. Yes, that would be an example of it, I mean, to the extent that the hydraulic fracturing is disposing a waste or fluids through a well, then that would be considered. And, indeed, that is a type of process that is included in hydraulic frac. Underground injection is the methodology used in hydraulic fracturing.

Edith Pestana: OK. And my other question would be – you know, I want to thank you for summarizing the permits because my experience out here in Connecticut, we issue all the permits here in the state. We don't really have EPA. And then I think in New England, there might be just three permits that EPA actually issues. And it's only, I think, two in Mass and one in New Hampshire. So, it's pretty limited here from my experience. So, I really appreciate this document you put together for us.

The other question is I was hoping that – first of all, I would like to volunteer, even though Victoria would like to put me in the Environmental Justice Plan because John is already a state person and would like me to serve on the EJ Plan. But I would

really like to serve on permitting if possible. But (inaudible) you on that given your special situation that we have talked about with the EJ connections with the permits in Connecticut. So, yes, I've reconsidered. God bless you.

Now the question that I have – will – can you provide us with the – your public notification – EPA's public notification processes for each of these permits as they stand today for our (arbitrary) review?

Suzi Ruhl: Edith, that's a great question because some other conversations that we are having in addition to the substantive aspects of the permit is really the anatomy of the permitting process, and the public participation is the fundamental role.

I think the answer is the primary permits of the RCRA, Safe Drinking Water, Clean Air Act, Clean Water Act, we can summarize those – those general procedures for you (and produce that).

Edith Pestana: OK. And you – and with respect to this charge, you are only looking at those permit activities that would increase pollution, not those permit activities that would reduce or remediate pollution. Is that correct?

Suzi Ruhl: I think that – no, no, I think the clarification that you want, the overall goal is the net reduction in exposure to pollution which can be achieved by, A, either shrinking back the releases or not allowing them, not allowing the increases. Perhaps, the distinction might be that we're not looking at your traditional (inaudible) remediation decision-making. However, we know that within RCRA you have corrective action, so there's a little bit of an opportunity to get into that. But I think at the end of the day, the focus is on reducing exposure to pollutants.

Edith Pestana: OK. So this would also include, under the TSCA approvals for PCB-related activity. Would that also include, for instance, PCB removal and remediation and outreach on that and addressing that?

Suzi Ruhl: Tony, do you want to – Tony?

Tony Guadagno: This is Tony Guadagno. I'm not sure that it does. I mean, I think the idea here is to just get at the approvals, which in this case is like a permit for PCB disposal.

Edith Pestana: OK. All right, thank you. That's all the questions I have now. Thanks for answering and I appreciate it.

John Ridgway: Thanks, Edith. And we'll have a chance for more here when we kind of get through some mechanical processes that I just wanted to quickly run by. So, thanks for the patience, everybody.

Given that the goal is to turn this around in 60 to 90 days, big picture here as big as that counter allows is that we would, as a subgroup, tackle these charges, turn them around in a draft to the full council in advance of the Kansas City meeting in November. So, really, what I'm going to try to orchestrate here with the subgroup is cranking out something that will help the EPA help to prioritize these issues and to be clear not get in to all of them in the kind of detail that is theoretically possible, but rather to help on this charge and get that draft written out so that all council members would have the ability to read that draft (in at least a week or two) prior to the Kansas City meeting. So that's what I'm looking at to helping to coordinate.

In terms of the size of this workgroup, like Victoria said, we cannot have more than 12. I'm looking more for kind of the 5 to 7 or (8-ish) size. I also fully look forward to the input from a broad perspective of our council on this. This will not be like a workgroup where we're getting people from the outside. It's just council members that are going to be turning this around.

I don't expect any face-to-face meetings. We're going to be dealing with phone calls only and, certainly, a number of emails in between. That's just a general overview as I'm seeing this come together at this point. And I will be standing in close coordination with Elizabeth as a chair and Victoria on logistics to be sure we can make this happen as smooth as possible.

Just like on the other subgroup, we want to affirm who's interested in serving on it, and that should go to Victoria. And we want to pin down who those members are right away within the next day or two if at all possible so that we can then get a scheduled phone calls out to all those members and you can get them in your calendars and we'll do the best. I do not expect everybody is going to make every single phone call. I don't think that's realistic. But, certainly, the month of September and October are going to be busy. So if you think you're going to be out for a few weeks, you may want to think twice about this.

It's OK if some council members aren't on either subgroup. We'll tap into you later. But we're here to use your expertise, and, so, I'd rather err on having a few more than a few less.

Victoria Robinson: John, this is Victoria. I want to add.

John Ridgway: Yes, go ahead.

Victoria Robinson: In the process, as John pointed out, that the work – the subgroup is going to – their primary job will be to frame the – how the response will look to get more information and to then turn around in their response for communicating back to the council as a body about where it sees the direction of the response and to vet that with the full council at the September teleconference call.

That's where – same thing with both subgroups. The purpose of the September call will be to take a pulse check and see where we are, where we're going, and for the council members who are not serving on this subgroup to say, "Hey, have you thought about X? You need to put Y in there."

Now, that gives an opportunity for those who are serving on Plan EJ to really make sure that they contribute and feel like they're contributing to the permitting one and vice versa. So that's – it's very important for that September call that it's going to be a check – a milestone check in for both documents. OK?

John Ridgway: Thank you so much, Victoria. That is important. OK. At this point then, Victoria, if you're ready to take notes, let's just hear who you thought were interested in this and open that up to other council members who are also interested for the record so we can see who we got to work with.

Victoria Robinson: OK. In the end of July, the meeting, we have, of course, John Ridgway.

Sue Briggum from business and industry (inaudible) had expressed a strong interest.

Shankar Prasad, who's not on the call today, had also expressed his strong interest. He brings – not only does he bring – he's in NGO, but he also has previous state experience and actual regulatory permit writing experience.

Vernice Miller-Travis had indicated, expressed a strong desire to serve on this as well.

Edith Pestana, again, state and local, and she brings the perspective of the – correct me if I'm wrong, Edith, that in Connecticut, environmental justice reviews or considerations are a part of your permit process or something. So we thought that was an interesting perspective to make sure that was covered in these discussions.

Edith Pestana: You know, they have to be part of the permit process because the – it was very – it was strongly expressed by...

John Ridgway: I'm sorry to interrupt you. Just please introduce yourself so we all know who's talking.

Victoria Robinson: It's Edith Pestana with Connecticut.

John Ridgway: Thank you.

Edith Pestana: What we learned here after many years is that the permit writers, the engineers that are working on these permits that have been submitted to them have to use their checklist to make sure that the permits are technically consistent and whatnot. And what we learned was that we needed to include the public process. The public participation process had to be included in that checklist. And what we also learned was – is that the best way to do that and to do it uniformly was to do it through law. And that's where I'm coming from.

So, I'm asking EPA – EPA, when we provide these recommendations, are you considering taking our recommendations and putting this into your permits as law?

John Ridgway: Let's hold off in waiting for an answer for that so we can get it to the open discussion. That's a good question.

Victoria Robinson: All right. And then Jody had also – Jody Henneke had also indicated a desire to serve on that.

And let's see, I think Paul – I think you'd also indicated that you want to serve on this.

Paul Mohai: Yes. Yes. Thanks, Victoria. I'm going to have to reconsider this because of the short timeframe. The next two months are going to be extremely busy for me here. So, I guess, you can – you can consider me excluded from the list. But I did

appreciate John's statement that the other council members will have a chance to have input...

Victoria Robinson: Right.

Paul Mohai: ... on this later.

Victoria Robinson: And we think it's also important in that we've got to talk to Don and to see about possibly a tribal government perspective as well on this.

And so, Don, I will be talking with you. Those are the only names that I currently have. Stephanie Hall will be – I'll talking with you – and Kim, who's now going to be working on the Plan EJ. So, those are the only names that I have.

John Ridgway: Anybody out there whose name wasn't mentioned that is interested? OK. Thanks. You can reconsider or consider more, I should say, and let Victoria know. But please do so I'd ask by tomorrow, so that we can be ready to throw a schedule at folks for the calls next week in terms of the schedule. Thanks so much for that.

Hey, I wanted to move along here and follow up on Vernice's comment about prior work that the NEJAC has done. And, boy, have done a lot on this topic. And it's mentioned in the announced – in the document the charge that there's been prior work and, in particular, there is Environmental Justice in the permitting process and that's dated, technically, November, December 1999. And it was I think officially reference as 2000 August 3.

And so everybody knows Vernice Miller-Travis is a significant co-chair as I understand along with Haywood Turrentine on this. So, having Vernice on the subgroup will bring a lot of continuity from that work. Sue Briggum is also on that workgroup as I understand.

Victoria Robinson: Eileen Gauna.

John Ridgway: And Eileen Gauna. And, again, there's others here as well, but in terms of our current council, we stand ready to tap into that expertise. It's already been documented. And then there's a 14-page guidance to EPA on the regulatory you know, authority and jurisdiction to, in fact, do these sorts of things, and that is more or less established in that 14-page document. But the workgroup will be looking at – the subgroup, I should say – will be looking at those documents to be sure we're

taking advantage of that, not reinventing the wheel and putting it to good use. It's not out of date my any means, that work.

So, thanks to everybody who worked on that in the past. We'll take advantage of that now.

With that being said, I'd like to open it up to these kinds of questions that a lot of people have and comments on this charge in terms of the permits.

And, again, we have kind of two themes. One is for what EPA issues (and signs), as they say, and then recognize (inaudible) the vast majority are not (signed) by EPA and that gets to the second charge. And question of tribes, local governments, certainly states are all involved with interpreting these laws and, in many cases, augmenting them in various ways.

In Washington State, where I work, I am in the Hazardous Waste and Toxics Reduction Program, and we have certainly added additional requirements in our state upon some of these permits. So, that has to be recognized as well. And we'll consider that to some degree I'm sure, but given that we're giving advice to EPA, that's going to be the focus as opposed to all the themes that are out there across the 50 states and tribes and regions, et cetera.

So with that, maybe we can just open it up to questions. I'll do my best. You need to just chime in with your name and I'll try to recognize you. In case there's multiple people, do speak up, and I'll do my best to track names here.

So, anybody want to start with a question or a comment on this?

Wynecta Fisher: Wynecta Fisher, E-Square.

John Ridgway: Hi, Wynecta. Go ahead. Thanks.

Wynecta Fisher: I have a quick question. It was mentioned earlier that pesticides and insecticides would be one of the areas that will be looked at, and I wanted to know how is EPA going to deal with proprietary ingredients...

John Ridgway: Great question.

Wynecta Fisher: ... because that's – pardon?

John Ridgway: I said that's a great question.

Charles?

Suzi?

Tony?

Suzi Ruhl: You know I think this just made – and I'm not – I'm absolutely not trying to punt here is that I think that that's a critically important question. And I think that what we're trying to do here today is to capture these questions. If we can answer them, we will. But, obviously, this really comes down to the appropriate office, but we're flagging these as questions. Is that appropriate?

John Ridgway: That's appropriate.

Tony Guadagno: I believe that there are CBI, confidential business information, requirements that apply to that program. I'm not an expert in that area, but I don't see how they would be implicated for purposes of this exercises. But I could be wrong about that.

Sue Briggum: This is Sue Briggum. And I'm actually going to follow up on something that I think maybe related to what Wynecta is talking about.

One of the challenges, I think, as we look at this document defining the permits we might be looking and as it reflects on the sorts of facilities that tend to be mentioned in public comment to the NEJAC is that it's possible to take a narrow or a broader view of the processes in which EPA might engrain Environmental Justice into permitting.

You know (inaudible) is kind of classic because the description there suggests that we would be looking only at pesticide registration which of course doesn't get to how it's used in the field. Whereas many of the environmental justice issues that come up go to pesticide drift and application and timing notice, workers safety. So, I think the group will have to wrestle a little bit with a level of comfort with the limitations that might be expressed in terms of EPA's jurisdiction.

John Ridgway: Thank you.

Langdon Marsh: This is Lang Marsh and I'd like to build on that comment by Sue a little bit. In my experience as a state regulator, many of the most important issues that came up around permits weren't necessarily around the permits themselves, but around the facilities that they were related to. And the permit issue may not have been what really motivated the community to become concerned about the facility.

And so, I guess a question I have for the group that's under is – that really the important issue with permit – which types of permit ought to be given most attention of the environmental justice by EPA? Or rather how does EPA or the State or Tribal permitting authority deal with environmental justice issues that come up in relation to any permit that is issued by either EPA or by the State or Tribal authorities?

And you know, what kinds of community involvement, what kinds of notice, and outreach? What kinds of support for the community organizations that are concerned, technical assistance, all of those issues that go to the real issues of concern about the impacts of that facility on the community which may or may not have much relation to the specific permit that's involved but have a lot to do with the kind of facility that it covers?

John Ridgway: This is John. I don't read that in the charge as looking at the impacts of the permits but rather what types of permits. So, maybe if – correct me if I'm wrong, Lang, but the charge seems to be not including that in ...

Langdon Marsh: I understand that and that's my concern is that asking in which permit ...

Charles Lee: Hi John.

John Ridgwa): Yes, go ahead Charles.

Charles Lee: Suzi and Tony can amplify these but those are all issues that are embedded or nested within you know, those charge questions. So, like Suzi said when you know, some of the things are – that given a lot of guidance is are the questions that you're asking.

John Ridgway: Great.

Charles Lee: So, did you want to answer that?

Suzi Ruhl: Yes, I think Lang you're right on point with the thinking that has continued to evolve through conversations that we've had with NEJAC members at the July conference, is that the one lens is the (substantive) permits that we just talked about. We also mentioned that another lens is the more generic permitting process I think that (inaudible) mentioned as well.

And that Sue's talked about what I call the anatomy of the permit which is not limited to a particular statute, but it's the overall process. And I think that EPA is clearly interested in applying both of those lenses. So, I think the answer is clearly yes. These are the types of guidance and instruction that we want from NEJAC to help shape the work that's being done.

Langdon Marsh: Thank you.

John Ridgway: I actually don't mean to imply by trying to clarify what we're reading here that those are any less important or unrelated to the charge. Others – anybody got any thoughts, questions about this here in terms of what we're trying to tackle in the short term understanding more's coming down the pike after this exercise.

I'm going to ask Vernice if you're in the line, any thoughts given with your background on the prior permitting document that you might have to share on this.
Excuse me, was that Elizabeth?

Vernice Miller-Travis: That's Vernice.

John Ridgway: Vernice, thanks. Go ahead.

Vernice Miller-Travis: Nothing immediately comes to mind except that it was – as we all know, and as Elizabeth has said, it's a very, very, very heavy lift. It's a very heavy lift and it's – I shudder to think what it's going to require of folks to get this done by October 1st. It took us – oh, I don't know – it took us nine months to deliver that report. Sue, is that right?

Sue Briggum: Yes.

Vernice Miller-Travis: You know, we weren't meeting every other week, but we were meeting frequently and at some point it became daily to get it done. But it's – you know, it's just a lot of work and I'm – you know, I'm sitting here not saying much because I'm trying to

figure out how I can contribute to this in a meaningful way given the short period of time.

But I just wanted to highlight just how much work it is as Elizabeth said. And Elizabeth also said, if you don't have the time to do it, to try and be honest about that because what happens is people sign up for things thinking that they have the time and then they don't and it leaves a few people who have made the time, it leaves them having to do even more work than they may have originally signed up for. So, there's a component of fairness to others in the process that you have to think about. If you really can't squeeze the time in – it's not a reflection, everybody knows we're all over burden and overworked but just be honest about it because at the end of the day, it wound up being Sue, Vernice and Eileen who had to pull that together even though there was a paid contractor. So, I just want to put those reality perspectives into the conversation.

Elizabeth Yeampierre: John?

John Ridgway: Yes, go ahead.

Elizabeth Yeampierre: It's Elizabeth. You know, I think that one of the things that Nicholas mentioned during the discussion about (inaudible) was looking at a matrix and it may be useful to start with something like that that tells you what you have, where the deficits are, what's been done, whether it had traction or not. So that there is a document and maybe Sue – maybe there is already something like that.

But something – so that people don't feel like they're reinventing the wheel of starting from scratch because there maybe some stuff there that is useful but didn't get any (play) in the past because – you know, it was a different (time). So, having a document that can give people sort of an at a glance look at where the holes are, so that they can focus on those areas might be useful.

John Ridgway: (Jay), do you have an idea where that would – something that we'd ask EPA to prepare for us?

Elizabeth Yeampierre: Provide – yes, document that they could provide that where – that would include where permitting is right now, what the work that has been done by the NEJAC is, and where the holes are in terms of addressing environmental justice. You know, the issue that – another issue that wasn't brought up was the issue of cumulative impact

and how that's going to be addressed in the permitting process and what's that going to look like I think is also really important.

Nicholas Targ: John, if I may – just building on this ...

John Ridgway: OK. Charles go ahead, thanks. Is that correct, Charles was speaking up there?

Elizabeth Yeampierre: I think it was Nicholas.

Nicholas Targ: This is Nicholas Targ. I would be very pleased to help identify some of those documents. There's been a lot of work both in the academic literature and also within EPA and by other organizations in thinking about environmental justice and the permitting process. The agency presently has, I believe, an online course which is available that goes through in some detail how environmental justice in principal can be taken into consideration the permitting process. I believe its focus is on RCRA permits.

There may also be information similarly with respect to Clean Air Act permits. The agency has also made available generally analysis of public participation opportunities in the permitting process and I would encourage the work group to look to those documents as a point of departure rather than trying to do this as a complete, new and very heavy lift as it was identified.

Male: Thank you Nicholas. I will absolutely welcome suggestions of documents of that nature to Elizabeth's suggestion of a kind of an at a glance matrix of what's been done in the permitting realm relative to NEJAC's comments, I would be interested in that too and maybe Victoria, you and I can talk after this call to see what's out there and what we can turn around very quickly to get to the subgroup members on that. And we'll include what Nicholas comes up with as well if that sounds appropriate.

Victoria Robinson: Yes, it does.

Edith Pestana: I have a question for Nicholas or EPA. This is Edith Pestana. With respect to the charge on where cumulative impact could be considered, does the agency have a model that they are – that they feel comfortable with using to assess cumulative impact in permitting? Does that exist?

Male: We'll get back to you on that. That's a really good question and I am not willing to say that we actually have something like that but there are things that we could probably provide to you.

Edith Pestana: Because – I mean, Charles, you know, we've been talking about looking at – about cumulative impacts for at least, I don't know, 20 year?

Male: 20 years, right?

Sue Briggum: This is Sue Briggum. I think actually there are some useful materials – first there's the NEJAC report on cumulative risk and then there's an EPA document on cumulative risk and fortunately, I believe there are summary slide presentations that you probably have in your files from the NEJAC meetings where the NEJAC report was delivered for example. Because what I'm thinking of given the amount of time, it'll be hard to read thousands of pages, but there have been prepared for NEJAC summaries of a number of the work products that would be relevant and that might be an easy way to get everyone on the same page.

Stephanie Hall: Sue, this is Stephanie Hall. Would one of those documents you're referring to be the 2004 document titled, "Ensuring Risk Reduction in Communities with Multiple Stressors"?

Sue Briggum: Yes.

Stephanie Hall: Thank you.

Suzi Ruhl: This is Suzi Ruhl. Another area to explore actually under the National Environmental Policy Act, not a permitting statute, it nevertheless has requirements to reconsider cumulative impacts. So, as we think about the sources that are out there.

Suzi Ruhl: John, can I follow up to Elizabeth's question?

John Ridgway: Please.

Suzi Ruhl: OK. Elizabeth, in going back to the matrix that you're looking for, there are some – I think some categories of questions that's came up in my mind, but I didn't present them because I want to hear what the NEJAC said and I don't know if it's of interest to you but it will help us clarify what is the type of information you're looking for in terms of knowledge and gap. For example, is it plausible to say, well, how many

permits are actually issued by EPA according to this statute so we know what we're talking a 1000 or 100,000? We might want to ask how many facilities are regulated under this type of permit.

We might want to look at perhaps some volume of releases of certain contaminants you know, toxics, whatever, perhaps under the TI kind of notion so we kind of get a relative weight. And then another area might or might not be related to the actual status of the media. We mentioned under the Clean Air Act, there's attainment and non-attainment. Under the Clean Water Act there's you know, meeting designated uses and not – but I think what would be very helpful to EPA so that we actually meet the mark of what you're looking for, if you all gave us a little bit more detail about you know, what our – what is the information that you're wanting that can help you make some decisions in terms of prioritizing?

Elizabeth Yeampierre: Suzi, I think those are really the questions. I am not on the permitting subgroup.

I was suggesting something that may be a tool to facilitate the works so that it can move better and faster because it really is a heavy lift. I think those are all good questions, but I also think that, while you were raising them, I was thinking specifically about environmental justice communities.

And so, I think that if it was – if it was possible to apply those questions specifically to environmental justice communities as opposed to looking at you know, how many permits have we issued nationally across the board. What we're trying to figure out is how it addresses cumulative impact and how we're going to be able to engage in a process that's going to be beneficial to communities that are environmentally stressed and disproportionately stressed.

It may be even a little easier. But I – you know, I just (inaudible) this issue to John and those folks that are experts on permitting, I'm certainly not. You know, I'm organizer and an activist and so I – you know, of course, we look at permitting and we got lawyers to represent us on this issues. But I would want to know what those – what the impacts are going to be in a very localized way and I was thinking of a matrix that would help guide the work so that they don't have to reinvent the wheel. And I think Nicholas' suggestion is really helpful, but I would ask the members of the council to see if there are any additional portions that they want to add to that.

John Ridgway: Thank you. Go ahead.

Sue Briggum: Sure. Elizabeth, this is Sue Briggum again and you've really crystallized for me something I think that we haven't thought about doing so far which is supposed – instead of starting with the premise of what does EPA have the kind of authority they want advice on and look at that universe? Maybe it would be helpful and I think it would help a lot once we started thinking about how to deal with cumulative impact within the process that would come out of this discussion.

Maybe it would be good to start with thinking on the ground what are the activities that we routinely hear as problems brought to the NEJAC. What kind of activities are of concern to communities and then if we could put those into the buckets of the permits, that will be helpful because we would see you know, the relative size of the bucket that are EPA permitted and therefore subject to this inquiry as well as what falls outside those buckets.

And that would help give us a sense of scale and I don't think it has to be done in a sophisticated way. It could be you know, done pretty fast.

Male: Sue, can I answer your clarifying question on what you're suggestion there to review activities? Do you mean activities tied to permits or any kind of environmental activities that we would want to look at to see where it could be addressed within permit?

Sue Briggum: I would say any kind of environmental activity rather than simply started the outset and I don't – (think) to do this you know, over three weeks. I would think if someone would take a stab of it in a week or so or a couple people, that might be a helpful way of accomplishing the grid to some extent that Elizabeth was talking about.

Male: Thank you. So, let me paraphrase and see if I got that right to maybe look at a review of the activities that has been brought to the NEJACs attention over the years of concerns that we would want to draw attention to in this exercise.

Sue Briggum: And the reason why I think it's highly pertinent is that once you identify the permits for which environmental justice is important, it won't just be the permit that you'll want to consider in terms of the environmental burden of the community. So, you'll want to be aware of the things that are within the permit and the other things that may be of concern and then that might help us prioritize in terms of the importance of technical assistance or grant programs or something like that.

Male: Very good, I like that suggestion.

Sue Briggum: Thank you.

John Ridgway: I'm going to ask one question here maybe for Suzi or Charles and I'm looking at the second charge question number two, this is on the four-page document and it says right up front, "What types of permits issued pursuant to federal environmental laws whether they are federal state or tribal are best suited – that's my concern phrase – for exploring and addressing complex issues of cumulative impacts." Now, my question is to whoever came up with charge?

Charles, I'll start with you. Best suited meaning it needs the most help or it's the easiest to incorporate? How would you interpret that?

Charles Lee: I think the way we thought about it was you know, where we can make the most progress. So, I guess that would be on – would be where – your first interpretation?

John Ridgway: Got you. Where maybe the most help is needed?

Charles Lee: No, where it would be easiest.

John Ridgway: Where it'll be easiest for EPA?

Charles Lee: Right. Because I mean, we realize this is a pretty difficult issue and so we want to really to try get to – and to those areas where we can make progress and we can demonstrate progress.

Male: Well, with the charge welcome also references to where this subgroup at least – maybe the council inclusively would also suggest where the most attention is needed. And that may not be the easiest to do.

Charles Lee: Right. But I think – I mean, clearly that would be important information.

Male: OK. Thank you.

John Ridgway: We still have a few minutes here. Others, questions, comments, thoughts?

Victoria Robinson: John, this is Victoria. Real quick, you might want to – I think it'd be good to focus on the dialogue questions that deal with the first charge which were at the bottom of the

discussion framework document and those questions are what types of EPA issued permit are the greatest concern and interest to communities (inaudible) those basic questions.

But I also wanted to make sure that it goes (inaudible) for the permit one there – this was going to be more of a preliminary response to the charge with them. Knowing it, Charles will understand and this a very turnaround. So, what now we're really looking forward in – by the November meeting is a preliminary response from the council and the best effort that can be put forth in that timeframe.

So, don't want people to think that they are at the shrug you know, carrying the weight of the world on their shoulders but – you know, we're looking at something that we anticipate might go beyond. But we want to get have some kind of preliminary response by the November meeting.

Male: Thank you, thank you. I might add also that you know, this report that came out in 2000 is well over 100 pages and there's absolutely no way we're going to be looking to create anything of a size of that nature. We just obviously won't have the time.

However, you know, reading through a lot of things, we're going to have to even be judicial about that and try to produce something useful as supposed to doing a lot of background reading. We'll try to find a good mix between the two.

Edith Pestana: Hi, this is Edith Pestana with Connecticut. As far as what types of EPA issued permits are of greatest concern, all the ones listed are of great concern. It just depends on what community you're in or if you're a tribe. They're all of concern.

So, that's one answered. What type of EPA is the greatest importance? Well, they're all important. They all affect in one way or another at the health welfare, the quality of life of the community, all the ones that are listed here so can we – can it be safe to say that we're going to tackle the ones that have been provided by Suzi Ruhl and move on to just kind of dissecting them because there are already documents that dissects these permits and their process? Like timeframe for public notice and things of that sort?

Nicholas Targ: This is Nicholas. The answer to that is yes. The – are those documents which are publicly available and again, we ought to get this to the workgroup ASAP.

I'd suggest that one thing that the workgroup which I'm not on might think about is the representational nature of the permit so that they can be into – so the model that you all developed or suggest can be integrated into other permits. Is one of these things – each one of this permits is vitality important to a specific community at a specific point in time.

And I might look at, if I may, the ability to consider issues that are important to environmental justice under the existing regulatory framework and also the prevalence, the frequency with which the agency actually issues these kind of permits across abroad geographic area so that you would be able to consider for example the implementation of the NPDES permit in Indian country or in Alaska as well as the States such as New Hampshire.

There are certain other permits like NSR permits where the agency retains a great deal of permitting authority in states such as California and others. In each one of these has a, again, a publicly available analysis of opportunities to consider issues of environmental justice and has also been pretty well dissected and it will create an opportunity to go and review the literature and make recommendations based upon and others who have considered this before and would allow you to cross the October finish date with – with a very useful product.

Tony Guadagno: This is Tony Guadagno, I would just mention by way of background that there's a lot of good information on EPA's webpage (inaudible) these various programs including for example maps to the United States that show what are were the states have been authorized to run the program and the states where EPA is administering the program directly.

In fact, I went to that source in preparing for this meeting myself.

John Ridgway: Good suggestion. Thank you, and then Nicholas to your comment, I – maybe I could ask you too elaborate just a little more on your first point looking at representational perspectives here. Can you elaborate just a moment more on that?

Nicholas Targ: Sure. You aren't going to be able to cover all the permits that are important to all of the communities or even perhaps that are most important to communities or impacted areas. But what you will be able to do is you'll be able to identify permits under which there is really pretty good in established regulatory authority to consider

issues such as cumulative impact, alternative sightings, configurations, especial impacted vulnerable communities. You'll be able to consider issues of that and consider what that actually means.

Now, having done that and having presented it to the agency, the agency will be in a position to map that model onto its other permitting programs as well. And further there are permits where the agency – that the agency implements that cover a broader geographic area where, just as Tony said, in many cases the agency or most cases the agency has delegated its authority or the authority has been assumed by the state.

So you might think to look at those permits where you've got good clear regulatory authority to consider environmental justice. And within those times of permits, look at those permits of the agency actually implements over a broad geographic area that has multiple states, for example, that the agency implements these kinds of permits so that you can consider what it might mean to consider environmental justice in the context of a rural community in Alaska as well as a more urbanized area.

John Ridgway: Thank you.

Nicholas Targ: I don't know if that adds any clarity.

John Ridgway: It helped me a bit and for the record I think it would help to clarify what you're expressing so thank for that. Others, anybody on the council?

Suzi Ruhl: John, this is Suzi Ruhl.

John Ridgway: Hi Suzi.

Suzi Ruhl: Hey. And I just want to emphasize that you guys have given us so much important information to help guide it. You know for example I think you've brought up some really important messages about the need A to focus on cumulative impact. I think It's been also stated about the needs that we can't just look at permitting in a vacuum.

And I think the third point is going back to John, I think a lot of your questions out well. What do you mean by this term or something like that NEJAC's clarification of these terms in terms of even laying out criteria for analysis or whatever is also very

valuable. And so don't stop it with what we've talked about today, but if you've got something to add I think those are specific toll holes which will help the process.

John Ridgway: Thank you. I appreciate that and we will take advantage of that.

OK. Well, I'm not hearing an outcry of more questions. Please if you haven't volunteered and you'd like to for this, let Victoria know right away. If you have any questions, I would encourage you to give for a call or you can call me too. Not that I'm going to (deal) the answer. I really don't have anymore detail on this than you do collectively, but I'm looking forward to putting over something that will be useful, productive, if concise on this timeframe and your collective wisdom council will be as important as what the subgroup generates. So again you're not off the hook if you're not on the subgroup.

Victoria Robinson: John, this is Victoria. If we're through with this topic, but before we move on to proper comment, I'm going to do an update on the quorum so that we'll recognize those members who we're actually able to get on the call who came in and to recognize them. So I'll wait until...

John Ridgway: I'm all done I think. Unless anybody else has any summarizing statements or comments, I'm glad to pass it back to you Victoria or Elizabeth.

Victoria Robinson: OK, good. My understanding is that we've now has Nicholas (inaudible) who's going to speak and Nicholas is on the call when (inaudible) was able to make the call, Hilton Kelley and Teri (inaudible) I want to extend the welcome to you all and thank you. So we I think are now up to 18, 19 individuals who were with me in the call. Chuck Barlow was unavailable. He had a scheduled conflict. He could not make the call.

So I'll go ahead and turn it over to Elizabeth and I'll give you the names of those who are here for public (inaudible).

Elizabeth Yeampierre: OK. Victoria you've provided us with testimonies from five – I think six individuals and organizations. I think two tribal communities, two environmental organization, – five, one individual. Is there anything more that we should be looking at?

Victoria Robinson: You know those are the only ones that we have. I'll give you the names of those individuals who were actually on the call.

Elizabeth Yeampierre: OK.

Victoria Robinson: OK, who are on the line. Just to let you know, David Ludder from the office of David A. Ludder. He submitted the written comment and has been distributed to everybody on the call including participants.

Elizabeth Yeampierre: OK.

Victoria Robinson: He is not attending the call. Those were provided as a written – his written statement and they will be incorporated into the transcripts by the contractor.

Elizabeth Yeampierre: OK.

Victoria Robinson: On the call we do have. Ms. Lisa Arkin from Oregon Toxics Alliance. We do have Daniel Parsley from Glynn Environmental Coalition, he is on the call. Nikos Pastos from Alaska's Big Village Network is on the call.

Elizabeth Yeampierre: OK.

Victoria Johnson: Alice Wright-Bailey from Pennsylvania Department of Environmental Protection is on the call. My understanding of 3:15, Sally Kniffen Saginaw Chippewa Indian tribe of Michigan, and Alberta Hasten from Louisiana Environmental Justice Community Organizations Coalition.

Nether are both two ladies are on the call; however, they have submitted – I believed, you have a written comment from them.

Elizabeth Yeampierre: OK. Thank you Victoria. I also want to thank John for facilitating that part of the discussion. John, that was excellent and I want to thank the members who, Tony, for your participation in this call before we move on. This is we have about until about 4 o'clock to listen to the public comment and to respond. I would again advice our members to keep their comments and their clarifying questions brief so that we can engage as many members of the public as possible and so I will begin and I – Victoria said the first person is Lisa Arkin.

Victoria Robinson: Lisa Arkin, that's correct.

Elizabeth Yeampierre: Arkin, OK. Miss Arkin?

Lisa Arkin: Hello. Can you hear me?

Elizabeth Yeampierre: Yes, we can thank you.

Lisa Arkin: Thank you.

Elizabeth Yeampierre: Welcome.

Lisa Arkin: Thank you for this opportunity to give comments. Again Lisa Arkin, I'm executive director of Oregon Toxics Alliance and we work on a number of EPA issues here in the state of Oregon.

The first thing that I want to say is I've been listening to the calls since the beginning of it and I want to support two items that were mentioned by commission members. One is moral support for EJ community based grants. The important work is really happening on the ground and those communities do need the support so thank you for that and the other is to echo the call for action on cumulative impacts for overburdened communities.

I submitted written testimony having to do with conflict resolution. I attended an EPA alternate dispute conflict resolution workshop which was very inspiring and well put together and this rule was part of that presenting team for that and I felt I learned a lot. But I found is when you tried to actually implement some kind of resolution process on the ground working with communities and polluters.

There's no way to actually bring people to the table that the polluter has the ability to simply refused to have a discussion which shuts the whole thing down and so I'm bringing this to the attention to ask for more teeth to compel the polluter to come to the discussion table to work out whatever issues might be of importance to that community.

And, of course, it would have to be based on whether the EPA staff found that the request had merit or would result to a better environmental outcome. So I think there needs to be some benchmarks that one has meet or some requirements that one has to meet to be able to request such a discussion (inaudible) stakeholder group.

One other issue that I'd like to address in my time is the question of what to do with what to do with communities that are rural and isolated and very much burdened by environmental pollution but may not fall in the traditional definition of environmental justice. These communities might have significant low income populations, but in the

pacific northwest we don't always have a large population of minority residents and yet this communities are lacking resources and they are targets for polluters who are looking for places to locate where there's not a lot of grassroots work happening.

So that might be something for discussion, what to do with rural isolated communities.

Elizabeth Yeampierre: Thank you, Ms. Arkin. Low-income communities are considered environmental justice communities and so the definition of environmental justice doesn't only include communities of color and tribal communities, it includes low-income communities as well with the idea that the communities that are least resourced really needs to be targeted and attention paid.

Council members, do you have any questions or comments that you would like to make?

Langdon Marsh: This is Lang Marsh and I really welcome Lisa's comments and I'm eager to get in touch with her because I'm at the Portman state in Oregon so I can do that. I would like to point out that EPA in the past has been successful in bringing folks to the table around community concerns in relation to pollution problems that the sources have paused.

You know, I think, we in our goods movement work we looked at the case of the West Oakland Environmental Indicators Project where EPA played a very important role in convening the polluter and the community in bringing about some resolutions. At the same time, I do recognize that is not universally the case in many situations and I'll be very interested in having a dialogue with you to be and talking about how that could be improved.

There are some models out there we worked on one for using supplemental environmental projects to at least offer the opportunity for polluters to come to the table or at least to put their money on the table for a community project that others might convene for the purpose of getting the community involved in setting priorities. But I think you raise a really, really important issue and it deserves a lot more discussion.

Elizabeth Yeampierre: And please could you say your name one more time?

Langdon Marsh: Yes, I'm Langdon Marsh, a Fellow with the National Policy Consensus Center of Portland State.

Elizabeth Yeampierre: Thank you, Langdon. Any other member?

Jolene Catron: Yes this is Jolene Catron with Wind River Alliance in Wyoming. I would like to thank you for your comments and I do really strongly encourage EPA to continue to build its program that it offers around to – specifically Indian country around dispute resolution and collaborative problems solving.

I've been a participant in that training and help to plan conduct two other trainings. One, at Navajo nation and then one here in Wind River and I think that the training itself is really helpful and kind of starts that dialogue between stakeholders and the community members and tribal agencies, and a lot of times that doesn't happen and so I think that that kind of training that EPA has offered specifically with Danny Gogal and his training team has been really helpful.

Elizabeth Yeampierre: Thank you, Jolene. Any other comments? If not, thank you Ms. Catron for your thoughtful comment. The next presenter is Dan Parshley. Did I say that correctly?

Daniel Parshley: You know, Parshley.

Elizabeth Yeampierre: Parshley.

Daniel Parsley: Glynn Environmental Coalition, Brunswick, Georgia.

Elizabeth Yeampierre: Welcome.

Daniel Parshley: And I'm going to speak specifically to page two of Plan EJ 2014 that the three bullet items in the first sentence of the first paragraph. Three bullets are the protect the environment, empower communities and establish partnerships at the local state and tribal government.

And it says, "EPA will work to achieve these goals by using a combination of initiative and efforts and will focus on and seek to be responsive to community concern."
Today, I'm going to be addressing on responsive to community concerns.
Specifically, the two items I will be addressing are (rooting) responses to the regions and failure of EPA headquarters to respond.

In our particular case, we have a (inaudible) site next to an elementary school. After ten years of advocacy, the Officer of Inspector General did find that our contention that the testing was inappropriate was true and ordered EPA to develop a new method. The school is minority low income. We asked that the school be tested by an appropriate method. This request was sent to Ms. Jackson after the refusal at the region level to address the concern.

The response was sent to the region for reply. We sent another letter back to Ms. Jackson pointing out that our environmental justice concern was rooted at the region and so we're appealing to headquarters. That was on May 25th. To date, no response has been received by EPA headquarters.

The point we made here is no matter what you do with permits, if EPA headquarters will not respond to communities, the Environmental Justice Program is broken. And there is many other signs that is broken also and I will go through these and I'll bring them to your attention. And the reason I do bring this to attention – you attention is that the EPA website (inaudible) EPA received information from the public and it list this council as the means for the public to submit information.

We've talked about the failure respond EJ complaints. The committee should monitor the complaints that it received, monitor the response, evaluate the response, but most of all, you need to establish an officer for environmental justice with the mailing address, email, a phone number, and place it on the web. At this time, the web address for the Office of Environmental Justice is a dead link. If you go to how does the EPA receive information from the public and enter that link it comes up as an error page. It says, "Requested item was not found on the EPA's Web server."

So there is no – at this time there is no place for someone to seek environmental justice if there were to seek on the Web. In fact if you enter Office of Environmental Justice, there are no returns on the EPA website.

So you know, it's critical that the office be formed, that environmental justice concerns be rooted there and that this community evaluate if these concerns are being addressed. I do not know how are you evaluating the EPA's environmental justice program at this time. That is what I would be most like the community members to address.

One other item, an attempt on the EPA website to find the council members, there's the 2009 but there's not the 2010. It'd be nice if they would list the council members and maybe a brief bio. So, when other members of the public listen in on these calls, we'll have an idea of who was here and speaking. Thank you.

Elizabeth Yeampierre: Thank you very much, Mr. Parshley. I'm going to direct your questions to the EPA staff because some of those questions are really best addressed by them and then I will open it up to the council. So, if either Charles or Victoria can answer some of the questions raised by Mr. Parshley?

Victoria Robinson: This is Victoria. Real quick, I'll response to the questions about the Web. We will recheck the link and make sure that the current listings of the members are on the board.

We thought that they had – I thought they were currently up there. So, we will go ahead and recheck all the links. My understanding is that when you Google Office of Environmental, or if you Google, if you go in to EPA and you search into the search box, our website come up.

But I will – we will recheck all the links to make sure they're working properly. But we do know that there is a – when you're on our page, if you want to submit or have a comment, you can submit a question.

We have an outstanding – we have an ongoing hotline in which communities from all over the country have been submitting comments and questions. And that's been ongoing now for several years. And I know we have a very active, particularly this year, very active response mechanism.

Charles, is there anything else you want to add? No. OK.

Elizabeth Yeampierre: OK. Thank you. Members, any questions, comments?

OK. If not, Mr. Parshley), thank you so much for taking the time to present to us. The next presenter – I don't have the last name down – I have Nikos, Victoria can you help me with this?

Victoria Robinson: Yes. It's Nikos Pastos.

Elizabeth Yeampierre: OK. Thank you. Mr. Pastos.

Nikos Pastos: Yes, hello. Can you hear me?

Elizabeth Yeampierre: Hi, welcome.

Nikos Pastos: OK. Thank you. My name is Nikos Pastos and I'm an environmental sociologist. And I work with a networking group called Alaska's Big Village Network.

We're based in Anchorage and we work community to community with multiple tribal elders. And our mission statement is to create communities of inclusion between indigenous and non-indigenous peoples to heal the mental, social, physical environment.

Having said that, we're going to read some of the comments that we sent you which are by no means comprehensive. And I just want to make a comment, you know, in Alaska this time of the year is a very busy time of you know, hunting, fishing, gathering.

And I'm an American-Indian from Montana from the Confederated Salish and Kootenia Tribe, but many times we – most of my work is in Alaska. We do not see the participation from the most – disproportionately impacted tribal communities, partially because there's a technological gap and a communication gap. It has many factors. Also, there are language barriers.

So there's fully 40 tribal communities that have intermittent electronic communications in Alaska. So we're talking about places that might have dial-up Internet, but they're on islands or mountainous regions and certainly don't have a federal register.

And so, communication, I think, would be our first environmental justice concern. I'm just going to read you very quickly the comments that I sent to the NEJAC committee. All of these are concerning environmental justice concerns, especially with the idea of adverse cumulative impacts and permitting policies that impact many communities in Alaska, but especially indigenous communities.

So, environmental justice principles outlined in the U.S. EPA strategic goals must be formally included in all permitting processes in Alaska. The United States of America has a federal trust obligation, tribal governments and their people.

Indigenous peoples of Alaska are citizens with a distinct historical and political relationship for the USA. EPA and NEJAC have a mission that can equitably protect and enhanced environmental justice concerns tribal communities that have suffered so many tangible adverse impacts from fast track, hasty environmental permitting.

The place to start would be observing proper notification protocols and consultation including language and cultural accommodation based on EPA's refined environmental justice policy and the executive order on environmental justice. In order for any permit application to move forward with the ecosystem, environment and subsistence, or living culture resources of tribal governments, and indigenous peoples could possibly be impacted, there must be a formal review in the democratic process, such as with tribal governments or traditional elder's councils.

It's a matter of utmost significance when permitted activities have potential impact from local food security and customer and traditional cultural life ways of hunting, gathering, fishing, harvesting, and commerce and navigation. Even the historic culture of aggravation of America's first people from permitted industrial development, a hard look from the articulated goals of the EPA environmental justice policies must be enacted in real and tangible practices to have any credibility with indigenous peoples and modernity.

Furthermore, resources must be allocated to tribal governments for building capacity to address the technical, legal and general communications to tribal populations regarding all environmental permitting processes. And I have one example here that's most egregious among many in Alaska and that's with the transfer of primacy with the National Pollutant Discharge Elimination System.

So the transfer of permitting primacy from the United States of NPDES to the proposed State of Alaska Pollutant Discharge Elimination System is legally questionable due to a memorandum of understanding signed by Region 10 EPA and State of Alaska Department of Conservation.

The State of Alaska has not substantially demonstrated the capacity to actually exercise oversight and compliance of simple reporting requirement of Clean Water Drinking Act in villages of Alaska. The question is, how could tribal people and all other citizens have confidence or assurance that minimal federal standards or waste water discharges from mineral extraction to oil gas, mining, timber industry, seafood

process and industry or municipal discharges are being properly monitored by – as yet to be created program from the State of Alaska (DEC).

No development or consultation processes will adequately address the adverse disproportion of cumulative impacts of thousands of permitted (inaudible) industrial developments in Alaska, (inaudible) these people of human rights. The federal obligation to tribal government and the trust obligation of permitted activities and all resources to find tribal citizens and indigenous people cultures must be addressed.

And so, I guess that concludes my comments. It's just that the adverse disproportionate cumulative impact is most hurting traditional subsistent cultures.

Elizabeth Yeampierre: Thank you. Thank you very much Mr. Pastos for joining us. Members of the councils, the advisory council, do you have any comments or questions that you'd like to ask Mr. Pastos?

John Ridgway: This is John. I want to be sure that we all have access to the comments that Mr. Pastos submitted to EPA.

Elizabeth Yeampierre: I think that the comments were sent to all of the members.

Victoria?

Victoria Robinson: Yes, we sent in an email. The written comments were sent to everybody. But what we'll do is we'll make sure that all copies of these written comments is that we sent to all the members just in case they miss it from the snafu, because we sent a second mailing when we got additional written comments earlier this week. And so we'll make sure that we get them out to everybody again.

Male: Thank you.

Elizabeth Yeampierre: Thank you. And I know we got a copy this morning. And so, you should check your inbox. Thank you very much, Mr. Pastos.

Jolene Catron: This is – Elizabeth, this is Jolene Catron from Wyoming. I would like to thank you for participating. And I would like to encourage you to contact the NEJAC Alaska representative who is Peter Captain, Sr.. And he is with the command and chief council.

And make sure that he understands fully what your comments were that you submitted and then start to build a relationship with him so that your perspective is getting the attention that it needs to get.

Victoria Robinson: Hi. This is Victoria. I do want to add, Peter had changed his affiliation. He's now the elder adviser to the executive board of directors, so the Yukon River Inter-Tribal Watershed Council in Fairbanks.

Jolene Catron: OK. Thank you.

Elizabeth Yeampierre: Thank you. Are there any other comments? OK. Victoria, who is next? I don't have anymore names.

Victoria Robinson: The next person is Alice Wright-Bailey, if I'm not mistaken.

Elizabeth Yeampierre: OK, Alice Wright-Bailey?

Alice Wright-Bailey: Alice.

Elizabeth Yeampierre: All right. Thank you. Welcome.

That person might not be on the call.

Victoria Robinson: Operator, do we have Alice Wright-Bailey on the call?

Alice Wright-Bailey: Hello?

Elizabeth Yeampierre: Oh, welcome. Thank you for joining.

Alice Wright-Bailey: I'm sorry, I'm in the midst of trying to drive and answer – and talk as well. I'll make this very quick.

One of the issues that the communities that I encountered faced all of the time is the permit of this regulation and the municipality are never on the same page. When we go into meetings about new permits in EJ community where all of the – the reason they're always faced with – well, the local municipality handles zoning and land use. All we do is to you know, deal with the permit by – based on the regulations that we have.

So, I guess my question is there some way that the EPA through the states can enforce some environmental justice component into the regulation even though the state and even municipalities that deals specifically with the land use and the zoning laws, and it's somewhat – well it's so political on that local level that communities, especially environmental justice communities that do not have any political (inaudible) are left out in the cold.

So, it's like a loophole in the permitting process for EJ communities. And I hope I'm a little clear.

Elizabeth Yeampierre: Well, I think you're being clear. It's great to be able to drive and talk at the same time. I think that that's just sort of how we move (inaudible).

Are you done with your comments? Are you ready for responses?

Alice Wright-Bailey: I'm pretty much done. Yes.

Elizabeth Yeampierre: OK, thank you.

Members of the council, do you have any responses for Ms. Bailey?

Wynecta Fisher: This is Wynecta Fisher I would like to make a comment.

Elizabeth Yeampierre: Go ahead.

Wynecta Fisher: Early – it is going to – I don't know – I don't know if EPA – if there's anything that EPA can do. I actually – there's a member that's on NEJAC that I was – I've raised a similar question; there's a member on NEJAC that has some planning experience. So, I imagine when they were going to tackle that issue because when you have permits that are state led and you also have local zoning ordinances that allow things, it really does put the EJ community in a pretty tight, tight box.

But in the interim, and I hope maybe somebody from EPA can address this, but in the interim I would suggest that you find someone on this party of local zoning commission and tell them that you need to be put on the mailing list or we need to be notified anytime, any (inaudible) request is made. In that way, we shouldn't be on record making comments against any type of proposed facility because a lot of times community doesn't know about it until you know, the ground breaking is happening. So, that's just a suggestion.

But is there anyone from the D.C. office who could maybe assist us with this?

Elizabeth Yeampierre: Thank you, Wynecta. (Inaudible). Victoria?

Victoria Robinson: I'm not quite sure I understand the question, but I can say within the context of Ms. Bailey's, Ms. Wright-Bailey's written comment and given the conversation of the good movement workgroup has had gone through is with the issue of local land use planning and its impacts at EPA's role in local (inaudible) land use planning.

One of the things that there would have been talk about – discussion about EPA's role in providing guidance or best practices and there might be different mechanisms by which EPA could try to accomplish some of the – encourage or foster such things that Ms. Bailey is talking about. You know, that I think we can talk into more detail in the workgroup conversation about this permitting. I mean, she wrote a very good comment.

But in terms of the broader question, I wasn't quite sure what you were asking. So, if you can either restate it or we can – or send it to me right in and I can figure out – get the right person to respond.

Elizabeth Yeampierre: Ms. Wright-Bailey, do you want to restate your question?

Alice Wright-Bailey: My question is basically that EJ communities, because they don't have any political connections with the local municipality, they are more or less – less (inaudible) and have to accept the fact that municipalities will let industries come in because of some political reason.

And the agencies that permit – the state agencies that review these permits are basically held hostage because all we can say is we have no say over the industries that your municipality allow in. Even if they affect your health, we don't have any power. All we do is base our decisions on the regulations that deal with a specific permit.

Female: (inaudible).

Alice Wright-Bailey: The question is somewhere along the line does some federal authority have a way – a mechanism enforcing or just a way that the state can say just more than that; that

because the (inaudible) say we're allowed to review a permit, we can't look at accumulative impact.

We can only look at what we have before us and it doesn't include the fact that your community has an over abundance of such and such industry.

Wynecta Fisher: Ms. Wright-Bailey, let me ask you a question, what community are you calling from? Which community are you speaking about?

Alice Wright-Bailey: Well, I could speak of a number – Philadelphia, you look at the Northeast and the Northeast is now being bombarded with all of these factories ...

Wynecta Fisher: (inaudible).

Alice Wright-Bailey: ... that are being converted into these destruction, demolition recycling facilities for beneficiary use. And the community is so – they sit right on top of residential communities. And then we have Chester.

The City of Chester that is a very small community but all of the facilities, the incinerator, the waste water treatment plant, the water treatment plant, all of the facilities are located in one small community, one small city. But yet that city facilitates the entire county in supplying water, people being able to flush their toilets, they take care of the entire county but yet all of these industries locate in environmental justice communities.

Wynecta Fisher: Ms. Wright-Bailey, the reason I was asking the question because we know that what you're saying – what you're saying to be true and is true for a lot of our communities across the country. And we feel what you're saying, the reason I was asking is that oftentimes folks testify without being aware of what EJ organizations exist in their community.

And I was trying to get a sense of where you were calling from in the hope that maybe we can connect you with people that can help you address these issues on the ground because we know that from an organizing perspective that municipalities respond, when people organize and we wanted to be able to answer – in part, from an organizing perspective that question.

But let me hear – I want to see if there are any other members on the council who have any comments. And if not, I'd like to thank you and I think we have some other

– we only have a few minutes left but I don't know how many other people we have waiting to present.

Vernice Miller-Travis: This is – this is Vernice, and I'll make this ...

Elizabeth Yeampierre: Thank you.

Vernice Miller-Travis: Vernice Miller-Travis – I just want to bridge from what Alice has said to one of the issues that I'm not sure the various guidances that EPA is asking us to comment on are able to address our thinking about addressing, and it is this, that the local land use and zoning process is all powerful when it comes to siting this facilities.

And their predominant modus of operating is if the permit applicant meets the standard, if they do not exceed emission levels or pollution levels, then, they have no legal basis for which to deny them the right to site and operate. That is a direct conflict with what EPA is trying to do with these various issues.

And we can write all the reports and issue all the guidance we want, but we would be stuck at the court house door for trying to impede and supersede local land and zoning authority. We've struggled with this before in the NEJAC context. I just want to lift it up that we need to work with EPA and EPA needs to work with us to figure out how to thread that needle.

But if we cannot thread that needle, then we will not be able to bring release to these communities.

Elizabeth Yeampierre: Thank you. Anyone else?

Langdon Marsh: This is Langdon Marsh. I wish Patty Salkin was here because I think what we're hearing is another reason why – I believe that NEJAC does need to take up the issue of land use in the context of what it is that EPA could do in this and in helping address environmental justice and other very localized impacts as a result from facilities that are – that are perhaps meet the zoning but which have problems.

One – some states, New York is one I'm familiar with have adopted environmental quality review statutes that gives some authority to state permitting agencies to address accumulative impacts and – impacts associated with environmental justice concerns.

You're not strong enough in all cases to be able to provide the authority to meet conditions or even to deny permits that have – that have adverse impact. So, I think it's very much worth discussing further in NEJAC in the future.

Suzi Ruhl: Elizabeth, this is Suzi Ruhl, can I make a quick comment?

Elizabeth Yeampierre: Absolutely.

Suzi Ruhl: I wanted to tie Ms. Wright-Bailey's comment actually back to the permitting charge because as I think (Stew) has suggested, we want to look at the reality the communities are facing and how much the permitting process be modified consistent with the statute to fill some of these gaps. And I think the point to keep in mind is that while the absolute general rule is it that siting decisions are made by local governments.

Various statutes do have provisions which influence siting during the permitting process. For example, under the Resource Conservation and Recovery Act, there are locational standards. And so, I think part of what we're trying to do with the permitting effort here is to start with the problems and then really take a hard look at our statutory authority, our regulatory authority and see where there might be some authorities that we can be using, which will start closing that gap.

You know, another example is what they call you know, the omnibus clause within RCRA which gives the ability to come up with additional measures to protect human health in the environment, which have a number of you know, operational measures that can be taking place.

But I think this is a real good segue into how we want to take that hard look at the permitting process to see where we might be able to do more.

Elizabeth Yeampierre: Well, thank you, Ms. Wright-Bailey. This is exactly – the problem that you flagged comes up almost at every NEJAC hearing, and it's one that we have been discussing now for awhile because it really defines what happens locally in our communities and it also draws attention to some of the – some of the challenges that we have.

So, thank you very much for joining us.

Victoria, how many people do we have and if you can just share with me what their names are so I can call on them.

Victoria Robinson: Right. Everybody – so far that I've – that we already said was on the line has spoken. I just want to call out to the operator to see if two other people have finally joined, the two – the last two that had signed up.

Elizabeth Yeampierre: OK.

Victoria Robinson: Sally Knissen, K-N-I-S-S-E-N, or Albertha Hasten. Otherwise, if they're not on the line, then we – public comment will be concluded.

Elizabeth Yeampierre: OK.

Victoria Robinson: Operator, do we have either lady on the line?

Operator: No, ma'am, we do not.

Victoria Robinson: Thank you.

Elizabeth Yeampierre: OK. So, I guess that brings to an end of our public commentary. I want to thank all of the members of the community that joined us today. You know, many of us on the council run organizations, do work in the community and we know that it's a tremendous sacrifice to participate in this and to give – and to comment and to present before us.

We know that that's not always the easiest thing to do. So, we really want to extend a heartfelt thank you for your presentation and for sharing how environmental justice is affecting your particular communities. We'll use that as a guide and as a way of making decisions.

Without your input, we would not be able to make your – any decisions or make any recommendations; rather, we don't make decisions, we make recommendations. So, your guidance is essential for our recommendation. So, thank you very much.

Victoria, I don't know if we should now have any final comments from the advisory council before we adjourn. So, what I'd like to do is we have – oh, really, it's four o'clock. Well, I think we have two more minutes.

So, if anyone have any final comments?

Victoria Robinson: I think Charles would like to add something.

Elizabeth Yeampierre: Who would?

Victoria Robinson: Charles.

Elizabeth Yeampierre: Oh, Charles, yes please. Charles?

Charles Lee: Thanks, Elizabeth.

I just wanted to thank everyone for participating and I really want to express strongly how appreciative we are with all of you taking the time and making the effort to address some pretty daunting kind of task that we put in front of you. And I know that the time is short.

But whatever you're giving us now and I think whatever you're going to be giving us is going to be really valuable. And these are going to be ongoing iterative processes that we put forward questions to you and get your feedback that we're all learning together.

So, do not worry about that. I think you know, you should focus on what you can provide. The glass is half full; not half empty.

Thanks.

Elizabeth Yeampierre: Thank you, Charles. I think we all recognize that this is a really exciting time in history and that the window is open right now to make some transformative recommendations for our community.

And with the discussion today I thought was extremely high level. And I want to thank each and everyone of you for your participation and I want thank Charles, Victoria, and John for helping me facilitate this today.

So, with that said, the meeting is adjourned. Thank you.

Victoria Robinson: Thank you.

Operator: This concludes today's conference call. You may disconnect your line.

END

Written statements were submitted by the following individuals for the public comment period, but they were not present to speak during the meeting.

- Ms. Sally Kniffen, Saginaw Chippewa Indian Tribe of Michigan, Mt. Pleasant, MI
- Mr. David Ludder, Law Office of David A. Ludder, Tallahassee, FL
- Ms. Rosemary Ahtuanguak, Inupiat Community of the Arctic Slope, Barrow, AK

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

1. Ms. Sally Kniffen, Saginaw Chippewa Indian Tribe of Michigan, Mt. Pleasant, MI

Air Permits: "EPA is taking direct final action to convert a conditional approval of specified provisions of the Michigan State Implementation plan (SIP) to a full approval. The revisions consist of requirements of the prevention of significant deterioration (PSD) construction permit program under the Federal Clean Air Act (CAA). This program affects major stationary sources in Michigan that are subject to or potentially subject to the PSD construction permit program. EPA is converting its prior conditional approval to full approval because the Michigan Department of Environmental Quality (MDEQ) submitted corrections to the rules that satisfy the conditions listed in EPA's conditional approval. This rule is final. Its effective date is May 24, 2010"

Because the EPA has delegated the authority to the State of Michigan there is no longer an avenue for the Tribes to be protected by the inherent trust responsibility held by EPA and the Federal Government. Also, because the authority was given without proper government to government consultation the tribes are less protected because they have lost the ability to address their permit concerns through the Environmental Appeals Board (EAB) process within the EPA structure.

At present there is no Environmental Justice approved plan for the EPA or the State of Michigan this coupled with a truncated appeals process leaves the tribes vulnerable to permits being issued to major contributors of green house gases and mercury, i.e mining and coal fired power plants.

A possible solution involves the combination of enforcement, consultation and restructuring of the appeals processes. The tribe would like to see EPA regulate those emissions the U.S. Supreme Court has ruled is their responsibility, i.e. carbon dioxide and mercury. The full exercise of the Tribe's rights will be compromised for generations if regulation isn't a keystone of the environmental justice program.

Consultation is a process the tribe is working to improve with EPA and the State of Michigan. It is an on going process and many efforts are being utilized to ensure success.

Restructuring an appeals process is necessary to ensure environmental justice concerns have proper checks and balances within the system (liken to a Supreme Court to oversee the Legislative and Executive branches of government).

The above comments are respectfully, submitted on behalf of the Saginaw Chippewa Indian Tribe of Michigan,

Sally J. Kniffen

2. Mr. David Ludder, Law Office of David A. Ludder, Tallahassee, FL

I will not be able to participate in the August 26 NEJAC meeting because of a previous commitment. I am providing these written comments for your consideration.

I have long been concerned that state environmental agencies are ignoring Title VI of the Civil Rights Act and 40 CFR 7.35(b) and (c) and that EPA is doing nothing to change the status quo. These provisions prohibit recipients of EPA financial assistance from administering programs (e.g., permit programs) that have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex. Currently, applicants for financial assistance merely have to certify that they comply with Title VI at the time they apply for financial assistance, but they do not have to develop or implement any programs (e.g., demographic and disparate impact analyses of individual permits) to ensure compliance with Title VI after receipt of financial assistance. Requiring states to develop and implement programs to ensure compliance with Title VI would be a giant leap forward and afford at least the possibility of equal protection for all.

I have attached a suggested rule amendment that I believe would require states to develop and implement permitting programs (including demographic and disparate impact analyses of individual permits) that ensure compliance with Title VI.

If I can be of any assistance, please do not hesitate to contact me.

3. Ms. Rosemary Ahtuanguak, Inupiat Community of the Arctic Slope, Barrow, AK

The Environmental Justice program has opportunity to work with the issues that are being left to the wayside as resource development grows in our region. We have to communicate to the various entities, industry, agencies our concerns that are compounding with the continued business as usual process. We have continued to participate in the process of meetings around us. Yet the concerns we are presenting continue to build and have not been addressed. We went through various EIS processes in the region over the last years. We have commented, participated, travelled, met and repeatedly communicated our importance of traditional and cultural uses and the health of our resources and people through protecting them. We share these concerns to the process for we have seen changes to others with the fouling of the waters through resource development at these costs beyond imagination. We want to prevent the devastations from these same practices as the process is being pressed forward by others and taking to others.

The process to communicate with the descriptive variables build divisions for the issue yet the boundaries created build increased risks for those within them. Many processes have taken the resources, emitted substances, changed the natural environment, for the cost of the nations energy programs. Community infrastructure grew through this process yet the value cost variable is to others again at our cost and lags needs improvements.

The process continues to build as industrial streamlining breaks the process to keep our issues at the table building profit discussions held elsewhere. When accountability is at the hands of those accountable it is easy writing but doing in the Arctic is different. Our concerns to the response to an adverse event is forever foremost in our minds as we work with others who come here with plans for changing our area that has had much of our natural state protected with our continued inhabitants beyond time immemorial. Yet devastation again and blind are the decision makers approving the process here. We know the harsh extremes we have the difficulty to travel and work here. We take the time to survive with the environment we have. Yet industry timelines march relentlessly building miles of oil and gas interaction processes.

Our traditional and cultural practice of harvesting from the marine environment is who we are with whaling, hunting, gathering from the bounty our garden the Arctic Ocean including the Beaufort and Chukchi Seas. The hopes to continue the traditions and culture is why we continue to communicate, educate, interact and share our ways with others as our elders have shared with us.

We had promises that they would work with us and address our concerns. Yet objectives are only to perform the meeting, not really work with addressing our issues. We bring our concerns to the meeting only to have them pushed aside as not relevant for the objective of making more oil and gas at our costs to traditional and cultural uses of the area. Mitigating measures have been words on paper with no

enforcement to the process such as Alpine limiting flights during caribou migration and increased hunting to the village of Nuiqsut, or maintaining cause ways for fish passage. When we asked about concerns to hunting, affecting our harvest one industry representative said,"Oh, your hungrey we can offer you hot dogs."