

**EPA-NEJAC Public Teleconference Call**

**Moderator: Victoria Robinson  
September 23, 2010  
12:00 p.m. CT**

Victoria Robinson: Good afternoon, everybody. Welcome to the 36th Public Meeting of the National Environmental Justice Advisory Council, known as the NEJAC. I'm Victoria Robinson. I am the DFO or 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 EPA for more than 16 years. This is the fifth of six public meetings the NEJAC will be conducting in 2010.

First, I'd like to welcome and thank all the members of the council who are able to participate in today's call. We recognize that three hours is a significant investment of time and we're grateful that you're able to pull away and participate.

Also, there are more than 200 people who have registered to listen to today's call. We want to thank them for taking time out in their schedules as well. And we also want to thank those who have submitted written comments or who will be providing a statement during the public comment portion of this meeting.

The purpose of today's call is to discuss two topics. One, the council will be continuing its discussion about responding to EPA's plan, EJ 2014. And two, they will continue its discussion about it's going to respond to EPA's charge on incorporating environmental justice into the permitting process.

Now, before I turn it over to the chair, Elizabeth Yeampierre, I am going to do a bit of housekeeping. I always start these calls off knowing that EPA's effort for transparency and access to information is always ongoing. And to that end, once again, 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 on the Web. Until the audio files and transcripts can be posted, an Encore Audio recording will be available early next week in which you can playback the proceeding.

And since we are doing an audio recording, I'm reminding all NEJAC members and any presenters and speakers who are providing public comments that when it's your turn to speak, please state your name and affiliation clearly for the record when you begin.

And also, please recognize that we have approximately 25 members of the council as well as a variety of public commenters, so it's important that the culmination flow through the chair, i.e., you're going to have to get the chair's attention so she can recognize you to go ahead and give comment. This will help make the process flow smoother and enable the note-takers and the transcriber to accurately reflect who's actually speaking.

And members – you don't have to give your full name and affiliation each time, just the first time you do so and then after that, you can just say your first name. So please also talk directly into your handsets so that everyone can hear you. If you're on a cell phone, please put on mute when you're not speaking, there's also that feedback. And if you're in a car or using a speakerphone, please make sure you're on mute to cut back on ambient noise.

So, we're going to go ahead and turn this – I'll turn the call over to Elizabeth Yeampierre, the chair of the NEJAC.

Go ahead, Elizabeth.

Savonala Horne: Hi. I just would like to say I've joined the call. It's Savi Horne.

Victoria Robinson: Oh, welcome, Savi.

Patricia Salkin: Hi. And I'm sorry, this is Patty Salkin. I've joined the call as well.

Elizabeth Yeampierre: We're going to take – we're going to take everyone's name. After the initial comments, we're going to do a roll call.

Savonala Horne: Sure.

Elizabeth Yeampierre: OK, thank you.

(Spanish Spoken). Peace and blessings to everyone. I think the opportunity for a teleconference call is always excellent because it gives us in a most cost-efficient way an opportunity to get as much civic engagement as possible which is extremely important to the NEJAC.

Yesterday, for the first time in more than 10 years, the EPA, the White House Council on Environmental Quality reconvened the inter-agency workgroup on environmental justice and then a

meeting at the White House. The meeting was attended by five cabinet members and it is a tribute to the hard work and commitment of the environmental justice activists throughout the nation.

We understand, as a community, that the environmental burdens in our communities don't happen in silos; that they involve public health, land use, transportation, housing and host of other complexities, and any attempt to resolve this has to be done in a holistic way. This combines with the challenges presented by climate change and impact for the nation's most formidable communities is a reminder that the approach must be different.

Consequently, yesterday's news is worth listing and recognizing. At the meeting, Administrator Jackson highlighted Plan EJ 2014 which, as a reminder for our gathering today, is four-year roadmap to help EPA develop stronger community relationships and increase the agency's effort to improve environmental and health conditions in overburdened communities. She also included EJ and rulemaking guidance, which is another issue that we will be talking about today and sustainable community partnerships.

We are really fortunate and really blessed that we have had the leadership of John Ridgway who will be presenting on rulemaking and Kim Wasserman who will be presenting on Plan EJ 2014. I'd like to extend a deep gratitude for their leadership and for them taking so much time to convene a group of really committed members to make recommendations today.

I also would like to thank Victoria for bringing this meeting together. As she mentioned, there are over 200 people on the call. We have stakeholders from every EPA region, people from academia, business, industry, community-based organizations, NGOs, government, tribal government and indigenous organizations and concerned citizens. So we also have close to 30 people from just EPA headquarters. So this is a meeting as well as many of the others that we have had that gets enormous amount of attention and where we have an opportunity to really move forward on issues that impact our communities.

With that said, I'd like to move to introduce Charles Lee if Charles is here. Is Charles on the call?

Charles Lee: Yes. Hi, Elizabeth.

Elizabeth Yeampierre: Thank you, Charles. Thank you for joining us.

Charles Lee: You wanted me to just a few words about the inter-agency working group meeting yesterday?

Elizabeth Yeampierre: Yes, absolutely.

Charles Lee: Yes. And so like you – and good afternoon, everyone. And like Elizabeth said, something really momentous took place yesterday, something which EJ groups and communities have been waiting for, for many, many, many years, which is the reconvening of the inter-agency working group on environmental justice which was established under the Presidential Executive Order in 1994.

And so this is reconvened by Administrator Jackson and by Chairperson Nancy Sutley of the council – White House Council on Environmental Quality at the principal's level. So like Elizabeth has said, five cabinet members were in attendance and virtually all the IWG agencies were present.

The five cabinet members were, of course, Administrator Jackson and Attorney General Eric Holder, Secretaries Salazar III and Donovan. That's of Department of Interior, Department of Transportation and Housing Development.

And I think Elizabeth has run down some of the highlights that were presented as far as EPA's work but many of the other federations has pointed out a lot of their activities. And the significance of environmental justice to our missions like, for example, Secretary Donovan talked about how environmental justice was part of their mission in terms of issues like accessible housing, in terms of disaster relief and in terms of a sustainable community initiative.

And the numbers of partnerships that were highlighted included America's Great Outdoors and also the Partnership for Sustainable Communities which has, within it, an effort called Team EJ to look at the interior sections of environmental justice and the work of the three agencies.

A major point that was voiced over and over again was the linkages between environmental justice and sustainability. There is an executive order on sustainability as well – and also issues of the linkages between a clean economy, a clean environment and a prosperous economy. And these are the types of holistic approaches that the inter-agency working and wants to explore in addressing the needs of EJ communities.

There will be a White House forum on environmental justice, primarily geared for EJ communities later this year, slated for sometime in December. I do not have the specific dates but they will be forthcoming.

And then lastly, I just wanted to say that you know this was done – it was put together. It was a lot of hard work for many agencies and there's been meetings going on almost constantly between EPA's Council on Environmental Quality and individual agencies. And so this all shows – it's just not a principal's meeting but there's a lot of ongoing activity that is really exciting to witness.

And I just want to commend and also recognize the leadership that Lisa Garcia, who is the senior advisor to the Administrator on Environmental Justice and has displayed in pulling this effort off and in conjunction with – I don't know if you know the name Nikki Buffa who is the Associate Director for Outreach to CEQ.

So with that, Elizabeth, I'll just stop. And I think we're going to discuss this one later, not necessarily take questions right now.

Elizabeth Yeampierre: OK. Thank you so much, Charles. Victoria, would you like to do the roll call?

Victoria Robinson: Yes, I'll go ahead and ask Aaron Bell to go ahead and make the quorum call.

Aaron Bell: Good afternoon, everyone. Please acknowledge your presence when you hear your name.  
Elizabeth Yeampierre?

Elizabeth Yeampierre: Present.

Aaron Bell: John Ridgway?

John Ridgway: Here.

Aaron Bell: Kathryn Brown? Teri Blanton?

Teri Blanton: Here.

Aaron Bell: Paul Mohai? Hilton Kelly? Patricia Salkin?

Female: Here.

Patricia Salkin: I'm here. I guess, I didn't take the phone off mute.

Aaron Bell: Margaret May? (Inaudible)? Kimberly Wasserman?

Kimberly Wasserman: Here.

Aaron Bell: Savonala Horne?

Savonala Horne: Here.

Aaron Bell: Chuck Barlow?

Chuck Barlow: Here.

Aaron Bell: Langdon Marsh?

Langdon Marsh: Here.

Aaron Bell: Sue Briggum?

Sue Briggum: Here.

Aaron Bell: Vernice Miller-Travis? Wynecta Fisher?

Wynecta Fisher: Present.

Aaron Bell: Shankar Prasad? Stephanie Hall?

Stephanie Hall: Here.

Aaron Bell: Nia Robinson? Jodena Henneke? Nicholas Targ? Nicholas, I know you're here. Are you on mute?

Nicholas Targ: (Liz) was speaking to me. Here, I am.

Aaron Bell: Edith Pestana? Don Aragon? Peter Captain, Sr.? Jolene Catron?

Jolene Catron: Here.

Victoria Robinson: OK. We have a quorum of 13 members. Just to let you know Father Vien is – and Paul Mohai are both teaching classes today, and Katie Brown is traveling abroad and Vernice Miller-Travis is actually convening another public call for – on another topic.

I think that I have captured everybody so far, Elizabeth, who has communicated with us that they were going to be absent, correct?

Elizabeth Yeampierre: Right. I also thought Sue Briggum sent us ...

Victoria Robinson: Yes, Sue is going to – will be a little bit late to the call. Thank you for reminding me.

Elizabeth Yeampierre: OK.

Victoria Robinson: Getting on by two o'clock for ...

Male: Sue is here.

Elizabeth Yeampierre: OK.

Victoria Robinson: Oh, Sue is here.

Elizabeth Yeampierre: Oh.

Sue Briggum: I'll have to drop off occasionally but I'll be here for most.

Elizabeth Yeampierre: Great. Thank you. Wonderful.

Victoria Robinson: OK. So we'll do another quorum call a little later on between the present – between the two topics.  
Just make sure we capture those members who might not – who might come in a little bit late. OK?

Elizabeth Yeampierre: Great. Thank you.

Victoria Robinson: We'll go ahead and turn it over to you, Elizabeth.

Elizabeth Yeampierre: OK, thank you. So I'm going actually to turn it over to Kim Wasserman. Kim is the chair of the  
NEJAC Plan EJ 2014 subgroup. Kim?

Kimberly Wasserman: Thank you, Elizabeth. Thank you all very much.

First and foremost, to the subcommittee members, thank you all very much for getting in all your comments. And basically what we have put together is kind of an outline for where we feel can climb back on the EJ 2014 plan. And what I wanted to do today was run through – kind of give an overview of what the discussion has been so far and get feedback from folks in regards to their thoughts so far.

We will be reconvening as a committee on Monday to finish up the discussion being that comments are due on October 1st. If at any point in time, anybody has any questions, please feel free to ask. And I do recognize that sometimes I speak a little bit fast. So if I speak too fast, please feel free to tell me to slow down. I just get really excited.

So first and foremost, one of the things that with the recurring them in the overall discussion of the plan was really taking a thought in the beginning of the document to recognize the administrator in the agency for giving a priority to environmental justice and what they have done so far.

And so I just wanted to give folks that we definitely want to start off this document with you know a direction and, I believe, spirit of encouraging them and the federal agency to continue to make progress with this work. And so that's something that definitely was reiterated and we will make – we will definitely do that within the document itself.

The second thing I wanted to talk about overall for the document itself was a concern that was brought up that I think – I don't know if this would be the specific arena for this conversation but I

definitely wanted to highlight it in our conversation overall, and that is really recognizing where tribal communities are in representation of NEJAC.

And Jolene, please feel free at any point in time to step in the conversation in case I – feel free at any point in time to step in the conversation in case I misquote. But one of the conversation points that we had in the group was really talking about whether or not the Indian country was having a voice as originally has planned or was designated within the NEJAC.

And so in part of what I will be sending out to the members, there are some concerns about whether or not having the timeframe but really having a voice at the table through the process right now of NEJAC is giving you know the tribal community enough of a space to give feedback. For instance, right now, the EPA has one you know 25-employee task to deal with tribal environmental justice.

And so you know talking about whether or not this is adequate which is not but really talking about what we can do in the NEJAC to deal with this issue. I think that only the right in covering this – any of the future tasks that we are given.

Jolene, I'm sorry. Was there anything that I should ask for that?

Jolene Catron: You know I have to apologize. I've been trying to un-mute my line for the last minute and I had just – to the operator. And so when you're mute – I mean, when you go to the operator, you get cut off of the call and so I basically missed the whole last minute of your conversation.

Kimberly Wasserman: OK. No problem. How should we – should I read?

Jolene Catron: Well you know I think you – from what I heard, you pretty much covered what I had submitted in my draft form and so I appreciate that. And I think that you know we'll have the opportunity to discuss further some of the issues that I raised in our subgroup meetings and ways that we can move that forward or bring that in.

I think it's important to – this is important first-step in that EJ 2014 plan to move forward. And I want to make sure that we're moving forward in a right way when we're talking about tribal representations – tribal EJ representation of the NEJAC, and so that's why I'm bringing that up now instead of stepping forward on the plan and then trying to backtrack. And so that's my thought about that.

Kimberly Wasserman: And I have said, this is just, I think, in reading to Jolene's draft really wanting to give her the space and the voice, as she mentioned, to bring up now and you know afterwards when we ask about tracking. So if there's a space that we could designate in the future to have this conversation, that would be great. We appreciate it.



Moving on to the document itself, everybody got a copy of the charge. And so what we've done is go to that into the different subgroups that the charge requires, starting with the goal.

And so the first – the Plan EJ 2014 has three specific high-level goals. I mean, I'll cover the three of them very quickly – protect the environment and health in overburdened communities, empower communities to take action and to improve their health and the environment, and establish partnership with local, state, tribal and federal governments and organizations to achieve healthy and sustainable communities.

In our discussion that we have, the only real concern we had with these three goals was the very first goal in protecting the environment health in overburdened communities, one of the things that folks reiterated was that it should emphasize protect and improve the environment and health in overburdened communities.

We think that protection is only one step of two that could be taken here, and so we will be requesting that protect and improve be included in that state. And unless anybody has any other questions about the goals and – so that was pretty much the only issue with the goal in general. OK. I will take the silence as move on.

In the discussion arena, there are – I apologize. There were three questions that were given to us. Oh, sorry. The first one is asking the questions of the class agency-focused areas and whether or not these areas are the correct one. And so what we do is we went through the areas and kind of had some concerns overall and I will briefly summarize what some other concerns were within these. And again, all of these will come out to the committee in general.

In regards to incorporating environmental justice which is role-based community, overall it seemed that folks were very concerned about the goals not just being incorporating environmental justice.

You know the overarching goals should be to have environmental-just rules and so it really became a question of evaluating existing rules and regulations you know and figure out where things were not – where things were failing and where things were working to try to take advantage of these goals. So I think it will be more than anything, just the language around this really had some folks' concerns along with the (factoring) concerning environmental justice concerns in the EPA permitting process.

In that second cross-agency focus, there was serious concern around the term "considering". And just – really, folks felt like it should be a stronger word than just considering environmental justice in the permitting process.

In regards to cumulative impact, there is a number of questions that folks had as well in regards to what this process looks like, how much long – how much time we will take and overall, a need to develop a time or a timeline and work plan for all of these cross-agency focus areas.

You know there is real concern around they're not being any concrete timelines to these cross-agency focus areas and so that was one of the major suggestions that folks have brought to the table and how can we make these – do these more than each, have them actually stand ground and that's one thing that you will definitely see in the final document and an overall concern for making these much, much stronger than they finally are.

Moving down the line, there were the concerns for within the permitting process as well, looking at – or asking for analysis with the teachers – thank you – and how I, from a permitting aspect, how this will make the process – how this will change the process.

You know it's a process of permitting is already highly regulated, what else would come into it? And so definitely, there was a question in regards to other stakeholders, in fact, from community and how this would impact them. And so there was a request for more language around that.

Moving on to accelerating compliance and enforcement initiative, one of the concerns here was according to the plan, the EPA currently pursues enforcement and provides compliance assistance to areas that yield the most environmental benefit or reduce risk to human health. And there was a lot of questions in regards to how the EPA makes those assessments, what criteria used and so again, with a lot of these cross-agency points, there was questions that were needed to be discussed in order to have a better understanding of them, and so these questions have all been listed out in regards to the report itself.

I will take a moment to step back and again ask if anybody has any questions or comments that they'd like to make.

Elizabeth Yeampierre: I would like to say that the idea of environmental justice not being a concern but a standard or obligation is a gesture of great recommendation.

Kimberly Wasserman: OK.

Edith Pestana: I had a comment. This is Edith Pestana. I wonder if you thought about recommending to EPA that they create an environmental justice law, something a little stronger than the Executive Order.

Kimberly Wasserman: OK. We do not bring – we don't have but I'm pretty positive in our three charges. We do not include language around that but that's really something that we put on there.

Edith Pestana: OK, thank you.

Nicholas Targ: Hey, this is Nicholas. Is the recommendation to establish environmental justice regulation which have the force of law but not a statute in and of itself?

Kimberly Wasserman: I'm sorry, Nicholas. Can you say that last part one more time? I didn't catch that.

Nicholas Targ: Is the recommendation to have environmental justice regulations?

Kimberly Wasserman: OK.

Nicholas Targ: The regulation would have be force of law but there wouldn't be a – there isn't presently a recommendation to have an independent environmental justice statute.

Kimberly Wasserman: OK. Thank you.

OK. So moving on in regards to the compliance and enforcement, there was a lot of conversations particularly around this issue in regards to one more detail from the EPA in regards to enforcement actions.

I think overall, as we will hear time and time again in this is you know what are the teeth of this document. And specifically in regards to you, what EPA is doing to the point Title VI regulation and dealing with the backlog of Title VI complaints. You will also see that within these three actions under accelerating compliance and enforcement initiatives. There were also some concerns around that language.

And those three items are considering environmental justice concerns and selecting national priorities for enforcement and compliance assurance attention, target specific compliance strategies and enforcement actions to address problems that affect overburdened communities, and seek remedies in enforcement actions that benefit overburdened communities affected by noncompliance.

And so either within those three, there were a lot of questions about what specific compliance charge is, how they differ from what's currently a statute, what is the legal right that folks would have beyond that and why isn't environmental actions does not involve and affect an overburdened community, will EJ still be invoked? And these are just an example of some of the questions that folks have.

And in the third one, seeking remedies, there were also questions around if this is a simple rebranding of the supplemental environmental projects or SEP projects or if this was something more than that. And so once again you'll find that folks do have a lot of questions in regards to asking for more detail on this plan in general.

For a supporting community-based programs, there was a request for more support for the programming like CARE and the environmental justice grants for these grants to be – to get more funding but also be longer term to help to communities in the works that they do and the funding (full strength).

I think communities are looking more and more for support on the EPA. So one of the conversation items that did come up is not just talking about the programming but actually putting some teeth to that programming and letting it grow to help our communities.

There was also some recommendations about a fixed cost-cutting focus area and I recognize that that was one of the questions. But that was after the amount of conversation around that and there were two suggestions that were given in regards to a fixed recommendation. And will very briefly talk about both of them.

The first one was incorporating environmental justice into capital and other investments. And there was a real computation around giving the EPA the authority to review (inaudible) from NEPA compliancy by other agencies in making – investing federal dollars into infrastructure and local programming and making sure that they don't create or exacerbate existing disproportionate impacts and were possible in many existing ones.

And so this is one thing that was brought up in the conversation. Along with (mitigation) and that was one that was brought up on the regional meeting in Washington and continues to be another issue, making sure that that language does somewhere here in the cross-agency focus areas.

And I don't know if anybody wants to speak to either one of those two before I move on.

Victoria Robinson: Perhaps Lang might want to elaborate.

Elizabeth Yeampierre: Right, right. OK.

Langdon Marsh: OK. This is Lang. Yes, it just seem to me that one of the miniature things that EPA does as an agency is to invest in various kinds of environmental improvements, in fact, billions of dollars are directed to that every year for water and Superfund and drinking water and so on.

And it seems to me that while there has been some – there have been some notable achievements in integrating environmental justice considerations into some of those projects and some of those programs, I think it's important that be made as universal as possible and where EPA has sufficient influence through the IWG or the sustainable communities partnership to ensure that those EJ considerations are also addressed in investment decisions made by – for example, HUD and DOT and Department of Interior and so on.

So that was – the purpose of that is just simply to add a sixth element in the cost-cutting focus areas that would recognize the importance of the expenditure of dollars for investing and infrastructure and other things.

Kimberly Wasserman: Thank you very much, Langdon. We appreciate you expounding on that. Are there are any questions? OK.

And so overall, like I mentioned again, (inaudible) take anything, but there was definitely, I think, an equal portion of comments as there was questions to a lot of this document. And so in moving on, under tool development – tools development, there was some questions in regards to the science and what specifically were the plans around disproportionate impact?

There was also recommendations that were made and I'll very briefly cover those around adding objective onto the tools development. And I think, overall, you hear that is really adding some robust results that can drive policy and implementation.

I think some other things folks had was trying to take advantage, in no means, trying to be disrespectful but really trying to take advantage of the current administration that we have and trying to get in as less change as possible in this timeline and so, really looking for some robust, some deadlines that can really drive what the EJ language fall at you know within this document.

There were also recommendations around convening federal, state, tribal community, business, academic and NGO representations to develop scientifically valid and understandable and – excuse me; practical outcome measures for you know disproportionate impacted areas. And so really trying to bring folks together to tackle this issue around science. And trying on past NEJAC reports would also be a priority for this under the area of science.

If I miss anything, please let me know. Moving on to the second question, and I am skipping over some because I don't want to go to every single one of them if there was no comment to it.

In regards to how the EPA can strengthen specific actions within the cross-agency focus areas, again the main feedback was that the product extremely general at this point and it's very difficult to get specific feedback, and so we're sure that it's very critical for the EPA to bring up process for implementation with a timeline and expected income. And we would be – we would like to hear back from the EPA and then we drive to what the plan is for that because we really feel that you know explicit criteria and outcome that can be measured is going to be necessary for this.

You know and overall I think the tone from improving programs you know to – hearing these things out would be a better way to go because of just the need the communities have and the need for really implementing environmental justice.

And again, you'll hear that time and time again within the comments that were made for the plan itself. And I (inaudible) that we have. And then I'll close at that part by saying that a lot of the discussion focuses on just processes. And while that's important, we don't feel that it's (inaudible) we really need to be focusing on outcome.

And so within the five areas, under the second one, considering environmental justice concerns in the EPA permitting process, consistent state guidance will be needed in incorporating EJ principles in the permit actions. There was definitely a lot of people recognize that there's a big concerns between the federal and state permitting process, and so really providing guidance and oversight on that is going to be key to paring out that second task.

And again, in regards to accelerating compliance and enforcement initiatives, there should be more emphasis on enforcement and compliance activities being coordinated with each other and with other efforts to reduce disproportionate impacts on individual communities. And so again, the language – supporting community-based action programs, we're really looking at going beyond the minimum regulation you know this will require planning and funding and is it you know those folks who are involved you know need to be – need to ensure the requirements on the focus areas are not to you know it really is in that financial responsibilities for these programs does not fall on one stakeholder exclusively.

So again, piecing up these programs and making sure that there are a wide array of folks at the table who are working on community-based action program.

Within the fifth one, fostering administration-wide action on environmental justice, there were a lot of different opinions that was given on this. And so basically overall, really again the question of improving it to guidance, improving it to focusing on environmental justice communities, and so there is a lot of conversation and a lot of notes that we're taking around this again, will be forwarded to everybody.

The last question on the charge, how would you prioritize the five cross-agency focus areas? This was a very interesting charge and everybody had either no opinion and very different opinions. And so I will try my best to sum it up into three and then I'll very quickly go over these three.

The common – the most common response we got from the folks was that you know that each area is critical and it's impossible given the generality of plans to prioritize among them. And it would be

easier to prioritize and more feasible to prioritize was specific action items were identified. That was the first one.

The second one was the thought that the focus areas are very interdependent and depending on a perspective between the one or more may combine to be the highest priority. And so there was a definite need to move up number four, supporting community-based actions and number five, fostering administration-wide action on environmental justice, so that will be the top three areas in order to where we have some peace.

And then the third was kind of just in averaging out because I wasn't sure how else to do this as we try (folks) setting this up. And so it was really just a question of making sure that supporting community-based action plan should take the priority following again, fostering administration-wide action on EJ and then moving down the line with permitting processes, rulemaking and then accelerating compliance and enforcement initiatives.

And so, again, when everybody gets these, I will send this out. But overall, the last thing I wanted to add was that there was definitely suggestions to rely on past media documentation as well for some of these including ensuring risk protection in communities and multiple stressors on environmental justice and community risk impact. And so there is definitely, I think within the subcommittee, a drive to really rely on the documents to give some peace to this.

But there was also some concerns that were very similar around the question of local government and the (winning) practices and land use and how, if anywhere, this played into the EJ Plan 2014.

And so at the end of this, there is a couple of – there's like three notes that I wasn't exactly sure how will you wear that would play into this but I definitely wanted to (inaudible) because I found it was very important and it is very real and a relevant issue but I wasn't exactly sure where it played into the document. And so that is what I have.

I do apologize for going long, but I hope everybody caught on. And right now, as I mentioned our goal is to get feedback from everybody on what their thoughts are, put this document together with a lot of strong points but a lot of questions and requests from the EPA and have it all done by the first of October.

Elizabeth Yeampierre: Thank you, Kim. I just want to see before we take some comments that given there'll be less the amount of time that we were given to respond to this that you did an extraordinarily competent job. And I want to express our appreciation for that in the members of the subcommittee.

We've learned that one of the requests that was made was that despite the fact that we have until October 1st to respond that the public be given an extension and we understand that that, in fact, was granted and that the public will have until October 22nd.

Victoria, do correct me if I'm wrong about this, do respond. So thank you. Does anyone have any comments or questions regarding the document and regarding Kim's presentation?

Chuck Barlow: Victoria, this is Chuck and it might not be the right time but could we just talk about next steps as to when you're going to need – when we're going to actually review the document and you're going to need comments and things like that?

Victoria Robinson: Right. The process right now is the subgroup will be meeting on, I believe, Monday to kind of debrief from today's call to absorb your comments that you guys make today as well as to start to craft a final document that would be submitted to the council. And we will have a better sense of that after today's call.

I know that the – Elizabeth and Kim still would like to try to make the October 1st deadline and putting together a document. We know that's going to take sometime for you, the council, to be able to review it. So we will let you know more at – to begin after our teleconference call on Monday to see where the subgroup members feel they are and we'll get back to writing as quickly as possible in that month where the process is.

Does that help, Chuck?

Chuck Barlow: Yes. Thank you.

Elizabeth Yeampierre: Comments? Questions for Kim?

John Ridgway: This is John Ridgway and I'll be speaking in a moment so I'm kind of holding back but there are clearly a number of references to permitting and that's the subgroup that I'll be talking about next.

And I just would acknowledge that I would love to work with Kim and that subgroup to make sure that, where appropriate, we would also look at related comments to come from that subgroup in our permitting charge to the extent that it's rolled into the charge, so bringing it in to that more but I just want to recognize that connection between the efforts of these two subgroups.

Kimberly Wasserman: And I really appreciate that – because that was actually one of the thoughts that we had originally had from the get-go was you know how much do we drive specifically into that knowing that there is additional charge of the permitting process. And so we definitely look to you know look at what comes out of your presentation today and see what we can include as well. So thank you very much.



John Ridgway: Yes. And I might add you know certainly the whole council will have an opportunity to see this overlap as well, so it's not going to be in any way restricted from the full council's considerations on that way.

Elizabeth Yeampierre: And what else?

Langdon Marsh: And this is Lang. I wanted to quote what Elizabeth said about the great job you've done in pulling all of these views together in a thoughtful way and you know I think it gives us the basis to sort through and figure out what to present to the accounts as a whole.

There is one area that I didn't mention you know some group called that I just like to put on the table briefly. It's implicitly covered and that we talked about referring back to prior reports but I want – I think in terms of the – or is it the fourth goal, cost-cutting focus area dealing with supporting community-based action program, I just wanted to suggest that we might want to consider putting into the report a reaffirmation of some of the recommendations that were made recently in the Goods Movement report that supporting community-based processes that can work as a – in a hopefully collaborative way to bring in all of the interest to sell problems around whatever the impact of the disproportionate impact is that is being – no, that wants to be improved or eliminated.

And so, I guess, I'd like to see some language in here that specifically refers to the need for – it's not just capacity-building, it's actually support or processes that help local communities solve problems that involve all of the affected and interested stakeholders. It doesn't always have to be in the form of branch from EPA because I think that's – I know that's difficult.

But support for these kinds of processes through the inter-agency working group, the sustainable communities partnership and so forth so that it becomes the norm that resources are thought to help communities actually participate in these you know processes that are convened for the purpose of solving specific problems whether it's Goods Movement or something else.

Kimberly Wasserman: Sorry about that. It might be important. He's getting it better. All right. Thank you very much, Lang. I will definitely make sure that we get this stuff (inaudible) document.

Elizabeth Yeampierre: Thank you, Lang. We're actually ahead of schedule, so we've got a little bit of time. If anyone else have any comments or questions that they want to present. If not, I am going to just – Victoria, this may be a good time for you to do the second part of the roll call before we move on to John.

Victoria Robinson: Just go ahead. We'll have Aaron call out those who have – who we know have joined us, as well as those caught for those we don't know.

Aaron Bell: Hilton Kelley joined the call. Margaret May? Jodie Henneke?

Victoria Robinson: Jodie Henneke has been on and got disconnected. We're not sure if she is able to – has gone back in yet again.

Aaron Bell: We have Nia Robinson. Don Aragon? Peter Captain? Is there anyone whose name wasn't called that joined the call to begin?

Edith Pestana: Edith Pestana.

Aaron Bell: Right. We got – thank you, Edith.

Victoria Robinson: OK.

Aaron Bell: Is there anyone else?

Victoria Robinson: Right. That's it. So we now have – my records indicate we have 14 members on the call, 15 if Jodie gets back on so we, at one point, we have 15. So I'll go ahead and turn over to you, Elizabeth. OK.

Elizabeth Yeampierre: Thank you.

So John Ridgway, Vice-Chair of the NEJAC and Chair of the NEJAC Permitting subgroup will now be presenting on the EPA charge on incorporating environmental justice into permitting. John?

John Ridgway: Thank you, Madam Chair. Hello, NEJAC members and welcome to others listening in. I want to acknowledge just a great presentation by Kim. I hope I can match that quality though I'm not sure I will.

I'm going to cover of the work overview for our subgroup and then we will get into the merits of the topic after that, and I'll welcome questions. Feel free that you just interrupt with your name and I'll do my best to clarify anything that you have questions about. So again, this is a subgroup to look at permitting in regards to charge questions that came to us from EPA at our July meeting and discuss more on our September conference call.

The subgroup is made up Don Aragon, Sue Briggum, Jodie Henneke, Hilton Kelley, Vernice Miller-Travis, Edith Pestana, Shankar Prasad and myself. We've had one call and that was last Friday. We have another one scheduled for tomorrow where we plan to take into account whatever we garner from all you, council members, today so I just want to prod you to give us some good questions and thoughts here so that we can take advantage of that starting tomorrow.

We had a challenge and that there are only three of us out of that subgroup of eight names that were actually on the call last Friday, and that's something I have to see is a disappointment and I'll do my

best to get the other members involved as soon as possible. But given the timeframe for both, this workgroup and the other subgroup, I should say, attendance is just a factor we got to deal with and along with a short timeframe limit, frankly, the scope that we're given to be able to get into.

We are going to have three other calls and then plan, in general, is to have a draft document send out to the full council in time for your consideration a couple of weeks before the full council meets face-to-face in November. And so just for timing context, that's what we're looking at. We're not going to have something out by the first of October but more likely at the end of October again so you can, as a council, can take a look at our recommendations. We would deliberate on those in November and go from the council's general guidance at that point.

So now, I'm going to get into the content. Before I do of the topic, any questions so far from anybody? OK. What we started with is to look at – there's basically two questions. They're both related to permitting and the types of permits that EPA would like us to recommend as where they should focus their attention initially.

And we talked about the charge, one is looking at EPA's permits and the first second – the second is broader looking at permits issued by not only EPA but the states and/or tribes or other entities that are accountable to carry out these federal laws. And so the second question is much broader in scope than the first.

And thus, the second question again, looking where states are issuing the permits will likely get more of our attention and the report will probably focus more on that as well.

Nonetheless, we started with the first question and focused on what EPA has a primary lead on more than the states and to the rule where the EPA was on a phone call but trying to help clarify some of these procedures and the types of permits. And so I'll give a very general overview recognizing that I may not get every detail correct and we're just starting to learn on some of these.

So one of these general overarching elements is public participation in the permitting process and regardless of what type of permit, be it air, water, hazardous waste or otherwise. There is a clear element for where the public has the ability to engage, participate and influence the permitting process and we're very much go into the needing to be aware of that and looking at EPA's permits around that topic.

A more specific type of permit that EPA generally takes more of a lead on is under the Central Insecticide, Fungicide and Rodenticide Act, otherwise known as FIFRA, you can imagine this is dealing with you know agricultural types of things. And the EPA does address this topic through registration and permitting of substances addressed in that law.

States don't generally do that. EPA generally is the lead on that, and that's my point here. And there's limited opportunities for public participation in both notification and risk assessment regarding these chemicals and substances and registration processes around those including should they be suspended or canceled or re-registration and review such matters.

Another federal law that EPA has the lead on is the TOSCA, the Toxic Substances Control Act, and that's really looking at chemicals and chemical policy and it's a huge issue that the NEJAC here is about and everybody else is – there's been not a lot of information about the cumulative risk on these chemicals and/or just general information about them in some cases. And that's something that comes under TOSCA, as well as other places. And again, EPA is in the lead and right now, Congress is looking at TOSCA review and chemical policies and safer alternatives and things around PCBs.

Again, the point being, the federal government has the lead, not the states, on that one. And so we're going to be paying some attention in regard to those categories for sure in regards to the first question.

We heard that the Office of Pesticides is doing work on this and looking the cumulative risk. And certainly, we are going to, like the other subgroup mentioned, look at existing NEJAC documents that have been written around permitting, around public participation and other specifics related to that so that we have no intention of reinventing the wheel.

And yet, we also recognize on the call that some of those documents were written 10 years ago and things have changed. And so we will try to call out things that have changed since the NEJAC is resting to the permitting to the point that seems to make sense, not that we're going to make a huge laundry list but that's something that we think is appropriate to look at.

Some of the discussion points that came up on the call included permitting in the context of Gary Guzy memo which was written back in 2000 as to what authorities does the EPA have in place or at that time and they're still there for addressing EJ. And we will certainly be aware of that in making references, again not trying to duplicate it.

There was a question though about what prompted that Gary Guzy memo to clarify where these statutes and authorities are ready allow for or encourage EJ recognition and work. And we're going to try to do a little more digging as to what triggered that Gary Guzy memo so that we can better understand what EPA was trying to address by asking for that memo. That came from a legal perspective – Gary Guzy, being a legal counsel in the EPA at that time.

Another, I think, interesting – very intuitive, basic consideration that was discussed came from Sue Briggum and Sue is on the line with us, but she can share more like that this was just a preliminary thought but it was a good one and we talked about it for quite a while. And that is, in general, looking at the environmental justice concerns or disparate impacts that have been brought to the NEJAC's attention over the years and how many permits are out there that actually address those disparate impacts or concerns.

And we had some interest in looking at that kind of comparison some more in the context of this question you know where – what is the intersection between EJ issues and permitting and there's a lot of them. But it also recognizes that some EJ issues that we hear about in disproportionate impacts are not necessarily directly controlled by the permitting process.

They may be related or influenced to some extent but there are other obvious factors involved and we already heard about it today – local zoning would be something that would fall out of the general permitting consideration by EPA or the guidance that we traditionally have given.

Now, there is a long history of NEJAC members and reports acknowledging that that's a very important dynamic that we have to be aware of and figure out the best opportunities, tools, et cetera to recognize that kind of dynamic that that is not directly tied to the federal permitting laws.

So although we don't control that, we will recognize that and it will continue to be a challenge, I think, in regarding – in regards to permitting. So Sue, I don't know if there's anything that you might want to add about your thoughts on this comparison, but I'll give you a chance here.

Sue Briggum: Sure, thanks. You did a really good job, John.

Yes. I just thought there are two perspectives that we needed to have – one necessarily comes from EPA as they think about their authorities and therefore what they can cover and they'll give us information with regard to the number of permit, for example, they issue directly versus those that they influence by managing and overseeing state programs but not signing the individual permits, and that's important.

But I have thought one of the very hopeful things that NEJAC brings to the table is that, in particular, the members of the workgroup have often been on NEJAC and similar groups for a very long time. And we've heard a lot of discussions on environmental justice and I thought, we should also start with a grassroots perspective and collectively all think together about the kinds of issues that are raised. Put that out and then match that up with what EPA is thinking of in terms of their authority and then see whether, "Oh, this is great. Their authority matches what we hear or it matches half or what."

But in order to give useful advice about how to set priorities, I thought we owe this to ourselves to try and take two (answers).

John Ridgway: Thank you, Sue. Are there any thoughts from the council on this notion that you might want to add for our consideration from anybody? And please speak up.

Patricia Salkin: This is Patty. I mean, I just – I'm glad that all of those communities have raised land use and zoning issue. And I do think that we have to press hard to figure out how to do it now because I think that we never had a greater opportunity in terms of willingness to be created and actually that was changed.

John Ridgway: Thank you. I do expect that we will make you know more than one reference to that specifically as something that is related to and important to EPA and permitting whether it's states or EPA or tribe zoning land use. It cannot be overlooked.

Edith Pestana: The other ...

Male: (Inaudible).

Edith Pestana: This is Edith.

Male: Edith, go ahead first. Thanks.

Edith Pestana: Yes. I just wanted to interject strongly that we also would like to know from EPA whether or not they are willing to undertake duly and using some of their cumulative risk models that they have, that they've developed in the 90's and there have certainly been other models since then and are they willing to actually use those and into the rulemaking as something that their permit writer that we can use when making you know a decision as to whether or not to give a facility a permit or not.

John Ridgway: OK. I'll note that question. And I do want to be clear here that for everybody, this subgroup is looking at permitting as opposed to rule-making. And Edith is certainly correct in noting that there is only between the two. But we're looking with a focus on the permitting side.

At this point, rulemaking and EJ is something I'm hearing that you know the Office of Environmental Justice and this NEJAC are certainly going to make an even to more. But for this subgroup, we're going to focus on the permitting side.

Having said that, the cumulative risk model and EPA is what I'm hearing from Edith here as something that we don't want to overlook in the context of permitting. Did I get that right to you?

Edith Pestana: Yes, correct.

John Ridgway: OK. Thanks. Nicholas, did I hear you chime in there?

Nicholas Targ: Thank you, yes. (Inaudible) relating to the issue of land use, are you looking at issues of – or submit citing in configuration of facilities.

John Ridgway: We did not get into that at all on the first call. We are still gathering general issues of your concern or advice from our subgroup's knowledge collectively as well today on the call from you, council members. So I'll just take that, Nicholas, as something of interest that we should consider as well – land use as opposed to zoning. Maybe you could help explain the distinction for listeners including those two.

Nicholas Targ: Sure. Under the Clean Air Act, citing provisions or permitting provisions for certain types of facilities, issues of alternate citing configurations and arrangement are specifically called out to be considered. And that is independent of whatever the local zoning happens to be in the surrounding area.

Zoning is something that – I mean, is piloting you or a county would impose on a land map and it's the effects of the land uses by the facility that the agency would be attentive to in its permitting decision.

John Ridgway: Thank you. Good point. I'll have that into our consideration.

Female: I'm sorry. I'm not quite sure I understood what you are saying.

John Ridgway: Take a stab at it, Nicholas.

Nicholas Targ: Zoning is something that municipalities ...

John Ridgway: Yes.

Female: Right.

Nicholas Targ: And it simply says this is what the surrounding land use pattern is going to be maybe changed over time so there's some grandfathered uses. The agency isn't – doesn't pay attention. It doesn't have direct authority to be attentive to what the zoning is.

Female: OK.

Nicholas Targ: But the agency can look at the real impacts that an actual facility will or may have on the surrounding land uses and population.

Female: OK. So they have the authority to do that?

- Nicholas Targ: Under certain provisions by certain types of permits. And I think this was the subcommittee's effort to examine how that can be used, how it has been used and perhaps how it should be used.
- Female: Oh, OK. Thank you.
- Patricia Salkin: This is Patty. And I think you need to be pretty (inaudible). The agency really does have pretty limited land use authority – not very broad at all.
- John Ridgway: Well, are we talking about authority to do something or authority to look at alternatively land uses, Nicholas?
- Nicholas Targ: The issue here is not how the – that the agency wouldn't have the authority to establish a specific land use for a particular type of property. That would be, I believe, in certainly off-hand on pretty extraordinary action by the agency.
- But the agency would have authority to look at the impacts that the facility would have on different locations. And for example, in the NSR permitting context, the agents had authority as expressly called out. But you're right that the agency wouldn't be setting the zoning or the specific land use for a municipality. That would be outside the agency's (inaudible).
- Stephanie Hall: Hi, this is Stephanie. I have a quick question to interject in the conversation we're having right now if it's OK?
- John Ridgway: Yes, go ahead.
- Stephanie Hall: Is it possible that in light of the inter-agency working group effort that just convened at the White House this week that there may be more powered in than we're actually acknowledging in a sense that the agencies are trying to look together on these issues that are broader and reach across various agencies, for example, I was looking back at the press release on the meeting and it talks about the fact that Department of Housing and Urban Development and various other agencies were present at the meeting.
- And so even though there may be regulatory limits on what the agency or EPA can do with respect to land use and zoning, is it possible that the efforts between the agency to work together across the board may give us more opportunity than we are actually taking advantage of now, I guess.
- John Ridgway: Thank you, Stephanie. That's a great question.
- And I would optimistically, yes, absolutely, there's opportunities of this nature that should be looked at and I think would be well within the scope of our charge to recognize that as a possibility to be



considered and exercised that goes beyond EPA's direct authority. So again, yes, I think that's a good point in your question and I'll be sure that we include that in our considerations.

Another point in general that we noted was that, not only would we like to try to call out things that may have changed since the NEJAC's prior reports related to permitted but also to note any existing gaps that are still there that have not been in draft or that were brought up in the past, but we don't see that there's been much action and there still needs to be attention so that's another thing in general that we'll be looking at without duplicating the work.

But we don't want to let that slip by, as well as maybe newer opportunities such as the inter-agency working group and the collective inertia or momentum that they can apply to some of these issues that go beyond just EPA. So again, Stephanie, I think that was a really good point that will fold into this.

Are there anybody else in the council, questions? I've got a few more things to share about anything else on what you heard.

Jolene Catron: This is Jolene.

John Ridgway: Yes. Go ahead, Jolene. Thank you.

Jolene Catron: Still in caption with reliance. My comment is still back to what I submitted – what I talked about in our workgroup about process in general – about the NEJAC process and tribal representation on the NEJAC.

You have mentioned that there – that Don Aragon didn't participate in the call, in your first call, and he is not on this call also to provide comments. And he is the tribal representative for tribal government and tribal environmental agencies. And I think the subject as important as permitting and the topic that you are discussing, his input is really, really needed. And so again, this goes back to my comment about representation and process.

So my question is the NEJAC right now is formed into subgroups around permitting and around plan 2014. And so that means there isn't an opportunity to bring an outside source expert. Is that correct?

John Ridgway: In the short-term, as I understand, Jolene, and Victoria will chime if I'm not quite right on this. But for the subgroups, that's right. They were formed quickly to get recommendations up to the full council for your consideration. Whereas at – and I'm reading between the lines a little bit here, Jolene, but on something as fundamentally important as permitting and/or a tribal representation in regards to environment justice and EPA, these may be topics that this council would want to recommend or addressed in a more substantive way through a designated workgroup.

And I'm certainly leaving that option open that we will make a recommendation that at least in the context of permitting, there needs to be more horsepower provided to include external to the NEJAC council advice that a workgroup could provide and then our little subgroup cannot.

Jolene Catron: Thank you for recognizing that and that was point exactly in that you know this important topic, not just plan 2014 but permitting really needs more well-rounded, more representative response from tribal representation than just myself or just Don Aragon or even just Peter Captain you know the ...

John Ridgway: Right.

Jolene Catron: ... Alaska – made its representatives. So I'll be good at that.

John Ridgway: OK. Any sort of – and related to that? It's worth pointing out that in the context of permitting, tribes in some cases are also authorized or delegated by EPA and so there are multiple roles there in the tribal consideration that we absolutely have to recognize not only for the communities that may be impacted by these permits but in fact by tribes that may also be held accountable for all the dynamics around the permitting process that has been delegated by EPA and what EPA's role in oversight of those permits, so whether they are issued by states or tribes or perhaps a sister federal agency, for example.

So there are many reasons that we want to have robust tribal considerations and representation in this topic that go beyond what this subgroup is going to address and we will note that in the report. I'm quite confident that that new council members you know holding to the fire on that to be sure we do so in an adequate way when we get our draft to you.

Victoria Robinson: Hey, John, this is Victoria. And Jolene, thank you for the comment.

I do want to just note that I have received an e-mail from Don and he has a conflict. He is the Vice-Chair of the EPA's National Tribal Operations Committee, and they have had scheduled a national conference call at the same time so he is on the call right now, so that's why he's not on this call.

I do understand your concerns and we're going to be taking that to address some of the comments, OK?

Jolene Catron: Thank you.

John Ridgway: Others on the council for the state that is authorized? In this agreement, we'll get into the specifics of which federal laws the state is going to be administering over a period of, usually, two years because it's tied to the federal budget. It might be just every other – sorry, every year.

But in any cases or it's a renegotiated agreement that holds both the states and EPA accountable for coordination and oversight and accountability on enforcement and compliance and carrying out the federal law. So there is ample room within a performance partnership agreement or a PPA to address environmental justice.

We have some language in Washington State PPA with Region 10. These are not only formal agreements but they go through public review. The public is invited to comment and those comments need to be addressed before the final document is released. This is a place where environmental justice can be addressed and I would recommend should be at least, not the only place but included in that dynamic between the states and EPA.

And similarly to the PPA, there are memorandums of understanding that are also legal documents that hold the states accountable to update the laws where the federal rules are changed. They authorize their delegated states are expected to do the same thing within a certain amount of time. In some cases, states have to go through their own statutory legislative process to formally adopt what EPA has already adopted.

In some cases, states may go beyond what the federal law requires in which case the EPA will not hold states accountable for those extra things but nonetheless, they are often recognized in these memorandums of understanding or on the PPAs and we will, as a subgroup, be looking at those two tools as places where EPA can engage states more and likewise, states and tribes can engage the EPA more.

These are agreements that should clarify for anybody who is interested what both organizations are doing and what are they doing in a collaborative, coordinated manner with limited resources to address EJ so we're not tripping over each other's toes and/or we're not leaving huge areas on the draft.

And I think that this is something again that we will focus on will give the public and the businesses and the states and EPA a reminder that that is a tool that's negotiated regularly to look at EJ including permitting and things that aren't necessarily required by statute but the right things to do that go into engaging the public in a successful way around those federal statutes the states are implementing.

In this regard, I think it's important that the PPAs be recognized and these MOUs is not just clarifying what work is going to be done for the money paid and again, this is a reminder that the feds are paying the states to carry out this federal law, so there is accountability and that gets into things like Title VI and foresight of how funds are being spent to be sure that everything that's supposed to be addressed is including the EJ authorizations and opportunities that are brought up in the Guzy memo.

Not only are these agreements, like I said, between the state and the regions and EPA, they are signed by the regional administrator of the EPA and the states' environmental agencies directors. So it's high level in this regard and these signatures are to be held accountable and they do insight comments and input on these discussions.

So the public has a way of getting in there and asking and also asking for updates – how are the PPAs being carried out? Is there any review? What kind of measurements are being applied to the work to know if there are things that need to be addressed or if it's working well or in obvious scenarios like we have right now across the country with diminishing revenues in the economy, how are we making sure that the basic laws are still being carried out when funds are limited.

So we'll be taking a look at that couple of sets of tools in the context of what states and tribes in the public need to be aware of around permitting. Any questions or comments on that from anybody?

Jodie or Edith in particular, you're certainly familiar with what states do with permitting. Any thoughts you have on what I just said?

Jodena Henneke: Howdy. I think it's going to be – and this is one of those necessary comments. I think it's going to be a very interesting discussion and possibly challenging for all of us because you know there are different views when it comes to what all permitting has available within the respective authority streams. And I think it's going to be quite challenging for us.

John Ridgway: No disagreement here.

Edith, anything you want to add to this?

Edith Pestana: I was thinking. Certainly, for us you know we're – there's, with respect to our PPAs and we at least has a law that helps us a little bit in that. And I'm hoping that we'll put it as a recommendation and that we will not look at a permit application in an environmental justice community until an outreach plan which includes an information meeting has been held and the states been invited and everyone you know has been notified and what not.

So I'm wondering if hopefully we can sort of make a recommendation that, with respect to the public participation and decision-making piece that EPA makes the extra effort in not reviewing applications until proper public participation has taken place in the communities where they are reviewing permits and just put them hold on. That was I was thinking.

The other thing that I was thinking wasn't that you know it's been 20 years since the National Board Journal first came out and assessed EPA and the amount of money that was spent in remediation in white communities versus minority communities.

The enforcement penalties and cases – a number of those in white communities versus minority communities. And you know on and on and on – and I'm wondering where are – where is EPA now 20 years later. And I'm wondering if that's not something that should be included. I'm sorry. I know we're talking about permitting but some of my brain kind of work someone if that should be included in – as a recommendation in the EJ plan that they sort of do a self-assessment of where they are. Are they spending equal amounts of money remediation? Are they equitably enforcing you know performing enforcement across the United States.

I mean you know some of the things that were in that law journal, I'm just wondering where are we. Are we in a better place now or – I don't know how you all feel about that.

Patricia Salkin: This is Patty. I think there's a lot of key sense to that but I don't think it goes in the permitting.

Female: No, I think it could go with the EJ plan.

Patricia Salkin: Yes, I agree.

John Ridgway: Yes. And this is John. I would agree as well. We probably will get into that second point that you just made as far as equity of enforcement, spending, et cetera. I would add however that is recently a relative topic for the NEJAC to consider in building its agenda for the steering committee to consider and for council members to consider in light of these other things that we're doing.

Patricia Salkin: But we could actually look at our – is EPA issuing disproportionate number of, for instance, permits for hazardous waste facilities or waste facilities in general? And communities have color versus white. I mean you know I think that – I don't know. Is Paul Mohai online? I think his toxic waste have raced 20 years you know pretty much states that that's so but where in EPA. Has EPA changed on its policy with that? Is it taking it more consideration? Is it – I mean, where is EPA on permitting in minority communities?

John Ridgway: OK. I will take that down into your question and at least we can cover that in questions to EPA if we don't have the answer. And as a reminder to everybody that you know we could bring it down in terms of what permits the EPA issues but the vast majority are going to be issued by states. And your question really leads to across the country you know what is that status and we maybe would like to recommend you as a council collectively for an assessment of that question but they would have to then go to the regions and the states in order to get a meaningful and so I would think.

But nonetheless, I will include that into our considerations into the first point that you maybe use. Absolutely, I think it's good as to you know cite examples of – in the context permitting maybe where the priorities should exist that don't now for looking for EJ elements before there is a serious review

from a technical or legalistic standpoint alone. That is much more directly aligned, I think, with what subgroup is looking at and you're on that subgroup, so I'm sure that we'll continue to pull that in.

Victoria Robinson: John, this is Victoria.

John Ridgway: Hi.

Victoria Robinson: Hi. As I'm listening to the conversation, I know we are actually running ahead of time. That's unusual for the NEJAC, and I would like to see here if we can get some comments on the members around the first question of charge which is those types of EPA issue permit that the agency should be focusing on now to work on incorporating EJ concerns in the EPA permits.

And I worked with a lot of the comments I've heard have been more general and very broadly – more broader about the permitting program per se. But in terms of the types of permits, what kinds – which ones should the EPA be focusing on. Perhaps you can give a quick summary of what your computation. I think Suzi talked a little bit about the different types of permits and maybe that could get some – see people's imaginations or questions.

John Ridgway: OK. Types of permits that were noted as common to this question, particularly to the EPA's involvement are the Clean Water Act and that's where discharge permits into bodies of water in the country or NPD as permits. The Safe Drinking Water Act and, in particular, was noted underground injection controls and some questions that came up around that.

Another type of permit is RCRA or hazardous wastes that would be the generic term, permits as to businesses that either collect or treat or dispose of or incinerate. There are different ways of dealing with hazardous waste but businesses have actually managed that hazardous waste as opposed to just making it and sending that off to somebody else, require permits and those are RCRA permits.

And another type was noted is the Clean Air Act and the 40 CFR Part 124 is the public participation element that applies across all of those types of permits.

Now, to Victoria's question to you, council members you know if we wanted to make suggestions as to where EPA should prioritize just across those five categories, we could certainly make recommendations. Maybe we think the climate change, the Clean Air Act and permits around the Clean Air Act may be of a higher importance as opposed to the Clean Water Act. We did not get into that kind of waiting or discussion around priorities you know first call last week. But I agree with Victoria, I'd like to hear the council's input on priorities on that.

There's also the FIFRA. I mentioned that earlier that you know in general, agricultural chemicals – pesticides, herbicides, maybe that's something that we'd like to see a little more integration with and

that could get also to inter-agency working group and Department of Agriculture and/or a food-related federal work around organic farming or other things, I don't know.

And then the TOSCA is another one and that's very big. Our State of Washington is involved and many other states in trying to encourage congress to upgrade the TOSCA rules, which are over 20 years old and they really aren't that protective as much as they could be. We know so much more now around the concerns of what's safe and not safe in products as well as in the waste and the chemicals involved with those products as well as the waste byproducts that come out of using those chemicals.

Try to be long-winded here, but those are examples and we could certainly say, pay attention to these three more than the others for starters. We're not suggesting don't look at any of these but to you, council members, any priorities you'd like to see us look at? Anybody?

Chuck Barlow: John, this is Chuck Barlow.

John Ridgway: Yes, Chuck. Just something that we, I think, need to keep on the radar screen and it's sort of convoluted and complicated issue, but under the Clean Air Act as we go forward with greenhouse gas regulation and why EPA is trying to tailor the greenhouse gas regulation and permit to certain trigger levels, what they call the tailoring rule. And EPA, I think, has been trying very hard to do something that's reasonable and that their state permitting partners can actually process as far as the number of new permits in different permit modifications that will need to be to come out because this is the first time that anybody has ever actually permitted the emissions of greenhouse gases.

There's a lot of litigation on that rule. And if – one thing that could happen is that that tailoring rule could be shut down and, to make a long story short, it would mean that the states, all of a sudden would need to issue a very, very large number of permits of Clean Air Act permits fairly quickly.

So I think that one thing that we need to keep on our radar screen is that if something like that happen that this litigation goes forward and the states are put under tremendous pressure to issue a lot of comments very quickly that environmental justice does not end up needing to – does not need to end up being sacrificed because of that additional permitting pressure. Thanks.

John Ridgway: Chuck, that's an excellent – that's the kind of collective wisdom that this council needs to dish up for our subgroup. And, as an example, for any kind of subgroup, that's the sort of stuff that I need to hear from folks that we may miss otherwise.

So Chuck, thank you very much. We'll be sure to note that and do look for that when we get the draft up to the full council.

Stephanie Hall: John, this is Stephanie Hall. Can I just add one question, I guess, to what Chuck's ...

John Ridgway: Yes. Thank you. Go ahead.

Stephanie Hall: With respect to the permits that could come from the states very quickly. I guess, that the subgroup looking at or considering whether the focus would be kind of a broad application of EJ to all permits or to be incorporated in all permits regardless of where the permitting team or the entities seeking to be permitted as looking to locate.

John Ridgway: I would presume yes. I think the EJ concerns and issues should be across the board regardless of the law and/or location where that law is carried out.

Stephanie Hall: The reason I asked the question, I was trying to just think practically how that works in setting where you have no communities around that particular industry or facility that is being permitted.

John Ridgway: Interesting scenario. I don't know of too many permits that are issued where somebody has a way in even if their community may be many miles away from the facility. If there is no community, is there an impact? I would suggest, yes, there still is an impact and so I just haven't seen that scenario very often where there hasn't been much of a community around the facility.

Usually, the kinds of permits that we're talking about here involve large investments, infrastructure and interaction with local entities and utilities, et cetera, et cetera. They are usually fairly high profile if it's a hazardous waste treatment facility or a big Title V air permit.

If it's a smaller water discharge under the Clean Water Act, it could be maybe out in the middle of relatively unpopulated area for some mining operation. I don't know. But – I don't know if I'm helping here. Go ahead.

Patricia Salkin: John, some of the very large Ag facilities don't have what we typically describe as a community immediately surrounding them.

John Ridgway: Yes.

Stephanie Hall: Can you repeat that please? It wasn't very clear.

Patricia Salkin: This is Patty. What I said is some of the very large Ag facilities – animal feeding operations don't have what one would typically define as a community immediately surrounding them.

Female: Right.

John Ridgway: Yes.



Elizabeth Yeampierre: It's actually what I thought Stephanie might be thinking about what she presented to question.

John Ridgway: Yes. Now, whether EPA is giving capital permits or the states and under what statutory requirements are involved here, we should not rule anything out in our considerations. Other questions or thoughts on this topic for today?

Jolene Catron: John, this is Jolene Catron.

John Ridgway: Go ahead and thanks.

Jolene Catron: My thoughts are along the underground injection control, the UIC, permitting ...

John Ridgway: Yes.

Jolene Catron: ... process and how that is going to be prioritized through EPA especially regarding hydraulic fracturing. And I know there's a lot of a national discussion about hydraulic fracturing and that's a large issue in the watershed where I live right now but those – that fracking activities done through the UIC permit.

And a lot of times in tribal communities, the complexity of hydraulic fracturing and actually just the reinjection, in general, is hard to relate in a language back to the community that make sense.

And so one of my greatest concerns is about hydraulic fracturing and I've been paying a lot of attention to the national dialogue on that. And so I would you know just chime in and say that the UIC permitting process that allows the hydraulic fracturing should be definitely one of the high priorities and considered with the national dialogue that's happening around hydraulic fracturing.

John Ridgway: Thank you. That's just the kind of input I'm looking for.

Anybody else agree with Jolene on that? You've heard about this more or have other types of permits you want us to also consider as a high priority.

Teri Blanton: This is Teri.

John Ridgway: Go ahead Teri. So I agree with her with the injection, with the hydraulic fracturing because, of course, we have that here and also injections. There's other injections that they do as far as coal waste. And also looking into the future, what are we going to be looking at with present sequestration – carbon capturing sequestration? And will that fall under any injection permit?

John Ridgway: Good question. Somebody else has chimed in there who wanted to say something.

Wynecta Fisher: John, this is Wynecta. I'm concerned about those facilities that are under the state threshold, just under the threshold for permits and then you have one facility next to the other facility. But because they're under the state threshold, they don't have to have a permit.

And in the states, I'm looking at you know the multiples that each – although that each – although that individual side is under the state requirement for an air permit, if you have five of them lined up next to each other, how could there not be some impacts on the air quality?

John Ridgway: OK. Let me ...

Wynecta Fisher: There are facilities that are allowed to kind of fall under that radar.

Female: I think that speaks to, if I may, John, to the issue of cumulative impact that you raised earlier. It's a – I'm glad that Wynecta just raised that because that's been an issue in our communities as well where they basically just go under the wire and then cluster these facilities.

John Ridgway: A couple of comments. Yes, I agree. This is cumulative impact we're talking about.

A clarification, I think, Wynecta is that the thresholds for compliance and following these federal rules are set at the federal level. So if any state is authorized or delegated, they have to carry that out at the threshold that are defined under the federal law. States would not be allowed to make a less stringent threshold. They can and many do, including Washington have more stringent threshold for more things have to be required or more smaller businesses, for example, may have to report.

But to the question itself, absolutely, this is something that we would want to acknowledge can be a problem if a strain of facilities do not meet threshold requirements for permitting or reporting or compliance reporting. I mean, even small businesses and my expertise is more on the hazardous waste field and if the business only creates a pound of hazardous waste and it's a small business of three people, they are still required to manage that hazardous waste per the federal law.

The problem is that we don't know every business that does that because they're under the threshold of reporting that they've done that. They're not making enough to be tracked and it gets harder to know what they're doing with the waste but they're not getting their permit per se to make the waste. They just – they generate that waste and then they've got to manage it according to the law.

The permits don't come into play until they get into a much bigger facility where they're collecting waste from all those small businesses, a brokerage type of an operation. That's where the permits happen and they're looked at under the federal law. But for the releases of hazardous waste as in smoke stack or an air permits – something like that, that's a very good question and I'll take note of it. It's relevant and, to the extent, permitting can somehow address these businesses that are under the

federal threshold, we can raise a question and/or express a concern and/or maybe have some recommendations on that.

Female: Thank you.

John Ridgway: Yes. Good point. Very good. Others we haven't heard from yet on the council, chime in please.

OK. Well, then I'm going to throw another question at you. Is there anything that you've heard here that you think is not well-aligned with the charge as you understand it and/or anything that sounds like we're going down the wrong path or any advice on more that we should pay attention is what I'm interested in hearing from you?

Chuck Barlow: John, this is Chuck again.

John Ridgway: Yes.

Chuck Barlow: I just wanted to mention that I've heard you mention FIFRA a couple of times, the Pesticide, Insecticide and Rodenticide Act.

John Ridgway: Yes.

Chuck Barlow: And this may be true also to some extent with underground injection control, which you think we remember as we develop our comments that we might be talking about programs that actually go to multiple agencies within each state.

John Ridgway: Absolutely.

Chuck Barlow: I think you'll also see that the – yes, there are parts of the FIFRA program especially insecticide application as with crop dusters and aerial application that can be delegated – can be a delegated state program, but it's usually not or quite often is not in the same agency within the state as your other Clean Act – Clean Water Act issues. So I think we just need to remember as we're working through it to sort of incorporate that into our thinking.

And you know a lot of states have a different, what they'll call sort of a natural resources agency that is different than the pollution control agency, and that natural resource agency may deal with issues like coastal boating which is the coastal boat management, which is a part of land use issue, wet ones and things like that, so just another thing for us to keep in our mind as we're making sure that our permits make sense.

John Ridgway: Thank you, Chuck. That's a god reminder for us all.

And I think this is a great example of where environmental justice issues really I see become more of a concern is when there's multiple regulatory institutions that have a piece of a pie that touches on the community in the form of what they're implementing, permitting, enforcing, et cetera. And so at the national level, this is where I would think that the inter-agency workgroup has a key role you know maybe this White House forum on EJ will also hear this subject. It's not about just one agency.

We do need to remember that and recognize that industry report to EPA. I think EPA also appreciates seeing that kind of recognition so that they can say it's not all just us. We need to work collaboratively with these other federal agencies and the states also have to work with multiple agencies or programs within that state structure. Good point.

Anybody else?

Teri Blanton: John, this is Teri again. So the Clean Water Act, of course, is very important to me and you know not only is the authority to enforce the Clean Water Act onto the states but also other agencies. And I think that this thing is up to the EPA to make sure that the Clean Water Act is enforced and when it's not to take these serious steps before polluting our communities even more by lack of action.

John Ridgway: OK. I'll take a note of that. It's important to look forth through other agencies at the federal level, if I hear you right, Teri, not just the states.

Teri Blanton: Right. Because – well, the federal level always you know it's their ultimate goal to enforce the Clean Water Act. And even though it's been delegated, the states have the delegation for the different parts of the permit or say, the corps of engineers has delegated the 404 of the section of the Clean Water Act.

John Ridgway: Right.

Teri Blanton: The EPA still has complete oversight. And when those agencies aren't taking you know a cumulative impact or a cumulative – I'm losing my ...

John Ridgway: Considerations? Yes, cumulative impact or ...

Teri Blanton: Considerations. And – or they aren't enforcing it to you know they aren't doing their job as enforcement to states or other agencies. And how long do we let our community be poisoned before the EPA actually steps in to make sure that it's enforced.

John Ridgway: I agree. (Inaudible), we'll get a comment in on that.

Teri Blanton: Thank you.

John Ridgway: You're welcome. OK. Victoria, any other questions that I'm forgetting that we should be prompting to council to consider here?

Victoria Robinson: John you know the only thing that if you're interested in terms of helping the subgroup continue with its course is maybe seeking any input from the members in terms about how they would like to see the – back or the findings of whatever frame. Is there, in particular, point of view they think needs to be articulated?

And also before that answer, just letting you know that as we finish this particular portion of the meeting before 3:30, we cast our public comment early.

John Ridgway: OK.

Victoria Robinson: OK.

John Ridgway: Thank you.

Victoria Robinson: So that (inaudible) OK? Thank you, John.

John Ridgway: I'll start by following up to Victoria's comment; the general approach would be that we would note findings in our subgroup and to have recommendations based on those findings. Some of those findings will already have been found and they don't mean to be lied about this but they will be references to you know prior NEJAC reports for, et cetera

And/or they can be findings in the context of comments we've heard from the public at large or it's through our deliberations. We're not going to have a lot of open public comment about what our subgroup is working on here but certainly findings in the context of what you're sharing today on this call are things that I would want to include in our subgroup report so that there's a clear basis for what recommendations that we submit to the full council. That's my general strategy and I think that's a sound way to approach this, but that's the idea so that there's continuity between the findings and recommendations we're making to EPA.

Elizabeth Yeampierre: John, can you – it's Elizabeth, can you remind us what the timeline is for this?

John Ridgway: Yes, the schedule that I have setup is that we would have our second call tomorrow. We will deliberate through e-mails and internal chatter for a couple of weeks. We'll have our third call on the 8th of October.

And by that point, we expect to summarize our initial key concerns and deliberate on those start to you know actually get the report put together such that by the end of October around the 25th, when we have our last call that's scheduled, we would have a draft report that we would, as a subgroup,

continue to refine and work with Victoria and administrative support such that on the first of November, we would submit this draft to the council for your ability to review it and be prepared to discuss it during the week of November 16th.

So you would have a couple of weeks lead time to look at this draft and you know let me know if you have questions and/or get them ready for the discussion that we'll have scheduled in November face-to-face. That's the general outline, and my goal is to produce something that is very clear to you as a council that has context, a summary, references or appendices as appropriate but the points are going to be as distinct as possible.

I do not expect a long report. I am not going to predict the pages exactly but you know 10 to 20 pages, I think rather than 60 to 100. We just don't have enough time to crank out a lot of verbiage here. If they're seeing they'd need more attention that we don't have time to address, we will certainly note those to you, council members, as what we think need to be followed up on the context of permitting an EJ.

And that again, they'll likely include a recommendation for establishing a workgroup on this that will get into greater detail and/or capacity or a focus as the council would want to recommend.

Does that answer your question, Elizabeth? Elizabeth, are you online?

Elizabeth Yeampierre: I am.

John Ridgway: Oh, OK. Does that answer your question?

Elizabeth Yeampierre: Yes, yes. Yes, you answered, I think.

John Ridgway: Sorry, I didn't hear you then.

Elizabeth Yeampierre: Yes, thank you.

John Ridgway: So that's the due process. I would like to think that we will, as a subgroup, get a report to you that you will then be able to adopt and modify with whatever refinements you want.

You may, as a council, collect when you say, "This doesn't hit the market. Go back and do something different but, of course, then we're going to have a timing conundrum with EPA." So if there's more that needs to be addressed, we'd probably – I would recommend that that be built into the council's recommendations as they prepare to submit onto the administrator.

Victoria Robinson: John, this is Victoria. I also want to add as a reminder to all of the members you know there are two subgroups who are working on these two items – the Plan EJ response and the permitting preliminary

response that if you don't feel as – if you're not a member of one of the two subgroups that you can't contribute during the researching or the drafting of the response process.

If you've got something that you really want to convey, you think that the cap that the subgroup needs to consider, communicate with the chairs, either Kim or John about what you point and put it in writing. They can then bring that to the subgroup for consideration rather than waiting to the very end. So I think back at office, we'll need to process that law. OK?

John Ridgway: I agree completely. Absolutely, feel free to call me any of you, council members, and let me know of any thoughts that you know just hit your heart between the eyes you know on a weekend or whatever. Draw them down and let us know so that we can build on your input as soon as possible.

Edith Pestana: Hi, this is Edith. I have a question because I'm sorry; I missed the meeting on September 17th. Did you identify tasks or key writers?

John Ridgway: We did not. We did not. We are only – we're looking at the issues as I have described over the last hour. We're going to have to get into that right away.

I expect that an outline will be crafted within the next week or two and then we'll start fleshing out by topic and maybe assigning to people individually based on their expertise and/or availability to find it to put some meat on the bones here so to speak of that outline.

Female: Do we have an outline tomorrow? So we all ...

John Ridgway: Well, some of these things I have outlined verbally today and I've sent out notes to the subcommittee groups on these. But yes, we got to start building this as of tomorrow. I mean, the general outline I have already conveyed will be the two questions and in some of the tools to the extent that we have input from the council today on priorities. We'll start to reflect that in our outline.

I'm also going to be preparing for each of the calls' notes tracking our conversations. I will submit copies of those to not only the subgroup but to the chair and to Victoria so that there is a progress report so to speak as to where we're going. And any of you, council members, are certainly welcome to take a look at those as well or if you want me to include you on the distribution of those so you can read along, please let me know or Victoria know and I'll just add you to the distribution list.

I wouldn't want to send it out to the full council yet because I don't want to take the full council's time until we have something ready to dish up.

Elizabeth Yeampierre: This is Elizabeth. As I'm also aware that the public is listening and they want to weigh in on some of these recommendations. Is this possible for you to – before you're done summarize some of them are salient points that were raised during this discussion?

John Ridgway: I don't know about process. I'm ...

Sue Briggum: Yes. And this ...

Elizabeth Yeampierre: (Inaudible) that we've had.

Sue Briggum: This is Sue. I'll just mention something. We had our first call a week ago. We assigned the subgroup reading of about 300 pages and three people were on the call, so I think we kind of do this service to ourselves and the NEJAC by, at this point, things should have an outline and everything else.

Yes. I mean, we are trying to do some deliberation. I think we need to and some understanding of all of the materials and the previous work of the NEJAC we need to reflect before we want to prematurely say something. So I think we're putting John a little bit on the spot for a workgroup that has an awfully big task we're trying to accomplish.

Elizabeth Yeampierre: Sue, I completely understand that and appreciate what you've just raised but I was not referring to the outline or the fact that process has just started. I was actually referring to the comments that were made during this phone call that were quite a few, and I thought maybe we could summarize so that people could remember some of the things that they have flagged. I thought that would be helpful but ...

John Ridgway: Oh, sure. I think we'll have to do that.

Elizabeth Yeampierre: But I completely understand that process just started and that it's a huge thing to wrap ourselves around, so I know that.

Sue Briggum: I appreciate that.

Elizabeth Yeampierre: Yes.

John Ridgway: Yes. So yes, a quick summary and just going from my notes and, of course, we'll have a full you know literal record of everything being discussed here for the public and everybody else to track. But we certainly heard about the zoning need and land use to be addressed and recognized and the EPA's ability to look at cumulative risk models in permitting or rulemaking.



We heard about alternative citing regarding land use and the EPA's ability to look at that independent of local zoning laws. We heard of you know the recognition that on land use, EPA doesn't have a lot of authority but that doesn't preclude them from recognizing these issues and looking for opportunities for breaking with local and state governments.

The possibility, look the inter-agency workgroup and maybe they have – because of their broader influence, the capacity to help these issues move along and recognizing that. The process of tribal representation here and the process of tribal permitting certainly is critical to this discussion and is important that we recognize that in our work. The extra effort for participation before – sorry, I mentioned that already, before issuing permits was brought up.

Chuck, you noted the greenhouse gas issues and if this tailoring rule for whatever reason because of litigation or otherwise, like a shutdown states maybe and a pinch to issue a lot of permits, and we do not want to see in such a scenario environmental justice compromise that was brought up especially if they're on a short timeframe.

The underground injection controls and (fracking) and all of the issues around that was the Safe Drinking Water Act are critically important. And I heard is of high interest at least to a couple council members. I find it also of high interest because it's relatively enabling, it's increasing the end use I'm hearing perhaps exponentially. So that right there that says this is something new and different since NEJAC was writing and permitting recommendations 20 years ago. That is a reason to put in higher on the priority.

Looking at facilities, that's under reporting our regulatory threshold and how do we recognize the accumulative impact on those through permitting was brought up.

FIFRA and underground injection controls also are complicated because multiple programs within a state or across state or federal agencies are involved with this one and it makes thus coordinated EJ concerns more challenging to address. Nonetheless, they need to be recognized. And for me, that reason alone such dynamics that have higher priority because of those complications. We heard the Clean Water Act is important as well.

Those are that my notes so far. And if I miss anything from any of you, remind us right now or let me know.

Elizabeth Yeampierre: Thank you, John. I thought that was excellent and really helpful.

John Ridgway: Yes, yes.

Elizabeth Yeampierre: It's a lot and once you go through it, you realize all the input that's been provided.

John Ridgway: Yes, yes. Thank you.

Any other questions or thoughts? I'm going to infer by your silence, council members, that you think we're not going down the wrong path here. But if anybody does, we need to hear right away. If there's anything critical we're missing, please let me know or Victoria or even the chair and she can let me know right away. We don't want to miss anything on this, recognizing again. It's going to be a lighter report. It's not going to be the heavy end-all, but it's something that hopefully will, with us, and through our recommendations to EPA in the right direction to engage EJ and permitting concerns as proactively and constructively as possible.

Victoria Robinson: John, this is Victoria again. I'd like to add this kind of go through what Elizabeth is mentioning about for those in the audience, particularly, community stakeholders.

The need to get more you know to kind of hear somebody what they said but also, the input from them, so I'm going to give an e-mail address out to those who would like to provide a comment, those non-EPA employees to provide – who want to provide a comment to the council for their consideration while they are deliberating on Plan EJ response as well as a permitting charge.

If you send an e-mail to [environmental-justice@epa.gov](mailto:environmental-justice@epa.gov), then put in the subject line NEJAC comment and we can easily pull that out and we can make sure it's routed to the members who could be on the subgroup so that this information is relevant and quickly handled.

John Ridgway: Thanks, Victoria. I welcome that as the chair of the subgroup recognizing many hundreds of people are here in this and who knows what kind of response we'll get. I welcome the response.

And I might just add to folks that are interested in doing that you take a look at the charge as well on the NEJAC Web site. And the only reason I'm bringing this up, as a reminder, we have a short timeframe in the context or the framework around the charge is somewhat limited so we're not going to be able to get into everything around permitting that we could imagine EPA should hear as my impactful way of putting that.

Elizabeth Yeampierre: OK. So are we good with this? Are we ready to move on or are there any – for any questions or comments at this point?

John Ridgway: Thank you all for your patience in listening to this discussion.

Elizabeth Yeampierre: If not, John, thank you very much. I thought that was – it really reflects how huge this issue was and how impactful and complicated it is, and I think you're doing a great job. Thank you.

John Ridgway: Sure.

Elizabeth Yeampierre: Victoria, are we ready to call the public commentary?

Victoria Robinson: Yes. All five who have indicated their plans – they are still on the line. And you received the list ...

Elizabeth Yeampierre: I have it, yes.

Victoria Robinson: OK, wonderful. OK. Then you go ahead and call them. Operator, are you on the line? (Latonya)?

Operator: Yes, I am on the line.

Victoria Robinson: OK. So what – Elizabeth will call the first two names so that you can queue up them in order and then to let you know when to mute the first person, bring on the second person and that kind of thing. OK?

Elizabeth Yeampierre: The first public commenter is Dan Parshley and the second is David Ludder. Is Mr. Parshley with us?

Daniel Parshley: Yes, I am.

Elizabeth Yeampierre: Welcome.

Daniel Parshley: Welcome. Thank you, interesting listening to the committee.

I did get a chance to speak with Victoria Robinson briefly before the call. And my only regret is we didn't have more time because we were wading through a lot of concerns pretty quickly.

As a grassroots, our organization who has experienced numerous environmental justice problems from the permitting process, the pertinence of your discussion is very meaningful. The question I was asking is you know within the community, if we encounter an environmental justice problem, what's the mechanism going to look like for bringing that to the attention of the EPA?

We have some ongoing concerns and so you know the problems we're encountering now really drives you know the questions concerning how would your progress be translated into progress at the community level? The ...

Elizabeth Yeampierre: Mr. Parshley, I'm sorry to interrupt. I never do this but, can you please state the name of the organization on the community that you're referring to before you move on?

Daniel Parshley: Certainly. Daniel Parshley, Project Manager, Glynn Environmental Coalition, spelled G-L-Y-N-N Environmental Coalition, Brunswick, Glynn County, Georgia.

Elizabeth Yeampierre: Thank you.

Daniel Parshley: And the failure of the permitting and regulatory process left us with four Superfund sites. So it's – and to a great extent, we are pretty helpless to keep them from fully realizing themselves because of the permitting system. So what you're discussing is very real to us.

And my concern was you know how would the community bring a concern to the EPA? Currently, so in the search the EPA Web site for the Office of Environmental Justice, I do not get a return. If you follow the links through the NEJAC's site and concerning how does the public contact you, it takes you to a dead link. At the bottom of the page, you click Contacts, it's another dead link.

I was referred to the – we did find another contact to the site that did have – it is the EPA Environmental Justice Contact Index HTML side. I've seen this one before and this is one I was just trying to utilize for submitting you know our community's complaint.

The problem is it says use the form – excuse me. (Inaudible) submit questions and concerns about the Compliance Enforcement Web site only. So a community looking to submit an environmental justice concern may be scared away from this site.

And then there's other sites you know are not readily available. There's a concern – another concern that I experienced was when Victoria Robinson agreed with that. When you send in an environmental justice complaint to the headquarter level, it is routinely routed back to the region level.

If your complaint is concerning the region level, there really no mechanism at the headquarters level to address that. There's no appeal process for the community to go past the regional level. So essentially, environmental justice should be communities' access to all levels of EPA and all levels in the decision-making process.

You know we know from different sites that the companies and responsible parties are routinely given that access which our communities are not. So you know that'd be another one.

But key would be – there needs to be search terms on the EPA Web site that are realistic you know that's why there should be once in the Office of Environmental Justice. There should be some clear mechanism that if you have an environmental justice complaint at the community level for submitting it and you know I understand that the EPA wanted to go up to the food chain to the region. But if it's not resolved at that level, there must be an appeal process. That is not readily evident.

So I think in the short time we had, what we discovered was that the EPA Web sites have significant problems that needed to be rectified and there can be some improvements that would – so when you've done with your work that it would be a functional product at the community level. Thank you.

Elizabeth Yeampierre: Thank you, Mr. Parshley.

Victoria, is there anyone from EPA on the call respond to Mr. Parshley's comments about the lack of user-friendliness of the ...

Victoria Robinson: Well, I can respond for that. The EPA, in the last several years, has been moving toward a topic-driven Web site structure as opposed to folks (prompting it) by program office. And because – in recognition of that, subjects – topics like environmental justice actually cuts across you know programs as well as the regions.

And using the term – it's called microsites, and so we're in the process of developing microsites for environmental justice. And – but Mr. Parshley's comments about looking or finding a link to the information about the Office of Environmental Justice, there are some (dilutee) in that in terms of it's not as readily – it's not very user-friendly and we recognize that.

We are actually looking as the pages are reformatted for the microsite that keeping in mind the need for clear path to how to provide – or communities be able to provide comments and complaints knowing who and what the environmental justice – Office of Environmental Justice is or other offices that address environmental justice because it's EPA's goal to incorporate environmental justice into our program responses and activities.

So keeping it into one area and this is out in terms of those programs in those regional offices that are actually very actively involved in that process. So that's where we are right now and we'll probably – I probably will be giving this to partially the call again to kind of yield some more inputs from him as to how he sees from a community's perspective, what they need to see and how to access the site and to move around user-friendliness.

Elizabeth Yeampierre: Yes. Do any of the members of the council have any comments or questions? Any ...

John Ridgway: This is John Ridgway. I do if possible.

Elizabeth Yeampierre: Sure.

John Ridgway: Mr. Parshley, thank you for your comments and they are also submitted in writing. I wanted to address – recognize something that he mentioned at the very end – a recommendation that the NEJAC should evaluate regional and EPA headquarter responses to EJ concerns on an annual basis and provide a score on overall performance.

That's a huge concept to undertake. And I might though acknowledge that, as a NEJAC member, I would be interested to see in some way how EPA is seeing EJ concerns, come in and how they are

addressing those in some sort of a performance measure manner. And this is something that comes up a lot where it's very hard to know how to measure whether EJ issues are getting addressed you know what are the merits, what are the actual metrics that could be used and maybe this is something that the NEAC can look at on an annual manner.

And the public as well, of course is you know how are the regions doing the responding to EJ issues, how would that be measured, how would that be reported. I think that that's a very relevant topic here as well as the specific concerns about Web interaction and its ability. Thank you.

Victoria Robinson: This is Victoria again.

John, there's two parts to that. One, just as a reminder that NEJAC, as a federal advisory committee, cannot provide – does not – cannot monitor and provide oversight of EPA's functions. Your sole function is to provide advice and recommendation to the council.

John Ridgway: Exactly.

Victoria Robinson: To address your other comments, I've got Kent Benjamin here, the Associate Director of the Office of Environmental Justice, to talk a little bit about the performance measure process.

Kent Benjamin: Good afternoon, everyone.

Elizabeth Yeampierre: Good afternoon.

Kent Benjamin: What I can say is we – number one, we appreciate your comments, Mr. Parshley and we are always trying to improve our webpage. We're actually going through the entire EJ Web site which is at [www.epa.gov/environmentaljustice](http://www.epa.gov/environmentaljustice).

So looking for Office of Environmental Justice may have thrown off the search too but it's just – it's Environmental Justice and you can find a lot of stuff. We're actually going through every page and every link in our site to correct all broken links and to update all the pages and there are some things that we're developing in conjunction and even prior to the microsite development.

In regards to looking at comments and concerns that come in, we have in the last year enhanced our relationships with the regions and enhanced our system of addressing these where if we do refer things mostly to the regions because that's where most of the direct activity and community-based concerns occur. And we are working with them to address those concerns and to follow up as the process goes we don't have exact timeframes that we you know check every 30 days or 22 days or something.

We are moving forward on sort of establishing more structures around how we do that and how we characterize that. We don't have that finally in place but we do have a process where we communicate with the regions and we follow with them after a reasonable period of time to see that the concern is resolved.

We also especially when we received the communication via phone will direct people to communicate back to us at headquarters if the response they receive subsequent or directed to regional staff is unsatisfactory.

Elizabeth Yeampierre: Thank you, Kent. That was going to be my follow-up question – what happens when the problem at the region, which is something that Mr. Parshley asked. Thank you.

Any other comments or questions for Kent or Victoria or just questions that you may have – comments you want to make about Mr. Parshley's testimony. OK. Mr. Parshley, thank you so much for joining us and thank you for the recommendation.

Our next public commenter is David Ludder.

David Ludder: Certainly.

Elizabeth Yeampierre: David Ludder?

David Ludder: Yes. Can you hear me?

Elizabeth Yeampierre: Yes, welcome.

David Ludder: Thank you, thank you. My name is David Ludder. I'm a private attorney located in Florida but I practice mostly on Alabama so most of my experience is drawn from there.

I do represent, on occasion, environmental justice communities. I am presently representing 64 African-American residents around a landfill in Alabama that is receiving the TVA coal ash from Kingston, Tennessee. They have suffered seriously and neither EPA nor the state has done anything to protect them.

I did submit a written comment and they are directed mostly Title VI. I see Title VI as offering a pretty significant opportunity for EPA to advance environmental justice in permitting. I see Title VI as probably the best opportunity to do that that exists today, but it's not being used very well.

When the state applies to EPA for grant money, they sign their grant application and certify that they will comply with Title VI. And after they sign the application, Title VI is forgotten. That's the case in Alabama.

The state will assert that they comply with Title VI and they will do so repeatedly without having listed one finger to prove or establish that they have done anything to comply with Title VI. They generally do nothing about Title VI until a Title VI complaint has been filed with EPA. And they're routing the responses that we've issued this permit, it complies with all Environmental Protection regulations and we don't control the citing of the facilities. And that's their entire answer. They don't even answer whether there's any disparate impact of minority communities. So I think that the process that states go through to implement Title VI has to be radically changed.

I would suggest, as I have in my comments, that there could be some amendments made to the Title VI regulations which require that states implement a program that, in essence, requires the state to do a disparate impact analysis on every permit or every permit exclusive of those certain categories that are not significant. There's lots that can be done.

But right now, in the State of Alabama, there is nothing being done and they certified to EPA that they are doing something just to get the money.

The other thing I see too as far as EJ goes in Alabama, maybe what Alabama is to offer an additional public meeting to explain a project or to explain the permitting process to the community. But really that's not enough because the community doesn't know how to use the process to its advantage. So EJ is really nothing more than lip service in Alabama. That's my comment.

Elizabeth Yeampierre: Thank you, Mr. Ludder. I think that your comment really speaks to the heart of both Plan EJ 2014 and the EPA charge on permitting. Do any of the council members have any comments or questions for Mr. Ludder?

Elizabeth Yeampierre: Hello?

John Ridgway: John Ridgway here but I've heard and talked a lot so ...

Elizabeth Yeampierre: No, it's OK, John. You're chairing that committee and I think Mr. Ludder has raised a number of important issues.

John Ridgway: Yes, I agree completely. Thank you very much, Mr. Ludder, for your comments. And we heard earlier in the call a reference, I think, it was Edith Pestana regarding some disparate impact analysis that were done by the (inaudible) journal back in – around 1992. And I see that you're bringing up a very similar kind of issue.



And I would ask maybe if Kent Benjamin is here still or somebody, is there any type of disparate impact analysis that EPA is doing right now around Title VI or permits or are there any states that are doing that that we know of.

Elizabeth Yeampierre: (Inaudible)?

Kent Benjamin: I am still here.

Elizabeth Yeampierre: I would also volunteer Nicholas Targ if he's on the call.

Kent Benjamin: Let Nicholas go first.

Elizabeth Yeampierre: OK.

Nicholas Targ: I mean, it's just a really – it's a great suggestion here and much easier said than done.

John Ridgway: That's why I'm letting Nicholas go first.

Nicholas Targ: Yes, yes. So I'm repositioning myself here literally, it's not figuratively.

Can you state the question again please?

Nicholas Targ: Yes, Nicholas. The committee as you know maybe EPA should consider requiring states to get financial assistance to perform a disparate impact analysis relative to that assistance that they're getting. That's the suggestion and I'm saying that I'm interested if any states and/or EPA are doing that because it's easier said than done but it gets to the issues of Title VI and how do we know if the EPA or states are recipients of federal dollars are really doing what they're supposed to as opposed to just signing off as lip service that is being addressed.

But today, I'm not aware that the agency and – needless to say, I, of course, can't speak for the agency practice, in fact, but I'm not aware that the agency is requiring a disparate impact analysis prior to states receiving grant funding rather there is an essentially a self-certification that occurs misstatements as they will comply with Title VI (inaudible).

I'm, of course, most familiar with the State of California and where I practice and I'm not aware that there's a requirement that's substantially different on that.

I am aware, however, that there has been litigation in the night circuit and elsewhere around issues of Title VI involving EPA and other agencies and that the agency and the U.S. Department of Justice is reviewing their practices and substantially reorganize their civil rights divisions that focus on issues of Title VI.

I'm also aware that some other agencies or departments such as the Department of Transportation is looking quite hard at specific projects in the Title VI context that have received a stimulus fund in one project was at least for a time, and I'm not sure what its present status is and this is the park – Oakland Interconnector – Airport Connector lost its funding for at least a period of time.

In other context in the disparate impact analysis or disproportionate impact analysis is undertaking such as required under the National Environmental Policy Act, but I'm not aware of such a requirement or such analysis being conducted under Title VI on a get-go basis.

John Ridgway: Thank you.

Kent Benjamin: And I'm going to leave on Nicholas' response because that's more comprehensive than I'm able to be. I am not familiar with any specific new activities like from the Office of Civil Rights but the points that Nicholas mentioned about us working with the Department of Justice to enhance what we are doing in a respective Office of Civil Rights or with Title VI is ongoing. I will take this question back and we'll have information in the near future for you on what the status of those things is.

Elizabeth Yeampierre: Thank you, Kent.

David Ludder: This is David again.

Elizabeth Yeampierre: Yes.

David Ludder: You know I appreciate what EPA is doing about the Civil Rights Office and moving their docket and improving the way they handle complaints. And my comment is really not directed toward what EPA is doing to implement Title VI in that regard.

My comment is really that the states are responsible for issuing those permits that the requirement of Title VI has got to be pushed down to the state level and the EPA has got to require the states to do disparate impact analysis for the permits that they issue rather than just sit back and say, we comply and we will defend any complaint that's filed with EPA.

John Ridgway: And I appreciate that, Mr. Ludder. What I was taking away from this conversation is that as Elizabeth has referenced in EJ Plan 2014, there is upcoming effort to focus on our permitting and how we address permitting in the coming years. And this is something that I will make sure we provide to the groups working on this and to address different concerns.

David Ludder: Thanks.

Elizabeth Yeampierre: Thank you. Thank you, Kent. Thank you, Mr. Ludder. Do any of the other NEJAC members have any comments or questions for Mr. Ludder? OK. If not, we're going to move on.

Mr. Ludder, thank you. Thank you for your time and for making such a good recommendations and observations. They certainly list the discussions for the NEJAC and give us more challenge just to think about the challenges that we absolutely need to consider in, in our deliberation.

I am going to call Elizabeth O'Nan and John Shapiro. Is Elizabeth O'Nan on the call?

Operator: Ms. O'Nan, your line is open.

Female: I'm sorry?

Victoria Robinson: That was the operator. Ms. O'Nan, your line is open. Are you still on the call?

Operator: Ms. O'Nan is on the call and her line is open at this time.

Victoria Robinson: May I remind to have your phone on mute for you might need to un-mute?

Elizabeth O'Nan: Yes, Elizabeth O'Nan.

Elizabeth Yeampierre: OK, great. Welcome.

Elizabeth O'Nan: Thank you. Yes, I'm sorry. Are you ready?

Elizabeth Yeampierre: We are, we are.

Elizabeth O'Nan: (Inaudible) hearing me. My name is Elizabeth O'Nan and I'm here on behalf of PACE, Protect All Children's Environment. And we are a group of individuals that have been poisoned by chemicals you know either seriously injured or disabled by chemical exposures.

Current, I guess, explanation for this disability is called toxicant-induced loss of tolerance and citizens disabled by TILT suffer continuous and ongoing injury from the ubiquitous nature of pollution as well unnecessary toxic products, and that were continually reinjured.

I guess, the major points that I would make today is that although many people from this community have come before the Environmental Justice Committee, we are not represented on the committee nor has the EPA (inaudible) suffering or (inaudible). Back in, I believe, it was 2002, there was a resolution requesting the EPA to recognize the existence of this very sensitive population and that was rejected.

I would again like to encourage them to ask for the recognition of this exponentially growing disability by the EPA and to ask for assistance from both the Environmental Justice Committee and the EPA

and, not only recognizing our existence but offering some consistent help with dealing with the unusual and problematic issues that came up with re-injury from continued exposures.

And within the history of the chemically-disabled with the Environmental Justice Committee, I realized that were addressed, I believe, in 2002 by both Mary Lamielle and (inaudible) and others. And I just can't to you know I urge you to look at this group of citizens and not continue to ignore and allow the abuse that creates the disability in the first place. This is any organization or group that would be, I think, or shouldn't be represented by environmental justice efforts that would be the very people that are left in the wake of these environmental problems.

On that, we found that the majority of the chemically-injured people that certainly I deal with in our organization are disabled by pesticide exposure, so they can come from any communities, from any source of pollution (induced). But as long as these individuals that have really have their lives looked out from under by these environmental injustices continue to be ignored and we continue to deny that chemicals cause these problems you know it seems like any other you know issues that we're addressing here kind of miss the point. I would like to specifically address some of those – the issues that could be looked at and encouraged other than, I guess, resubmitting and updating the resolution acknowledging people as they refer to this multiple chemical sensitivity at that time.

But to you know again request the EPA accept that resolution and not to comment but also, there's other things that have come up in the interim that could certainly help this group of individuals such as a resolution that was passed here in North Carolina on the state level within the democratic party that's referred to as toxicant – pardon me, Toxic Tort Abatement Act. And this is...

Victoria Robinson: Thirty seconds.

Elizabeth O'Nan: This is something that can be done in coordination with other agencies such as the U.S. Forest Service and HUD that can provide sanctuaries with interesting area for emergency and alternative shelter and housing. The Department of Education needs to look into the needs – special needs of students that are disabled by TILT and, of course, Medicare and Medicaid should be advised to address these special needs and to educate physicians so they can diagnose and treat this.

Right now, there is absolutely no medical care other than selective...

Victoria Robinson: Time.

Elizabeth Yeampierre: Thank you, Ms. O'Nan. We do have a copy of your testimony and we're certain that the NEJAC members have read through it. Do any of the members of the NEJAC have a comment or a question for Ms. O'Nan? OK. Ms. O'Nan, there aren't any comments or questions right now but I'd like to thank you for coming before us and submitting your testimony.

The next public commenter is John Shapiro. Is John on the line?

Operator: Do give me one moment.

John Shapiro: Is this the hotline?

Elizabeth Yeampierre: John – is this John Shapiro?

John Shapiro: This is John Shapiro.

Elizabeth Yeampierre: Welcome, John.

John Shapiro: Yes, this is John Shapiro) calling from Santa Fe, New Mexico. I'm with Western PACE. We're an organization that primarily deals with veterans issues. And lately, we've been having a slew of veterans having problems with both toxic exposure, as well as toxic exposure in the communities since many of them are extremely low income.

Historically, toxic exposure among veterans has been a problem. Twenty-five percent of all injuries in World War I were actually chemical injuries. Doctors began treating it in 1918 and had some success primarily with avoidance, meaning they had their patients move to the mountains but there's some sort of beach to feel better.

Great Britain has been tracking chemical injuries among their veterans since 1921. They found that most didn't get better or have minimal improvement. Some of our veterans go back to Vietnam where they were exposed both Agent Orange, Agent Purple, DDT and chlordane.

Most have not improved, most continued to be low income and most continued to be exposed both in their homes as well as in their communities. Some of our veterans are also native Americans (inaudible) Inuit and they also have extremely high levels in their background of exposure.

When they go to the VA complaining of chemical injuries, they're often scoffed at or told when they talked about hypersensitivity which is well-documented in veterans. They are told that instead of having multiple chemical sensitivities, they're actually suffering from a mental illness called olfactory hallucinations, meaning low levels of pesticides or solvents bother them and they don't bother the doctors.

Currently, there is no real treatment protocol officially prescribed, yet private physicians are having excellent results with glutathione, both IV and nasal sprays; cholestyramine which the University of Virginia Medical School has had excellent detoxifying pesticide employees at toxic waste sites.

Also, HUD has really dropped the ball. Most of the veterans are homeless or remain homeless. It almost appears to be a type of treatment if they often live in isolated areas to avoid chemical exposures. On base housing, it was highly contaminated with chlordane from the 1950s until the 1975 and was finally banned. Also, we're seeing onto the diabetes in many of our young veterans, especially young veterans who are Native Americans.

Many of the physicians believe that this is because we need the pesticides also active estrogenic xenobiotics. They mimic the hormones, so we're having extremely young veterans come down with diabetes. We've also noted with concern that the camp issue water supply was apparently knowing to be contaminated and tens of thousands of marines and their dependence were exposed to high levels of salt.

I really hate to say but I really think the government has dropped the ball on this in a very severe way. Every economic study done showed it's cheaper to keep veterans healthy, it's cheaper to keep children healthy and it's cheaper to keep employees and members of the community healthy. We have a very small group of rogue chemical corporations who manufacture or deliberately pollute and it's really adding a phenomenal cost to the healthcare system and to the taxpayers.

This finalizes my testimony. Thank you very much for having me here. I'm open to any questions anyone might ask or if any of the listeners might want to contact me, they can contact me at johnshapiro2000@yahoo.com.

Elizabeth Yeampierre: Thank you, Mr. Shapiro, for joining us.

Council, do you have any comments or questions for Mr. Shapiro? OK. Thank you very much.

The next speaker is Rosa Hilda Ramos. Is Rosa Hilda Ramos on the line?

Rosa Hilda Ramos: Hi.

Elizabeth Yeampierre: Are you on the line?

Rosa Hilda Ramos: Yes, I am. Thank you.

Elizabeth Yeampierre: OK, (Spoken in Spanish).

Rosa Hilda Ramos: (Spoken in Spanish). Well you know I'm from an executive member council for three years at NEJAC, so I really appreciate what you're doing. I know how many hard hours of work that you spend you know trying to help all those.

I really feel at home, believe me, but I am totally surprised to see that NEJAC is just as the same point as when I left you know still talking about permitting problems, risk assessment, toxic exposure, accumulating the impact, grassroots community participation. Why can't EPA legally do to truly implement EJ protection regarding state permitting policies?

You know the EPA corps of engineer (internal) disconnect and conflict you know what I – just to share you the same old arguments and discussion, I have been hearing for the time I was there and it's a little sad for me to see that we have not moved forward into implementing resolutions in regards in all these issues.

Something I really miss is the comprehensive representation of abused communities from the truly abused communities other than the ones you have now. Nobody from – well, the island of Puerto Rico which is poorer than the poorest state in the United States with four million people. I don't see nobody from the you know white people or the Appalachians and more white people in the mountains who are very poor (inaudible) mining and coal industry. And I don't see any representation from Latino workers who are constantly used by insecticide strained by you know farming policies in the United States you know.

My English is not very good so you can interrupt me anytime you don't understand something.

I feel sad that I have not heard from any of you, how refineries and pipelines are exploding everywhere due to a self-regulation policy of the oil industry. EPA stipulation enforcement is a very wincey effort to protect people. They only can deal with that part of the whole industry activity and is not enough.

It's your responsibility to convey this message to Ms. Jackson that something has to be done to regulate more the oil industry – oil and gas industry. And she, herself, should promote empowering affected community in oil industry and FACAs because that's the you know that's the right thing to do.

In fact, if you check all FACA's members, FACA is a federal advisory council. You will be impacted by the fact that there are no representation from affected people you know little guys. The ones who really suffered, the EJ communities do not have a voice in developing any federal agency policy – just EPA.

In general, and much less regarding EJ, that is why environmental abuse is abound you know because the oil industry and all other activities of the federal government are organized in manner to hear the voices of the very same people that keep abusing EJ communities so how – and they are supposed to have a comprehensive representation or they don't.

So I think that you should convey this message with drive, with force to Ms. Jackson which I trust to understand the message. And she can convey that message to the president.

And so it's not enough to try to improve the conditions within EPA. Something more broader, more stronger to empower people to be done and the only way that can be done without allowing you know the (offering) of the legislature is to provide the presence – meaningful presence of little people in EJ communities within those policy-making groups.

Also, I have another suggestion for you to consider is that ...

Victoria Robinson: One minute.

Rosa Hilda Ramos: ... EPA should work with their own people. EPA employees – many of them are very, very good and they know where the decision is hard. And they have solutions, they have suggestions. They can engage themselves in helping – protecting EJ communities if given the opportunity.

Ms. Jackson should promote you know receiving these recommendations and trying to incorporate them into a more stronger EJ protection policy within EPA and maybe, hopefully, to change the policies in other FACAs. So that's what I have to say and I really appreciate the opportunity. Thank you very much.

Elizabeth Yeampierre: Thank you, Ms. Ramos. Well you know I have some good news and some bad news. The good news is that there is someone from Appalachia on the advisory council.

Rosa Hilda Ramos: Oh, that's great.

Elizabeth Yeampierre: I am Puerto Rican and I'm not born in the islands but from New York City which is in the same region as Puerto Rico and we, the activists, in New York City (inaudible) from region two requested that they take special attention to Cataño in the explosion.

We reached the assistant administrator and asked them to reach out to you, specifically, so ...

Rosa Hilda Ramos: You know what? EPA has just publicly recommended for a pipeline – gas pipeline that's ...

Elizabeth Yeampierre: I just hope that you have the opportunity to engage them and if, in fact, the engagement doesn't rise to the level that you need in terms of air quality monitoring and the implication of the Cataño disaster, I would urge you to write, call, e-mail region two and we would be happy and I say that in my capacity as chair of the NEJAC that my capacity, the executive director of Brooklyn, all these Puerto Rican organization, we would be happy to help you with that.



I've read your testimony and to see if I got this accurately, you're talking about the contradiction between federal projects in terms of what they want to do and how they do it – the cleaning of the San Juan Bay but not addressing the raw sewage discharge and what that means or doesn't need for economic development.

You've raised issues in terms of delaying the federal criminal environmental investigation and asked whether or not it's going to be useful at this point because it's so late. You mentioned there was no meaningful follow-up with the CAPCO explosion and that no one reviewed whether or not CAPCO was in compliance and that you have concerns about that.

You also raised the fact that federal investigators don't know the language of the context so they can't really research the incidence in Puerto Rico properly. You mentioned that regulations and research of disaster is done by people who actually don't understand EJ that there's no EJ representation in research or advisory committees and that regulations are put together by industry that is supposed to be regulated.

You also raised a number of other things. Was that about capture some of the concerns that you've raised in your testimony?

Rosa Hilda Ramos: I guess so but you know looking at a broader sense you know I'm not talking about just Cataño or Puerto Rico (inaudible), it's happening all over you know. There are no EJ representation you know in federal advisory councils.

Elizabeth Yeampierre: That is an issue.

Rosa Hilda Ramos: You know the government is allowing the rich people, the industry...

Elizabeth Yeampierre: We had at the last NEJAC. You should know we had an advisory council meeting recently in D.C. and the issue of who sits on the advisory council was raised and we received a list and that is something that I know that the NEJAC and EPA's working on.

So any of the members of the council have any questions or comments for Ms. Ramos?

Rosa Hilda Ramos: No, it's just that you should recommend to Ms. Jackson to go to the (President's evaluating) advisories will do that changes.

Elizabeth Yeampierre: Can I just hear for a second from the council? I'd like to hear them, sorry.

Rosa Hilda Ramos: I'm sorry.

Elizabeth Yeampierre: You and I have spoken for a minute and they haven't had an opportunity to respond.

Rosa Hilda Ramos: OK.

Elizabeth Yeampierre: Members of the council, do you have any questions or comments for Ms. Ramos? OK. No one?  
All right. Ms. Ramos, you get the last word.

Rosa Hilda Ramos: OK. Thank you for allowing me to talk.

Elizabeth Yeampierre: All right. Thank you for joining us. Do we have any other members of the public?

Victoria Robinson: Joined the list?

Elizabeth Yeampierre: Yes.

Victoria Robinson: We have a written comment submitted by Joyce Grant.

Elizabeth Yeampierre: OK.

Victoria Robinson: You may want to call her name to see if she has actually called in.

Elizabeth Yeampierre: OK.

Victoria Robinson: But a written statement – her written statement was submitted and provided to all the members as well as everybody on the call.

Elizabeth Yeampierre: OK, thank you, Victoria. Operator, is Joyce Grant on the phone?

Operator: Joyce Grant is not on the line.

Elizabeth Yeampierre: OK. All right. Well, thank you. Do any of the members, I think – we're right on time. Awesome.  
Do any of the members have any final comments or questions that they want to raise at this moment before we adjourn the meeting?

Victoria Robinson: Elizabeth, this is Victoria, real quick.

Elizabeth Yeampierre: Yes.

Victoria Robinson: Before you do, after everybody gives their comments. Just give me a couple of minutes just so I can make sure I remind folks about the next meeting.

Elizabeth Yeampierre: Absolutely, absolutely. Anyone?

Langdon Marsh: Oh, Elizabeth, this is Lang. Some of the commenters have raised about the special needs of people exposed to toxic pollution and (inaudible) people with sensitivities. And I don't know a great deal about that subject. It just occurs to me that it would be good to have someone look into those issues and give us some sense of what kinds of work is being done to address those issues.

Maybe there's some research done at the office of research and development or the National Academy of Sciences or whatever. But I thought they raised very serious issues about – think about special population so.

Elizabeth Yeampierre: They did. And in fact, that issue comes up in EJ communities all the time that there is an increased sensitivity in the toxins by people with low income or people who have come from a history of neglect as a result of poor health services and a variety of other things that communities (inaudible) communities had to endure. So it is an issue for EJ communities.

Does anyone else have a comment or something they'd like to add to what Lang just raised?

John Ridgway: Yes, this is John Ridgway. And again, I want to remind the council that this is also related to TOSCA reform and in Congress, and we may want to fill that into our, either steering committee or council considerations as to you know where would it be appropriate for the council to either be updated about EPA's role of TOSCA reform and/or issues related to it as it goes forward.

Elizabeth Yeampierre: Thank you. Anyone else? So ...

Victoria Robinson: Elizabeth?

Elizabeth Yeampierre: Yes.

Victoria Robinson: Elizabeth?

Wynecta Fisher: I'm sorry, this is Wynecta.

Elizabeth Yeampierre: Oh.

Wynecta Fisher: And I'm just – hi. I'm thinking about the last person that spoke and there was something that she mentioned at one of our last meeting and I don't know how we could tackle this. But I still – she mentioned that there are different people that are writing regulations and reviewing processes. And the question that we have to ask also is who is responsible for showing them and teaching them what EJ is, because when you read the definition, if you're not really involved in the work, it's difficult to put your arm around.

I'm wondering you know and maybe Victoria, you could – or Mr. Benjamin, you can assist with this you know how do we go about helping people within the agency with another federal agencies or whoever developing these processes, how do we get them – how we teach them what EJ is and how it looks.

Victoria Robinson: Wynecta, this is Victoria. This question, what we have been doing, we identified training as a very important component of the work that we're doing here at the agency. And to that end, the training is not only classroom-based but it's one with all those teachable moments where people need to convey this kind of information work so they truly get integrated into the program processes.

Some of that is through like our interim guidance on rulemaking. That's one of the ways in which people are – will be getting – increasing the awareness around environmental justice for those very people who are developing rules, people who are permit writers or investors. So we have an ongoing program actually as part of the training program for those who are getting involved in EPA's action development process around rulemaking that we actually have a module on environmental justice.

There's more that can be done but we see that is a very important step that needs to be accomplished. So it's a very good question.

Elizabeth Yeampierre: Victoria, I also want to add that I get the sense sometimes that the NEJAC is becoming one-stop shopping for anyone who has an environmental concern or need and that there's very little information available about what the other FACAs have set up to do and where they may be able to bring some of their concerns that are more relevant maybe to another FACA.

And I think that somehow there should be some kind of crosslink or some link within the Web site that address EJ issues so that people can actually bring up their concern before the right body. And it's not necessarily that the people who testified today but just generally this happens where this sort of becomes a place where people bring all the concerns.

Victoria Robinson: And I think you made a good point there as well because – and that goes to some of the work that Charles and I have been doing in terms of how to bring – have other FACA committees such as the EPA FACA committees to incorporate considerations of environmental justice in their decision-making – their deliberations.

And I like your idea about cross-link to the FACA committees. Most of them don't know where that committee is. They know of the NEJAC but they don't think of that within the context of a federal advisory committee.

We do need to do more about increasing awareness about FACA, federal advisory committees. And there is a Web site that EPA has which, of course, probably nobody has really seen too much and that is lists all the federal advisory committees and what their mission is.

And I will take this comment you've made and talks with the folks in the Office of (inaudible) federal advisory committee management here in EPA and see what we can do trying to increase that visual cross-fertilization.

If anybody has any other suggestions how to make it more user-friendly, please let me know but that's a very good question. And because there are very often things that other FACA committees need to know within the topic. We'll also look at trying to help other federal advisory committees increase their representation of members who understand environmental justice issues.

Sometimes, if you wanted to ask where all NEJAC members go, well, sometimes we're trying to get them onto other federal advisory committees. So – but it's a point well taken.

Elizabeth Yeampierre: Right. Any other comments or questions? If not, I just really want to say a heartfelt thank you to all of you being so generous with your time and for presenting such important and thoughtful comments and questions during this process. And the same is extended to the public that's listening. Thank you very much for your time.

Victoria Robinson: Elizabeth?

Elizabeth Yeampierre: Yes?

Victoria Robinson: Oh, I wanted to just mention real quick.

Elizabeth Yeampierre: OK. One more thing.

Victoria Robinson: Yes. The next meeting of the NEJAC, the next public meeting of the NEJAC is scheduled for Tuesday, November 16th through Thursday, November 18th in Kansas City, Missouri at the Westin Crown Central Hotel (inaudible) a place in Kansas City, Missouri.

There's been a Web site. I believe that Web site already has the information about how to one, register for the meeting and two, hotel accommodations. So take a look at the Web site.

If you're not on EPA's either ListServ, you should get on that and we can – there will be information. It will be – it's being sent through the ListServ about that meeting and the information about how to actually make your hotel reservation. So we're going to be a very interesting meeting. We're going to be talking about a couple of issues from the perspective of region seven and those issues that region

seven have – really, they're the ones that have a very strong role in agricultural thing and then talking about those issues within a national policy context.

So we welcome everybody to come to Kansas City.

Elizabeth Yeampierre: Thank you, thank you.

All right. Everyone, have a wonderful weekend. The meeting is adjourned.

Male: Thank you.

Male: Thank you.

Female: Bye. Thank you.

Female: Bye.

Male: Bye-bye.

END

The following written statement was received from Ms. Joyce Grant, Citizens for Oceanfront Preservation, Asbury Park, NJ, who did not speak during the meeting. *(Note to readers: The written statement is presented verbatim, as provided by the public commenter, with no modifications or changes.)*

**Ms. Joyce Grant, Citizens for Oceanfront Preservation, Asbury Park, NJ**

Oceanfront development on the last remaining undeveloped, open space natural resource area on Asbury Park's oceanfront is currently proposed to encroach on Green Acres Land, is located in the high hazard flood zone(v-zone), is in violation of Coastal Zone Management Rules, and negatively impacts environmental justice issues that include decreases in access to public beaches and Green Acres land, and will block the view of four(4) floors and patio of Asbury Tower, a HUD, affordable housing building of 300 to 400 Senior residents. The community outcry over this development goes unheeded by both the Asbury Park Council and owner/developer, iStar Financial/Asbury Partners despite the offer from NJ Conservation Foundation and the Trust for Public Land to buy out the development rights and create a public oceanfront park.

We would like the NEJAC to write a strong letter to the City of Asbury Park protesting this assault of the environment in that area and ignoring the community of Asbury Park whose population is significantly younger, more ethnically diverse and much less affluent than either the County or the State. African Americans comprise the largest ethnic population in the City(6.1%), white population(24.7%), and the Hispanic/Latino population is 15.5%. All are from 2000. The City's per capita income and falling is \$13,516 and roughly half that of the County(\$31,149) and the State(\$27,006). One third of the City's families reported incomes below the poverty line. The threat to Ocean beach recreational Tourism will impact negatively the main source of the City's revenue.

It is critical that open public space be preserved on Asbury Park's oceanfront and the natural environment is protected.

Thank you,  
Joyce Grant