

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL
Public Teleconference Meeting
September 24, 2009

TRANSCRIPT

Victoria Robinson: Hello, everyone. I'd like to welcome you all to the 29th Meeting of the Natural Environmental Justice Advisory Council, a federal advisory committee to the U.S. Environmental Protection Agency.

My name is Victoria Robinson and I'm EPA's Designated Federal Officer of NEJAC. To the members of the NEJAC, welcome and thank you for taking the time out of your busy schedule to participate in this call. It's really a testament to your dedication as volunteers and your willingness to serve which has ensured the continued activity of the NEJAC for more than 15 years.

I'd also like to extend a thank you to all the members of the public who are listening and those will be providing comments during the meeting. More than 180 people have registered to today's call and more than 25 people have signed up to give public comments.

In addition about 20 NEJAC members and three speakers are participating. That's more than 200 people in attendance and that's a record high and it speaks to the importance and relevance of integrating a final justice perspective into the agency's natural enforcement priorities.

This teleconference meeting represents a first on many fronts. Not only is it the first time we've had such a large number of participants on a teleconference call, but to our knowledge this call represents what will be the first podcast of an EPA Federal Advisor Committee Meeting.

This call is being recorded and a MP3 file is expected to be posted on EPA's NEJAC Web site next week for later listening. This teleconference call is also one part of OEJ's ongoing efforts to continue to reach out and make meetings and other activities more publicly accessible. We're also creating a transcript of today's call, as well as a written meeting summary, both of which will be available on the Web site for later viewing and listening pleasure.

To assist in the preparation of the meeting summary we ask that when you speak please talk directly into the handset and state your name and affiliation for the record, so the note takers can capture it. It will also make it easier when people listen to the podcast recording to discern who is speaking.

Also because the call is being recorded we have asked that the NEJAC members and other speakers and public commenters to please refrain from using speaker phones where possible. Speaker phones can distort the quality of the recording. Members, if you must use a cell phone or a speaker phone please mute your line until you want to ask a question or make a comment.

Okay before we begin I'd like to note that Mr. Richard Moore, Chair of the NEJAC and Executive Director of the Southwest Network for Environmental and Economic Justice is unable to participate in today's call. In his stead we have asked Ms. Elizabeth Yeampierre to serve as NEJAC's Acting Chair for the teleconference

meeting. Elizabeth is the Executive Director of UPROSE, Brooklyn's oldest Latino organization. She's a lawyer by profession and she has been a member of the NEJAC for almost three years. Elizabeth?

Elizabeth Yeampierre: Thank you, Victoria and welcome, everyone. Buenos saludos, it's a pleasure to have an opportunity to serve today in this historic meeting. I just want to say a few things. I want to talk in particular about enforcement and what it means for the environment for justice community throughout the country.

You know everyone knows that it is extremely important to our communities, because siting, oversight and sanctions really speak to the heart of environmental justice. Whether we're in an urban community where there's population density and we're living right up against power plants and (sludge) treatment plants, or rural community or Indian country or the global south, our communities are the reluctant post to a lot of the countries infrastructure and the health of our communities are always at risk.

So this particular call today is extremely important to our communities, because it really addresses how the law is going to be enforced to protect these vulnerable communities. The other thing and I think also extremely important given the number of people that are on this call is involvement and community involvement.

Environmental justice and the tenants of environmental justice speak about - talk about how we speak for ourselves and how important that is. And then given the tools we have had historically the opportunity and have transformed our landscape and engaged environments for remediation. It's extremely important that you use this opportunity, this task, this podcast, meetings that we have or conference calls or even in face-to-face meetings to weigh in and really shape what the priorities are going to be that are going to guide the work of the NEJAC in the next three years.

So I want to welcome everyone and I want you to really think about what those priorities should be and we're looking forward to hearing them during the public period piece. Again it is never late for you to weigh in either in writing or by calling and letting us know what those priorities are. Thank you.

Victoria Robinson: Thank you, Elizabeth. Now I'll turn it over to Aaron Bell who's a member of OEJ's team. He's going to take a roll call of NEJAC members to ensure we have a quorum. Aaron?

Aaron Bell: Good afternoon, Council members. When you hear your name please reply by saying present. Victoria Robinson?

Victoria Robinson: Here.

Aaron Bell: Richard Moore? Kathryn Brown?

Kathryn Brown: Here.

Aaron Bell: Hilton Kelly?

Hilton Kelly: Here.

Aaron Bell: Paul Mohai? Omega Wilson?

Omega Wilson: Here.

Aaron Bell: Patricia Salkin?

Patricia Salkin: Here.

Aaron Bell: Elizabeth Yeampierre?

Elizabeth Yeampierre: Here.

Aaron Bell: Chuck Barlow? Christian Holmes? [re-pronouncing] Christian Holmes, excuse me.? Sue Briggum?

Sue Briggum: Here.

Aaron Bell: Langdon Marsh?

Langdon Marsh: Here.

Aaron Bell: William Harper?

Woman: Diedre Sanders for William Harper.

Aaron Bell: Shankar Prasad?

Shankar Prasad: Here.

Aaron Bell: Gregory Melanson? John Rosenthal? Wynecta Fisher? Don Aragon? Jodena Henneke? Peter Captain?

Peter Captain: Here.

Aaron Bell: John Ridgway?

John Ridgway: Here.

Aaron Bell: Jolene Catron?

Jolene Catron: Here.

Aaron Bell: Thank you.

Victoria Robinson: Okay that's 1, 2, 3, 4, 5, 6, 7, 8, okay we've reached quorum. Great. Thank you. We can begin today's discussion. Everyone should have received an overview of the agenda with your registration confirmation. We will let - next we are going to hear three short presentations about EPA's National Enforcement and Compliance Appliance Assurance Priorities, followed by the question about integrating EJ considerations into the selections of the priorities.

Before we proceed to the public comment after that we will hear brief remarks from Mr. Quentin Pair from the U.S. Department of Justice about a newly created diversity and environmental committee of the American Bar Association. At 2:30 pm we will begin the public comment period. So members, do you have any questions about the agenda? Okay great.

With the topic of enforcement - I'm sorry - I'd like to now introduce Charles Lee, Director of EPA's Office of Environmental Justice and my boss. As most of you already know, Charles is a former member of the NEJAC, having served from its conception in 1994 until 1999 when he came to the EPA. Charles?

Charles Lee: Thanks, Victoria. And remember the most important part of this, I'm the boss. Yeah. Good afternoon. I want to thank all of you for taking time to participate in this teleconference on EPA's 2011 through 2013 national enforcement priorities. I know that there's a lot of people on this call, not just the NEJAC members. As Victoria said, there's about 200 who signed up and this is really tremendous that so many people are interested in talking to EPA about this important subject.

I want to thank Elizabeth Yeampierre for agreeing to serve as the Acting Chair for this call. As many of you know, Richard Moore, our NEJAC Chair is in poor health, but he sends his regards.

I want to also thank all the EPA staff who worked really hard to put this call together. And lastly I want to point out the significance of this call. Since Administrator Jackson came to EPA, she's emphasized the importance of transparency in the way that EPA pursues our work. Transparency I think also means - means not only placing information for access by the public, but proactively reaching out to engage all stakeholders, particularly those who have been historically under represented in EPA's decision making process.

For that reason Cynthia Giles, our Assistant Administrator for Enforcement and my boss, wanted to make sure that we're reaching out to EJ groups to engage you as EPA develops its national enforcement priorities. And I have to say that this teleconference is really precedent setting, because something like this has never happened before, but we think that this type of engagement will make for a set in national enforcement priorities that would result ultimately in better environmental results.

So again I want to thank you for your time and your wisdom and most importantly your commitment to helping EPA achieve our vision of integrating environmental justice in everything that we do.

So it's my honor at this point to introduce Cynthia J. Giles, who is the Assistant Administrator for Enforcement and Compliance Assurance at EPA. Cynthia is not only the Assistant Administrator for Enforcement, but she also oversees the Office of Environmental Justice as OEJ is housed within the Office of Enforcement.

Cynthia Giles brings to EPA a tremendous wealth of experience that is really broad and deep in the area of environmental enforcement and policy. Most recently she was the Vice President and Director of Conservation - Director of the Conservation Law Foundation's Rhode Island Advocacy Center where she focused on state and regional advocacy to combat climate change. And from 2001 to 2005 she served as the Head of the Bureau of Resource Protection of the Massachusetts Department of Environmental Protection. She worked for the U.S. EPA in a variety of capacities from 1991 to 1997. She served as EPA's Enforcement Director for Region 3, which is the Mid-Atlantic States from 1995 to 1997.

At that point she developed a now famous paper on what's called a results targeted approach to enforcement. And her responsibilities included overseeing enforcement

of federal laws and regulating toxics protecting air, drinking water and surface water. She held a B.A. from Cornell University, a Juris Doctor from the University of California at Berkeley and an MBA from the Harvard University Kennedy School of Government. Since coming to EPA, Cynthia has been leading or is leading a number of major initiatives, including a 90-day review of EPA's Clean Water Act Enforcement, the development of these national enforcement priorities and new outreach and stakeholder engagement efforts like this NEJAC teleconference.

So it is my honor to introduce Cynthia Giles.

Cynthia Giles: Thank you, Charles. And I want to especially thank the members of the National Environmental Justice Advisory Council for having this special meeting and giving us the opportunity to benefit from your experience and wisdom, as we make choices about what areas of enforcement should receive our special focus and national attention in - for the years 2011 to 2013.

You may recall that when I met with NEJAC back in July we talked about the importance of transparency for EPA's actions and also the importance for meaningful involvement by communities - In particular, communities that have been under-represented in discussions with EPA about the selection of EPA authority. So you're going to hear in a minute a little more detail about what national enforcement priorities means and what we have now and how - what the decision process is going to be. But I do want to emphasize this is not your only opportunity to participate in this discussion and I mean that in two ways.

One is we certainly welcome any comments, written - we have a blog on this, any other comments you want to submit as to the national enforcement priorities are certainly welcome. But I also want to say that we do other enforcement work aside from the national priorities work and this is where the two aspects of my job come together. I head up the Enforcement Office, but as Charles said the National Environmental Justice responsibility agency wise is also in our office. And the responsibility we take seriously.

So even outside of the national priorities we want to be considering environmental justice and the impact on communities in the work that we do. So this is one and it's an important part of our enforcement work, but it is not the only enforcement related work we have. So I will turn it over to David Hindman, who will give you more of the background. And let's say we look forward to hearing your comments. I'm sorry that I can't say for the whole thing, but this was important to me to be able to be here at least at the beginning of this discussion and I look forward to hearing your suggestions.

Victoria Robinson: Thank you. David?

David Hindman: Okay. This is David Hindman with EPA. I'm the Deputy Director of the Office of Compliance. I believe there was a copy of the PowerPoint presentation that I'm going to be using that was sent around to people who had registered for this, so you can follow along with that. And if you don't have it I will try to be descriptive enough so that you can follow.

So I want to talk about EPA's compliance and enforcement priorities and for those of you who have a slide, I'm probably around Slide 2 now.

Victoria Robinson: David, before you go on I'd like to ask the members - we're going to go ahead and try to hear all three presentations and then open for questions and comments at that time. Unless there's a real, real burning question let's try to hold our comments until after the third presentation - all three presentations are done. Thanks.

David Hindman: Okay. So I want to give you a little bit of background information about what is this beast that we call a national priority, what's EPA's selection process for figuring it out, some discussion questions we'd be interested in hearing from you about, and additional opportunities for you to collaborate with us and give us the benefit of your insight and your wisdom about what you know in terms of what we might want to consider for our national priorities.

So the national priorities classes has been around probably for about 10 years or so. We set our priorities approximately every three years and the purposes of our priorities is threefold. We want to identify the most significant environmental problems. EPA has limited resources so we want to focus on a top set of priorities and we want to measure our progress as we move forward to make specific activities on these. Now we select national priorities based on sort of five factors.

I'm on Slide 4, if you're following around. First we need a significant environmental problem that we're trying to address. Usually that involves a human health risk, usually there is a sense that the problem has a national prevalence in many areas. So while there may be for example in one state a very important environmental problem, if we don't see that common pattern across other states and other reasons in the country it probably won't be a national priority, because for national priorities we're looking for priorities that all of EPA's regional offices or at least most of them will have work to do.

So there may again problems that are unique to a specific environment that may be serious, they may be non-compliant. The national priority just might not be the tool for that one. And we would still very much care about that and we would encourage you to let our regional offices and us, know about that, but we're looking for national priorities for problems that have some commonality across the country. So the scope, the nationwide is important to know.

We also look for frequent ongoing violations of federal environmental laws. There are a lot of pollution problems out there that many of us worry about, but unless we have a compliance hook - this is the office of enforcement, unless we think there's some violation of an existing law that we can enforce we're still focused as the enforcement area on looking for violations. So we're looking for ongoing violations of federal environmental laws that we can get our hands around.

And our fifth criteria is the scope or (freight) severity of the problem, the Federal Government, meaning EPA can really make a meaningful contribution to the problem that it's something that would benefit from EPA focusing its limited resources. In some cases these resources have more technical expertise, we may have more focus at the federal level than the state level. But that national priorities are not meant to replace the states, they're not meant to replace local governments. They're where EPA is focusing on these five factors.

Let me talk about little bit about - to give you context of what the national priorities are currently and we're looking to establish the next set of priorities for the 2011 to 2013 cycle.

So I'm going to talk, starting on Slide 5 on what is the priority today, just so you get a sense of that. So we have water priorities, we call it in the EPA CAFOs but to unpack that acronym which means concentrated animal feeding operations, so we're looking at basically farms that produce a large quantity of animal waste in cattle, poultry, swine and dairy. And we've been focusing on the CAFO priority as part of this national priorities cycle for the last two years and so that's one of the existing priorities.

We've been also looking at old sewer systems out there, we of course have EPA terminology for old sewer systems, we talk about that as concentrated - as diet and concentrated, as CSOs and SSOs which would be the combined sewer overflows. So those would be municipal sewer systems that are getting both rain water during rain events and sanitary sewer from homes and businesses when it gets mixed and basically overflows, because it exceeds the capacity and for many of those of you who already know that I'm attempting to talk down to you. I just want to make sure - we have lots of acronyms in EPA and I'm trying to not use as many as I normally would. And then there are SSOs which are separate sanitary overflows, there you can have a storm sewer system that is separate - but you can have a system that's separate, so it's only carrying sanitary waste, which itself is a weird term to think of sanitary. It's really waste in toilets and factories - it's taking that waste. And because there are problems in the system there is either leakage or (bed) operation assistance you get raw sewage overflows and those are a problems. So we've been concentrating on what we're calling old sewer systems.

We've also been concentrating efforts as another national priority on storm water. Storm water is essentially run off through either a construction activity, for example home building on a site or at an industrial facility where the water is running off the parking lot in some of the facilities. And storm water is actually one of the major contributors to the impaired quality of our waters today. A lot of it is sediment and a lot of it though is run-off oil on our streets that has significant environmental problems. Those are all water priorities.

Again these are the water priorities as they exist today in 2009 and as they will continue to exist through September 30, 2010.

Slide 6, I'm talking about the air priorities. So we have been looking at power generation facilities and as well cement, glass and acid producing facilities that are exchanging or expanding their design. So the EPA acronym for this is NSR/PSD. NSR stands for new Source Review and PSD stands for Prevention of Significant Deterioration.

To translate that into more English, what we're looking at here is facilities that have basically expanded their production beyond operation maintenance, so they basically are a new source of pollution under the Air Act that have not sought the proper permits. So they are basically operating in violation of the act, because they've expanded their facilities without seeking a permit, without seeking permission from the state and most importantly without installing the appropriate pollution control to address their expanded output. These are very complicated difficult cases, fought with legal issues. They've gone to the Supreme Court at least once on this and it was a very controversial area in the prior administration.

A lot of these are coal fired power plant cases. They have tremendous benefits where we can take these in terms of reducing discharges, toxic discharges into the air. We also have a category on air toxics and these are more about smaller - often smaller

facilities, but they're not as large as the new source review. They're smaller air streams. They may be coming off factories, production plants and alike. And the air toxics refers to the type of pollutant under the clean air act.

I want to switch to what we would call our waste priorities, hazardous waste. In this fact there would RCRA. We've been focusing on minimal processing facilities, phosphoric acid. These are very large facilities. I think some of these people can say you can actually see from satellite images and there's a couple that you can actually see if you're looking down at the planet they are so big in terms of the piles of waste. And we've been making good progress on these facilities as well and they are spread about four or five regions of the country.

We've also been focusing on financial responsibility for hazardous waste site cleanup. We call this financial assurance. The law requires facilities that handle hazardous waste to ensure that they have proper financing available to them, so that if there is a problem or they need - from an accident or they need to close the facility that there are funds available to do that and - there are funds available to do that. And basically we're almost preventing new (unintelligible) from happening.

And that's financial responsibility and you can image in the economic times we've had that has been a challenging area, because you have the problem with that a lot of the firms that provided the financial assurances are not as financial assured themselves, some of this is done through insurance policies and a like.

We also had a multi-media priority on Indian Country. And if you're following along I'm on Slide 8. And we've been focusing on three aspects of Indian Country, drinking water, waste management and tribal school environmental quality.

This is a new priority in the fact that there is very little state roll on Indian Country. With a few exceptions, responsibility is either for the tribe itself if its obtained approval and for the vast majority of tribes they have not obtained approval to implement EPA programs, so therefore it's mostly a responsibility of EPA to Federal Governments on this. And we've been working with other government agencies and the tribal schools to improve the quality of life in the environment at tribal schools, as well as waste management and trying to improve drinking water.

So I've just gone through the national priorities as they exist today and as they'll exist for another year. I'm going to move over to Slide 9 and I'm going to change the focus and I'm going to talk more now on giving you a perspective on what national priorities were in the current cycle. I want to talk a little bit more about the process for how we're going to pick our new national priorities for the years 2011 to 2013.

We are in the process through this meeting, this conference call and others of collecting ideas from the public, states, tribes and associations. We've already held some conference calls with the states in our state associations as co-regulators. And we're also reaching out to tribes and associations.

We will solicit input and based on that we will do some analysis. Our analysis will go back to basically those five factors I talked about on Slide 4, where we'll say, do we have a significant environmental problem? What's the human health risk? What's the scope of this and do we have violations and what's the federal role? Can we as a Federal Government, EPA, make a difference?

So what I say on Slide 9, we're going to analyze it. We are going to consider that. So we are (unintelligible) public input on our priority selection process on Slide - on the criteria if you go back to Slide 4, the significance of the environmental problem which includes human health problem, it obviously impacts the environment as well.

Thank you for a correction from my boss. To me it was obvious, environmental, but I need to remember I'm on a large call. On one of the following conference calls I have no feedback about whether I'm talking, you know, Chinese to you or everybody's getting it. So I apologize I'm trying to keep this as little EPA jargon as possible.

So what's our timing for soliciting comments? Once we get comments back in the fall we will do an analysis of the comments and the priorities, figure out where we can make a difference on those five factors and we will select our final priorities and we will announce it in the federal register.

So on Slide 11, here's questions that we would encourage the NEJAC to think about after we go through the three presentations. I understand that there will be time for you to start talking about these topic areas. Let me give you the three questions. What are the most important environmental problems? Why are these environmental challenges the most important from your perspective - from where you sit? And is there a problem - is this a problem that can be found with enforcement or improved compliance?

And I do emphasize that. We get - often people come to us with lots of problems and we have to say, but we don't have an environmental or enforcement compliance hook. So there needs to be a law that we think they are violating. That again I have to come back to you and say, you know, that is our focus and without that we don't have a good link.

On Slide 12 I want to remind you that we've got a Web site launch in September to collect public feedback. We're keeping that Web site up through September 30. On Slide 13 you can see the blog and you can go there and you can type in your comments on the blog.

It is an EPA blog, so it does not immediately post, we do screen out inappropriate words. And you can imagine - but you do - you will see a comment as long as it doesn't, you know, offensive and I assume nobody on this call would do that, but just we have had some people who've said, what happened to my comments.

And we have to tell you that it is not going to be like what you see on Facebook. So it is a little bit moderated, but we only moderate to make sure that people are not casting dispersions or name calling and that people are not using the word that George Carlin got in trouble with, with the FCC many years ago.

So again they're out paneling opportunities, use the blog, the rest of this call. You can - as NEJAC Advisory Council you can send in comments anytime, the sooner the better. If you were to send in (unintelligible) comments what would be suggested dates for most meaningful times?

Woman: As of October?

David Hindman: Right, right. So if we get your comments in writing or on the blog - you can follow the blog fastest, but if you want to send in your comments in writing before the end of October will give us the most meaningful chance to consider them fully. So I'm

going to stop for now, hopefully I finished my time and turn it over to the next speaker.

Victoria Robinson: Thank you, David. This is Victoria. I'd like to introduce Alan Walts. Alan Walts is the Acting Director of EPA Region 5's Office of Enforcement and Compliance Assurance. In that region he is responsible for coordinating enforcement and stewardship programs and he manages the National Environmental Policy Act or NEPA and EJ programs. From 1996 to 2007 Alan was a staff attorney in Region 5's Office of Regional Council. Alan, I'll turn it over to you now.

Alan Walts: Thank you, Victoria and thank you all for inviting me and listening to this presentation. I'm going to focus on a regional perspective on the importance of the national enforcement priorities and try and give you some examples that will highlight some of the values for communities, as well as the opportunities for community involvement.

First I want to build on Cynthia Giles point that in addition to the national priorities we want to pay attention to environmental justice and enforcement outside of those priorities. And in particular each region has additional enforcement priorities and we work very closely with the state in terms of their enforcement priorities, as well as focusing on geographic areas where we want to take comprehensive responses that include enforcement. So I want to highlight that, so that people are aware that you should work with your regional EPA offices to address enforcement issues that don't necessarily rise to the level of national enforcement priorities.

I want to talk first a little bit about the benefits of having this kind of national priority focus. Within Region 5 during 2008 we were able to achieve pollution reduction in terms of pounds of pollution reduced or treated of 963 million pounds and about 99% of that number for the entire year came from our work in national priority cases. And the bulk of that in turn 878 million pounds was from the NSR/PSD and petroleum refining cases, so we get very, very significant pollution reduction - the bulk of our pollution reduction by focusing on these national priorities and that's kind of where EPA plays a national role.

In terms of the national scale, I looked at the 2008 enforcement results and approximately 82% of the pollution reductions and 67% of the investments in pollution control came from EPA's 2008 enforcement actions for water and air priorities and then a smaller proportion, about 27% from our focus on hazardous waste priorities.

So it's a very significant part of how we provide environmental benefits. In terms of health benefits, you know, our ability to link pollution reduction to place specific health benefits is still limited there still, you know, there's still challenges to doing that. But we can say is that of EPA's 10 largest enforcement actions for Clean Air Act violations in our priority areas we achieved environmental - we achieved human health benefits that are valued at about \$35 billion, including 4000 avoided premature deaths, 2000 fewer emergency room visits, 6000 fewer cases of bronchitis and so on. So there are significant health results that we can achieve through having these enforcement priorities.

I'd like to turn next to three specific examples of enforcement actions focused on national priorities and use each one of them to highlight some different points that I think are relevant to our discussion today. The first is to talk briefly about the American Electric Power Settlement. That was a historic settlement that in itself was

estimated to save \$32 billion in health costs annually through the pollutant reductions achieved from that global settlement.

A couple of things I wanted to highlight about it, first of all it was multi-facility. We were able to leverage reductions at multiple facilities across the country by focusing on this sector. The other thing I wanted to highlight is that along EPA were a coalition of eight states and 13 environmental citizen groups, everybody from the national resources defense council to who's your environmental council. United States Public Interest Research Group, a number of national environmental organizations joined with us in that enforcement action, so it's I think an important example of community involvement and participation

The next example is an example from Region 6 and it's a good example of how even with national priorities we can really focus benefits on a geographic area. In Region 6 there is an area called Port Arthur, near the - or part of the city of Houston. And Region 6 has about 44% of the nation's petroleum refining capacity, much of which is located around the Port Arthur, City of Houston area, by taking a series of enforcement actions not only was Region 5 able to get some of those pollution reductions and human health benefits I talked about earlier, they were also able to get commitments of \$37 million worth of supplemental environmental projects.

What these supplemental environmental projects provide are opportunities to gain additional human health and environmental benefits that are focused on the effective community and that are above and beyond what's required in order to return those facilities to compliance. So that's a very important opportunity in my view for communities to become involved in terms of forwarding supplemental environmental projects that can advance environmental goals that may not otherwise be achievable through full compliance.

Then my final example is just to highlight the importance of attention to population vulnerability as part of, you know, our national enforcement priorities. It's example of enforcement action against four sulfuric acid plants in Louisiana, Virginia, Ohio and Kentucky.

That settlement required the plants - the DuPont plants to spend \$66 million to reduce air pollution. It reduced harmful air pollutants by more than 13,000 tons per year, but what I found particularly relevant here is in EPA's press release, as well as obviously in our decision to pursue that enforcement action we highlighted the particular sensitivity of children, the elderly and people with pre-existing heart and lung conditions to sulfur dioxide.

So by focusing our national priorities on issues that particularly impact vulnerable populations we can really get much more significant health gains and it's something that's very important to the agency in terms of how we think about our national priorities. So I will stop there.

Victoria Robinson: Thank you, Alan. Now I'll turn this over to our third presenter and that's Deeohn Ferris. Deeohn is our President of Sustainable Community Development Groups here based in Washington D.C. And she along with Charles is a charter member of the NEJAC, where she served as the Chair of the NEJAC Enforcement Community for several years. Among Deeohn's previous lives is that she spent eight years as an EPA employee, as a senior member of EPA's enforcement team. I'd like to turn it over to Deeohn to speak about the EJ perspective and concerns within the context of setting EPA national enforcement priorities. Deeohn?

Deeohn Ferris: Thank you, Victoria. And thank you Charles and Victoria for inviting me to participate on this call. I'd like to send greetings out to old friends and new. Hey, Alan and I'd like to congratulate Cynthia for assuming the Assistant Administratorship there. We are highly appreciative about having a results oriented leader in the Office of Enforcement and Compliance Assurance.

I want to take a moment to invite everyone on the call to our organizations upcoming Capital Hill Summit on Sustainable Communities, Environmental Justice in the new Economy, October 15 and 16 here in Washington D.C. at the Omni Shoreham and thank the Office of Environmental Justice for posting this on the listerv. We hope to see you there.

Now on to the point, regarding national enforcement priorities, which is the purpose of this call today. Again I appreciate the opportunity to provide an overview of enforcement priorities from the Environmental Justice perspective. As regards to Environmental Justice and Enforcement there are some fundamentals, the most important of which is that this proportionate environmental hazards and exposures in our view pose unreasonable risks. Non-compliance exacerbates these risks and as a result we think and know that enforcement of laws is paramount.

Big reinforcement of existing laws is a firm step forward toward protecting human health and the environment in distressed communities. We think that the agency should consider for example, resuscitating strategic national enforcement initiatives. We had some of those going on in the 19 - the golden olden days of the 1980s and the 1990s and these strategic national enforcement indicatives concentrated on non-compliance in places where violations posed the most danger to human health in the environment. For example where there's a proliferation of refineries and chemical plants or to the extent that there's jurisdiction situations where communities are experiencing chemical explosions and accidents that affect surrounding neighborhoods.

Another fundamental is the importance of direction EPA's attention to an action on authorities where the agency has discretion to act on the books, in addition to mandates to address non-compliance in environmentally distressed communities.

As early as 1996 for example, under the (unintelligible) of the National Environmental Justice Advisory Council, attorneys and other experts have provided advice to the agency about existing authorities under which EPA can address non-compliance through either discretionary means or through mandates - for example under the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, Federal Insecticide, Fungicide and Rodenticide Act and the Toxic Substances Control Act.

Under each of these statutes we find EPA discretion and/or authority to consider factors such as risk aggregation, social and economic impacts and also authority and discretion to provide data and information to communities which would facilitate compliance on the part of the regulated community.

Title VI of the 1964 Civil Rights Act is another important arena of enforcement through which EPA can in this case help state and local governments get on the right track or stay on the right track under permitting and other processes in ways which ensure that lower income communities and communities of color aren't continually inundated with high environmental exposures.

The Rosemere Neighborhood Association decision on September 17 by the Ninth Circuit Court of Appeals is an indisputable message to the agency, that the pattern and practice of delay in acting upon civil rights complaints is legally unacceptable. We are expectant that under the new administration Title VI complaints will be timely and promptly processed and determined.

Next up in my overview is Executive Order 12898, the Environmental Justice Executive Order, we'd like to see the strategies, the studies and the data collection mandated of 17 federal agencies by this order. Federal agency compliance with Order 12898 appears sporadic, inconsistent and in some cases non-existent.

We urge action in the case of each named agency which will help benchmark where the agencies are on environmental justice issues and concerns and we believe such action will form the basis for affirmative next steps toward achieving healthy sustainable communities and equal environmental protection for all people, including low income communities and communities of color.

Permitting under statutory authorities is an area that is particularly challenges to communities experience disproportional hazards or exposure, which the permit process generally precedes enforcement, permitting in already inundated places poses special challenges for communities. In this case we argue in favor of decisions that strongly protect human health in the environment and vigorous well funded public engagement which facilitates inclusion of the views of people who will be most affected by those permitting decisions.

Communities must have an opportunity to be heard. As Elizabeth said earlier, that's a tenant of environmental justice, democracy, the right to be heard. Impacts on communities, impacts on quality of life are highly relevant in both the permitting and the enforcement process.

Inspections are another predicate area. Communities where high level of hazard or exposure exist should be prioritized for regular, thorough inspections and especially where pollution sources proliferate.

Now on to the issue of penalties and as Alan mentioned supplemental environmental projects. We suggest that implementation of processes that are transparent and inclusive of the community. We support the use of supplemental environmental projects, which create environmental, economic and social benefits for the community experiencing the harm caused by the non-compliance. Again communities should be involved and engaged and the community interest should be served.

Next on to risk assessment which is the predicate to effective permitting and enforcement, we urge prompt action on developing cumulative risk assessment methodology that factors in multiple pollution sources. Multiple sources are a fact of life and the chemical by chemical and facility by facility approach does not adequately protect our neighborhoods, especially where there are multiple hazards and exposures.

In closing my remarks don't specifically address the prospect of statutory amendments and new legislation. I'm anticipating that public comments that we'll hear later will incorporate those concerns.

Last but not least I want to thank Professor Sheila Foster at Fordam and Professor Eileen Gauna at the University of New Mexico for consulting with me on these remarks. Thank you.

Victoria Robinson: Thank you, Deeohn. And thank you, Alan and David. What we're doing - this portion of the agenda will now have a - we'll open it up for a dialogue with questions from and comments from the NEJAC members to the speakers. I guess I'll start and ask, Elizabeth, do you have any particular questions or comments that you want to add at this time directed to the speakers?

Elizabeth Yeampierre: No, I just want to say that I think they did a tremendous job providing us with a road map, sharing some successful benchmarks and making some substantial proposals and I think they've given the NEJAC a lot to think about and reflect on. I'd like to hear from the NEJAC members, particularly was embracing the recommendations made by Deeohn and it really is an (unintelligible) that reflects a lot of priorities and concerns that environmental justice activists throughout the country are thinking about. So I'd like to hear from the other NEJAC members what their thoughts are.

And also just wanted to say that the presentation that David did I think serves as a reminder of what some of the things that EPA can and can not do. But also Deeohn also talked about some of the discretionary powers that EPA has, so I think we should really think about all those things as we make our comments and recommendations.

Victoria Robinson: Wonderful. Thank you. Does anybody have any specific questions? Let's say, let's talk about the selection criteria. Does anybody have any questions or comments about the process for selecting or the criteria for selecting priorities?

Hilton Kelly: This is Hilton, (unintelligible) Texas and I think that everything is right on point when it comes to the priority list and the tactic in which you all are using to actually select. I commend the work that has been done by EPA to sort of turnaround the efforts that have been put forward in communities like Port Arthur, Texas. I think that we are right on point and I support it full heartedly. And I'm just very excited to be a part of the NEJAC at this particular time, because I see that there is a real positive, aggressive manner in which everyone is taking in the environmental justice fight. So I'm just very happy to be a part of this at this day and time.

Omega Wilson: This is Omega Wilson from the West End Revitalization Association in North Carolina. My question has to do with the current priorities, such as the CAFOs, of course we know that that's a growing area. The concern for air quality and water contamination in low income communities has not totally been addressed. In fact the issue may be much larger than it was. I would assume it's much larger than it was the priority was set with EPA. What does that mean that we have new priorities set for the coming years? What does it mean for this priority and others like it that haven't been fully addressed and continue to grow to be a problem and a major issue for environmental justice communities throughout the country?

David Hindman: That's a very good question. For the existing priorities we will be evaluating against the criteria that we've set for when we have finished the work under that priority to figure out whether that priority can be completed or it needs to be carried over. I expect that some of the priorities that I spoke about will continue in the next cycle. The analysis is ongoing, your input is needed, but I think it would be a safe bet to say some of the priorities will continue. I don't want to offer my opinion on CAFOs, but

I do agree with you that there are significant substantial environmental concerns about CAFOs and that the agency has not yet tackled all of them, so I think you'd probably see continued attention on that one as well.

Omega Wilson: Just quickly a follow up, the financial support of responding to the priorities when it's not listed for - CAFOs listed currently, what does that do to the funding to address the issue.

David Hindman: When something is a national priority our regional offices as well as headquarters focuses more of - focus our resources on addressing those priorities. We track them more closely, we have teams watching them, management asks about them, so it brings a renewed focus. It also brings additional resources to them. Does that help you? Does that answer your question?

Omega Wilson: No I was just wondering for those - for instance the CAFOs that are currently a priority if they're carried over, does it reduce the funding and the resources and the support to the team to address them?

David Hindman: No if we continue the CAFO priority or revise it in some way and then continue it the same focus and resource attention would continue. There would not necessarily be a reduction.

Omega Wilson: Thank you.

Victoria Robinson: Anybody else have any questions about the selection, the process and the rationale behind the selection criteria for priorities?

Langdon Marsh: This is Lang Marsh. Go ahead somebody.

Woman: No go ahead Lang

Langdon Marsh: Okay. This is Lang Marsh, NEJAC member. I wondered (unintelligible) mentioned the 90 day review Clean Water enforcement underway and I wondered.

Victoria Robinson: Lang, can you speak louder. It's not very clear.

Langdon Marsh: Okay. I'll try. Is that a little better?

Victoria Robinson: Much better, thank you.

Langdon Marsh: Charles mentioned the 90 day review of clean water enforcement is underway and I wondered if David or others could comment on what that means and how it in terms of relations to this enforcement priorities discussion.

David Hindman: The 90 day clean water action plan is ongoing. We expect to have an early October plan that we can announce to the public that will contain recommendations and plan of action for how EPA will improve its water enforcement program, so that is ongoing. It is a separate effort from the national priorities, although I think you will see there will still be water priorities in the national priorities and they will probably reflect the new emphasis in the Clean Water Act action plan.

It's hard for me to tell you more than that, because the clean water action plan is not yet done and the party selection process is ongoing. I think it would - you would

expect an overlap between the two that we wouldn't pick up a water priority was inconsistent with the clean water action plan. I think that would not happen.

Langdon Marsh: So it's a separate aspect. Does it also have a public involvement aspect to it?

David Hindman: For the clean water action plan there was a public involvement. We held conference calls with a variety of stakeholder groups, including I believe an environmental justice community group call. We did environmental NGOs. We did states. We did a blog for the clean water action plan. We did tribes. We did academics, state associations. So the process was somewhat similar, but that process in terms of public input is over for the action plan. We're focusing on taking all that input and coming up with our proposals and getting them out there by early October.

Langdon Marsh: Thank you.

Victoria Robinson: There was somebody else who had a comment who was going to ask a question.

Sue Briggum: Sure it was Sue. And I'm following up on the same...

Victoria Robinson: Can you introduce yourself first Sue?

Sue Briggum: I'm sorry, Sue Briggum. I'd like to follow up in the same vein as Omega. Just to ask a couple of questions about some of the testimonies we had at the last NEJAC and how that would fit in potentially with your priority setting and one was we heard some testimony from Mossville and we've heard similar entities and I was really pleased to hear what you were saying about Port Arthur.

Have - is there any of thought of following up on what Deohn mentioned with regard to having as an enforcement priority going to communities that have multiple sources of potential concern and make, you know, 100% compliance by itself an enforcement priority for EJ communities?

Alan Walts: This is Alan Walts, Region 5. I'll give a regional perspective on that first and then Dave may have something to add. I did want to point out that the selection criteria for the national priorities, one of the possible way that EPA could focus is geographical areas.

Although in practice we found that sector based approach is most has been very effective for us but there is certainly the potential to comment and raise specific geographic areas as focus areas. In addition to that at a regional level we do try to prioritize and coordinate our enforcement actions around geographic areas.

And we are increasingly focused on how we can do that more routinely. And that's an area where I think it's very important to work with regions and states in terms of more localized enforcement priority that bring together existing resources to focus on those comprehensive community issues.

Woman: It is a challenge for us to embrace the idea of coming up with three priorities for the NEJAC when urban areas can have three, rural areas can have three. You know, Indian country can have three and the jurisdictions are all so different and the needs are so different that it would be - it's possible to articulate a laundry list of needs for each of those areas.

So coming up with a process that makes it possible to address a multiplicity of priorities for each of those districts - for each of those areas I think would be useful.

Woman: Thank you.

David Hindman: This is Dave Hindman. In terms of and to follow up what Alan) said we are again in the process of asking for input on what our next round of national priorities will be. There will be some continuation of the existing priorities. Keep in mind that the national priorities are not be exclusive entire EPA enforcement program.

That there's a variety of other enforcement activities that our regional offices take that focus as Alan) said on particular urban areas, on a particular problem industry, helping the state regulate a pretty good focus. So the national priorities are not everything although they do tend to give us our biggest outcomes in terms of making an impact on improving the environment and public health.

So just because it's not a national priority doesn't mean EPA is not going to look at it. It just means it's not a nationally focus priority. If you want to suggest something as a national priority and I don't want to, you know, suggest it for you. But, you know, urban impacted community groups with some type of exposure problem -- take a look again at slide four.

Those our factors for selecting a national priority. It's not - those are not the factors for any - all of EPA's work in the enforcement but they're a national priority. So when you come up with suggestions try and look at the factors on four because you'll make it easier for you - for us to understand your proposal.

Woman: Thank you David. I think that add some clarity for the listeners.

Woman: Okay. Do we have any other questions about the selection process before we move onto asking the members to - if they have any specific ideas for future enforcement priorities or specific current or previous priorities that should be in the 2011, 2013 game plan?

John Ridgway: John Ridgway here with a question.

Woman: Go ahead.

John Ridgway: This is in relation to what Deohn brought up but I really want to focus the question perhaps to David. Deohn's comment regarding risk assessment and in particular I need to deal with cumulative impact assessment. I like to hear from David how that could be considered when he's talking more about sector approaches as opposed to cumulative impacts on a community.

How do you see an ability to tie the two together or has that been considered?

David Hindman: In the past if you look at our current priorities they have a very strong sector focus because we're looking at noncompliance problems in a sector with the exception of the tribal priority which is not sector-based but it's sort of government land based area for tribe.

I think if you were to take another approach and we were to move off sector and we were to look at sort of some cumulative risk models I think we'd be interested in

hearing - getting input on that. I don't know what we will ultimately do but again this is a new administration. We might do something different.

You might be able to take a sector approach and integrate it with an exposure and pick your sectors based on some cumulative exposure approach. I don't know but if you have a proposal the agencies asking you to give us your best ideas.

((Crosstalk))

So the past does not necessarily mean that we're going to just sort of do the exactly same thing which is why we're doing this call and, you know, I encourage you to come up with something that you think would make sense for us.

John Ridgway: Thank you I appreciate that David. This is obviously complicated in that it often applies a more local or regional issue and that gets to what we heard from Alan Walts. And just in closing I would hope that the comments from Deehn will be provided in print to the NEJAC members and the public because she came up with many, many good suggestions and issues.

So I hope we can see those soon in writing.

Deehn Ferris: I'll type them out. It's Deehn. I'll type them up and get them to Victoria.

David Hindman: Right. Let me just -- this is David Hindman. Let me just make sure people understand. If you have a particular community at risk that you think faces some as being harmed by environmental violations you should talk to the particular region that covers that area.

Because just because it's not a national priority candidate, because it's not widespread across the country. It doesn't follow those factors doesn't mean EPA is not interested in addressing it. It just means it's not part of the national priority.

So I don't want people to think that well if it's not a national priority EPA is not interested. We are interested in it. It just doesn't fall into the rubric of national priorities.

Woman: Right. And to answer John's comment. Yes the transcript will actually be available within 48 hours from the teleconferencing recording center and then once we can get that up onto the Web. So we're hoping that next week we can post not only a pod cast but also the transcript from this meeting and that will be exactly Deehn's remarks.

Deehn Ferris: Does that mean I don't have to type?

Woman: No you don't have to type. You spoke quite eloquently Deehn.

Deehn Ferris: Oh, thank you.

Woman: I'm going to do a time check right now. It's ten after...

((Crosstalk))

Woman: We've got 15 minutes before we need to try to wrap it up to talk - to give Quentin a couple moments of minutes before we move to public comment period since it was

published in the Federal Register to start at 2:30 for public comment. We like to start on time and we do have a good number of people scheduled to speak.

So right now I like to ask the members do you have any specific ideas for performance - I'm sorry for priority areas. And briefly state, you know, why you think this would be a - it's ideally suited to be a national (unintelligible) compliance priority.

Victoria Robinson: Victoria, Shankar Prasad here.

Victoria Robinson: Go ahead Shankar.

Shankar Prasad: One of the things to consider it's more a position by the EPA staff to seriously consider you have not in (unintelligible) which potentially focuses on these issues of cumulative impact and taking into consideration all the environmental issues that has been brought up before this commission for many years.

We know that (unintelligible) is being reformed, refined and all that but using that in your as a way to prioritize the community in each state is something that is worth considering and to go beyond the sectoral approach. We have seen the sectoral approach over and over and it is good.

It has its pluses but at the same time that has not been able to address the issues that have been brought by the community. So we now have a tool although it needs to be refined and all that. That's one way to consider doing that.

The second part of it is also another position to consider whether in it's EPA's rule making process and so on would you consider like all settlements should have any (unintelligible) from the penalties that have been levied. Can one - because resources is another major limiting factor with the kind of budget situation and the economy we may not be able to find new revenue to assist that are easily coming available.

But on the other hand when the revenue get generated through any kind of a penalty structure can one consider putting 50% of the resources to this communities to do but to both help in the concept compliance as well as take care of other issues that are of importance.

Victoria Robinson: Okay. Thank you, Shankar. David, Alan, Deeohn?

Man: In terms of the SEP question I mean SEP is generally designed to address the harm the environmental insult to the community as related to the violation. And they're often done within a close area to where the violating facility was. Generally we cannot legally take money and give it directly to the community although we can get the money can be used for some project in the community.

It gets pretty legal and, you know, without a specific example it's hard for me to address it. But usually the money cannot just be given back to community members. The EPA just does not have legal authority to do that. I think, I'm not sure if that is exactly was your question though?

Shankar Prasad: I was referring if there is a way to dedicate resources resulting from the SEP process and the penalty structure to go for this priority areas that have been identified in each of the state.

Man: Oh, you know what...

Man: (Unintelligible).

Man: The answer is probably no. What, I mean what - if I hear what you're saying you're saying is could EPA take a SEP the money from a SEP and use it to find work in another priority area? Is that what you're saying?

Shankar Prasad: Yes. Part...

Man: The answer is no. When we do SEPS the project must be for the benefit of the community and EPA can't take that money and use it to do something else. Otherwise it looks like we're getting around what's called Congresses obligation to fund the federal government.

Looks like EPA is supplementing his appropriations so the SEP has to be focused - has to relate to the case that we brought so if we did a SEP in Community X usually the SEP needs to do something about Community X. We can't go off and do something somewhere across the country even though it's a good thing to do.

It's just a legal control on EPA's behavior. It's actually constitutional.

Langdon Marsh: This is Lang. I think there actually are some ways to do this. I don't want to go into detail now but I did a study on this and there is a way to use the SEP to help leverage other investments from within the community are outside to address those community problems.

And the problem has been that because of the narrow focus of several law and the appropriation authorities that you mentioned David it's hard to do it but it is possible. I just like to open it as a potential for further discussion.

Deeohn Ferris: Yes but then this is Deeohn. Other experts around the country are in sync with that approach and I think we should also point out that one of the big difficulties and I know Quentin has been doing with this from time to time is the lack of transparency and inclusion in communities and deliberations about SEPS.

And how ultimately the benefits get delivered much less where they get delivered. So that's another particular area of concern.

Hilton Kelly: Yes this is Hilton Kelly from Port Arthur, Texas, Community Empowerment and Development Association, NEJAC member. Yes we deal with SEPS in this particular area quite often and many times what we find is that of course industry gets to select exactly who gets a SEP in our particular area.

And I think that that particular rule should be changed. It's like the fox guarding the henhouse. Many times we've had SEP ideas that would directly impact industry by monitoring the amount of emissions coming from their fence but they would never approve a project such as that.

But I think that the power of where SEPS go once it's been ruled that particular company has an opportunity to participate with a SEP. I think some of the policy should fall in the hands of the folks that are being impacted like that particular community and basically have some power in saying where that SEP money should go because who knows better than the folks that are being befallen upon.

Woman: Thank you. Do we have anybody else with any suggestions for potential priorities for 2011, 2013?

Omega Wilson: This is Omega Wilson again from North Carolina, NEJAC member. My question is directed toward Attorney Ferris relative to her comment about using Title VI. Are we talking about using - we had to use Title VI in 1999 relative to Highway Corridors (unintelligible) Communities because we couldn't get any response from anybody else at the United States Department of Justice from ETA or anybody else.

Are you talking about Title VI used as an accountability clause in states or local governments using federal funds or are we talking about Title VI being used where a community has to use its own resources to file legal complaints which they cannot afford to address, pollution and enforcement problems?

Woman: Well Hilton we could spend probably the rest of this call talking about the challenges related to Title VI. And what the Supreme Court has done essentially to gut the private right of action on the part of communities to pursue Title VI claims. But my comments didn't address that.

What I was talking about is communities using Title VI or EPA using Title VI to ensure that there's some accountability on the part of state and local government with regard to the expenditure of federal funds. So if federal funds are being used in a permitting process for example and the community disagrees with data about helping environmental impacts or social and economic impacts.

And those concerns are relevant I'm talking about a community filing a complaint and getting EPA action on that complaint. For those of you who aren't aware the ninth circuit just issued an opinion in a case called Rosemary Neighborhood Association versus EPA/

And a lot of us on the call are probably aware that in prior administrations there's been a great deal of delay on the part of EPA in terms of processing Title VI complaints filed with the agency by communities. And there have been - has been a real slow pace if any of actual determinations of whether a Title VI claim is valid and that's what my comments were intended to address.

The agencies prior process and taste of delivering information to communities that is responsive to their complaints. And in those cases Hilton, just as much filing a complaint in federal court in many cases as you know communities have to hire lawyers to get those complaints together.

So this expense related to whether a complaint is filed with EPA in an administrative capacity or whether they're filed legally. Does that help answer your question?

Hilton Kelly: Omega was the one who asked the question.

Woman: Oh I'm sorry Omega. I thought it was Hilton.

Hilton Kelly: That's all right.

((Crosstalk))

Omega Wilson: Just a quick clarification.

Woman: Omega?

Omega Wilson: Are...

Woman: Omega?

Omega Wilson: Yes.

Woman: We're really running out of time on that and we really need to get back to our topic at hand. Specifically, you know, you can maybe talk to Deohn off-line about it. But I could get really back into, you know, trying to identify any sectors, you know, that should be considered for enforcement prior - you know, we only got five, eight minutes left.

Jolene Catron: This is Jolene Catron.

Woman: Yes, go ahead.

Jolene Catron: Am I mute?

Woman: No we hear you.

Jolene Catron: Okay good. This is Jolene Catron. I'm Executive Director of Windriver Alliance and I'm on the NEJAC and represent tribal grass roots and community based organizations. I have a couple of questions. First question is how has EPA gone about to contact tribes?

Is that mostly through the regional operations committees ROC and the National Tribal Operations Committee? And the second part of that question is how has EPA solicited feedback from community tribal communities?

Lisa Raymer: Okay. This is Lisa Raymer. We've contacted tribes basically through two roots. We have worked with the regional operation committees but we also sent letters directly to every tribe this year which was the first time we've ever done that.

You know, inviting them to provide comments. We provided them with the link to the blog and we had basically provided them with a schedule of the fall activities that we will be following to let them know that there will also be a Federal Register Notice going out that they could respond to.

So we tried to this year, you know, sent a letter to every single tribe to just sort of increase our outreach to them.

Jolene Catron: Does that include Alaska and native villages?

Lisa Raymer: Yes it did.

Jolene Catron: Okay.

Woman: (Unintelligible).

Jolene Catron: And then the second comment that I had regarding national priorities one of the things that I'm real unclear about is how can the tribal communities are involved in

this process in enforcement? A lot of times tribes as a sovereign government have their own tribal environmental agencies that oversee environmental quality on the reservation within the boundaries of a reservation.

But a lot of times those agencies are not - do not have TAS or Treatment of State status through EPA. And so a lot of times they're answers that they're about - they're not enforcement agencies they're not complaints than enforcement.

So that leaves it up to EPA and so what I run across in just the work that I've done is that EPA is nonexistent in tribal communities a lot of times when it comes to enforcement. So I'm pretty sure that this is an issue that happens around a lot of Indian country today is how does the community get involved in that process of enforcement?

Elizabeth Yeampierre: This is Elizabeth from UPROSE and NEJAC. I just want to intercede for a second. We have, I'm sorry Jolene we only have like about a minute left and I don't want people to think they're not going to have ample opportunity to weigh in on these priorities.

But we have someone who's going to speak for about five minutes and then the public will speak. And I think there's going to be an opportunity for you to get answers to your questions. I don't think this the last opportunity that any of us have and I'm sure that we all want to hear from the public as well.

So I don't know if Victoria if you are going to introduce Quentin?

Victoria Robinson: Yes I was going to turn it over and say exactly what you said that there are opportunities for the NEJAC members to pose their questions again and submit their suggestions for potential for sector areas for priorities. There are a variety of ways.

If you want the easiest way is forward it to me and we'll get it up to the compliance folks your suggestions. Posting into the blog, actually going in and signing into the blog on EPA's Website and the Web.

Lisa Raymer: It's in the presentation that was sent out the actual Web address.

Victoria Robinson: And that is <http://blog.epa.gov/enforcementnationalpriority> one word. And, you know, submit those things and if this is something the NEJAC members feel should maybe discussed at a future NEJAC meeting and have more of an opportunity to discuss it. We can possibly put that on the agenda.

That's something for the members can talk about. Okay. David actually has to leave right now so I would like to thank David for taking the time and Alan, I'm sure, you know, thank you for sticking around because I know you had to go somewhere else, as well as you Deeohn.

I'm going to now turn over the floor to Quentin Pair. He's from the U.S. Department of Justice. He's going to speak briefly about the newly created American Bar Association Diversity and Environmental Justice Committee, Quentin.

Oh, I'm sorry, operator? You'll need to mute - unmute the line for Quentin Pair, P-A-I-R.

Operator: Thank you. Bear with me one moment.

Quentin Pair: Am I on?

Operator: Quentin, your line is open.

Quentin Pair: Thank you. Thank you Victoria and I like to thank you and Charles for the teleconference and very glad to be part of it. Briefly John Cruden who many of you know is the Deputy Assistant Attorney General for the Environment and Natural Resources Division here at that Department of Justice.

Has developed a line of great interest and support in environmental justice and he has just in August been elected to chair the American Bar Association's Environment and Energy section. And in that capacity he has particularly expanded the environment - environmental justice committee which was established a couple of years ago to include diversity.

And he is particularly committed to promoting environmental justice and diversity within the American Bar Association and also outside the bar. I think it's particularly important given his position in the government as well as his position in the ADA.

He has selected myself and Ben Wilson who is the Managing Partner of Beverage and Diamond who is also on the NEJAC or has been a past member of the NEJAC. And Nicolas Targ, Partner in the firm of Holland & Knight formerly in the Office of Environmental Justice to be co chairs of this newly formed task force.

And we have looking to attract particularly lawyers on this call but lawyers throughout the nation who would be interested in environmental justice to not only join but to participate in the activities of the task force. I would note just I guess by the way of some unabashed promotion we've just finished the updating the fourth edition of the Environmental Justice For All 50 State Survey of Legislation Policy And Cases on which can - the earlier edition can be found on the Website.

I don't have the citation but if you plug it into Google you can find it readily. And the fourth edition will be put out shortly. This was a collaboration with between the ADA our section and Hastings Law School in California. It really is pretty good. It gives you an idea what's going on throughout the country.

And they're our number we're promoting scholarships for interns, law school interns in the summer throughout the country with half the grant being paid by the ADA and the other half by local supporting entities such as Bar Associations are other organization and placing them in opportunities where they all get exposure to environmental issues in general.

And looking for places which will also give them experience with or exposure to environmental justice issues. I'm typically interested in seeing if we can get some of those scholarships in local EJ grassroots communities or lawyers who work on grassroots issues.

And we've had - well there's a number of other activities so anyone on the call might be interested can contact me and if there interest my contact is quentin.pair@usdoj.gov that's quentin.pair@usdoj.gov, office phone 202-514-1999.

I wanted to particularly take note of the remarks by Deohn Ferris which were very good remarks. I like to get a copy of those (unintelligible) and I'm kind anew to the

position. I don't exactly know how we get this posted with the ABA in the section but I think that's something should be promoted.

And I want to thank Sheila and Eileen for their contributions to that and look forward to working with all of them specifically and in one else who's interested. And thank you again for the opportunity Victoria.

Victoria Robinson: Thank you.

Quentin Pair: Oh, one final thing on that note would be this whole area of SEPs is a very not only interesting but important area and that's maybe something that can be discussed in another setting offline. Because as the speakers have noted there all kinds of issues that affect this and some of it may even require some legislation on amendments or suggestions and that might be a good topic for someone to pick up any of their task force off of the NEJAC to consider. And thank you again.

Elizabeth Yeampierre: Thank you Quentin. Before we move over to the public commentary were there any questions, real brief ones questions or we'll move on to public comment.

Woman: I'm not certain we have any time.

Victoria Robinson: Okay. Well thank you. Alrighty. I'm going to turn this over to you Elizabeth to introduce the public's comment period and then after you give your brief introductory remarks on that I will outline real quickly what the guidelines are. Okay.

Elizabeth Yeampierre: Sure. Thank you. Well this is the moment that I think those of us who do grassroots organizing are always waiting for. To hear from people in our communities, people who on the ground addressing issues of environmental justice every day.

And it's an opportunity for those of us who are members of the NEJAC to listen carefully and shape our recommendations from what's coming up from the ground because we don't speak for you, you speak for yourselves. And it's extremely important for us to hear what your priorities and your concerns are.

I want to again remind everyone that it is extremely important for people in our communities to get involved and to be encouraged to use the variety the myriad of ways that are available now for involvement. And it could be anything from coming to a NEJAC meeting to participating in this pod cast to blogging or sending an e-mail or letter. But to try to avail yourself of all of those opportunities.

So again welcome and thank you for joining us in this important event and I'm going to turn over to Victoria so that she can lay out the ground rules.

Victoria Robinson: Sorry I was on mute. Thank you, Elizabeth. Again to reiterate for the purpose of this public comment period is to inform the deliberations of the NEJAC and today we have a list of speakers who have registered in advanced.

We have about 22 people who have signed up to give public comment. We have several who have also submitted written comments. Almost I think all of them are on the line and those written comments will be submitted e-mailed to all the members so that you can read them at your leisure.

And will be made available through our Website when we update our - when we put in the transcript. They'll be incorporated into that transcript and for those of you who are not NEJAC members will be able to read those written statements as well.

When it is your turn to speak I'll ask the operator to I'll call your name and the operator will unmute. And so please state your name again, your affiliation to make sure we have it accurately recorded for the record. And then provide your comments.

And to ensure that we keep it within the time limits of the call we're asking you to keep your comments to five minutes or less. And we'll go ahead and start. The operator the - first let's check the first three. We have (Glenn Pratt), (Stephen Brittle), or (Frank Whiteford); are they on the call?

Operator: Yes, Glenn Pratt is on the line.

Victoria Robinson: Okay. Great. Why don't you go ahead and unmute (Glenn Pratt).

Glenn Pratt: Greetings.

Operator: His line is open.

Glenn Platt: This is Glenn Pratt with the Indiana NAACP. I, 40 years ago is writing the reports on the burning (unintelligible) Lake Erie with the EPA where I spent most of my life. And I think we need to recognize the tremendous progress and was involved with the early days in the EPA under the Environmental Justice.

But we have a problem here in Indiana we have eliminated any environmental justice concerns. And I think that this is nationally. I don't know how much this occurs in other states but the state eliminated the whole function to address that area.

And they have been very recalcitrant on addressing environmental justice issues and the fact that EPA Region 5 we met with them along with Sierra Club and other people with British Petroleum which is a major air polluter. And a very strong concern up in the Lake Michigan basin and we need to have much more focus for the regions pushing the states that are in some cases like Indiana backing off and taking us in the end with all issues.

One of the national issues I think is very critical is on nutrients. Whether it's the Great Lakes, the Mississippi, Chesapeake Bay we need to really have a much more of a major focus. And in Indiana it is not even on the drawing board as far as pushing the state to start to address that.

So I think that these types of things just like this mountaintop removal we have the number top person in charge of enforcement for Indiana has spent 21 years working for Peabody Coal. Peabody Coal is going to have the largest mountaintop removal program in the entire central and eastern part of the country.

And we need EPA to be much more aggressive in working with and pushing the states that are not wanting to address things. That are basically as in we also met with the EPA where the state of Indiana has cut all federal funding for air pollution programs which basically will put many of our areas back in a non-attainment.

And we just think the EPA needs to have more backbone and we, you know, I worked myself in Region 5 for many for almost 30 years and we hope with this new

administration what we'll see that we'll have a return of an EPA with backbone.
Thank you.

Elizabeth Yeampierre: Thank you Mr. Prat). Do any of the NEJAC members have any comments or questions relevant to the testimony? Okay. Hearing none we go to the next speaker.

Victoria Robinson: Stephen Brittle.

Operator: Bear with me one moment. His line is open.

Stephen Brittle: Hi, Stephen Brittle with Don't Waste Arizona. My organization has conducted significant citizen enforcement. We did about 100 cases and we won them all or settled them. We returned \$1.6 million to the treasury in that process. Very involved with EJ issues and I have some suggestions and some concerns.

Now for SEPs we did some and some of them that we did we use had the money set aside to train the public and industry but more for the public on about environment rules and processes. I mean the EPA does compliance assistance in training for the polluters.

They ought to be doing some of this for people in affected communities especially EJ communities. And there needs to be a process where an EJ community can appeal for enforcement or intervention on the part of EPA. I understand I've been to these enforcement compliant conferences.

I understand, you know, the big picture approach but when you're being poisoned in your local community and you can't get anyone to do anything about it it's very frustrating. And I also say I'm really quite surprised to find out there's some sort of national thing going on by the NSR and PSD.

We have a particular issue here in Phoenix a place called Fisher, Sand and Gravel and I wrote a letter to our region and said when they applied for this (unintelligible) modification. You know, there was an opportunity for EPA to step in over NSR and PSD and it's been months and there's been absolutely no written response at all to my concerns.

Yet EPA's aware of this facility. It has garnered almost 2000 notices of violations on the local county air agency but we're finding lots of problems. This agency two years ago was caught by EPA in an audit of doing in essence criminal behavior and issued a Notice of Deficiency.

They had to spin off the agency become a new county air agency but now they reverted to their old ways again. And to make matters worse now they're issuing permits to asphalt plants that are in essence major sources. This and only they're not making them a synthetic minor or anything like that. They're just simply giving them bogus class two permits.

You know, just trying to come in under the radar. Very arrogant and very corrupt. Fisher, Sand, Gravel a minor, a synthetic minor but it has exceeded its permit limits about a third of the time it's operating so it's major source. Yet EPA isn't stepping in. The county air agency has not even asked for the records for the last year but the year and a half before that it issued 1368 notices of violations which is an astronomical figure.

And I don't believe it has any intention of doing any enforcement of all so I'm very concerned.

I don't find EPA particularly responsive to community concerns. I mean, you say I keep hearing go back to your region but they're not responsive. You can ask them a question, you don't get an answer and this has gone on for a long time. And, you know, there just very it needs to be a little bit focus on the lower level.

Curiously enough I filed a number of civil rights complaints about this and I'm glad to hear about this recent ruling. Maybe that will speed things along but I've been really tired of hearing and I've heard this through the years from EPA they really don't want to step on the toes or hurt the feelings of their sister agencies in the county and state levels.

When they're doing abjectly and corrupt things the agency needs to step in and be the EPA. You're in a particularly in a place like Arizona where we have a Republican governor, a Republican legislature they openly say in these meetings they don't want any of those met of environmental laws.

And they say this at the Legislature we need EPA to come in and say look, you know, we're going to enforce law and you won't. And, you know, and again I'm kind of...

Woman: One minute.

Stephen Brittle: You know, and frankly kind of disappointed that EPA, you know, hasn't done more when you look at the big picture everyone is saying where is EPA been and we're not seeing it. And the other thing is when they give these delegations agreements and they delegate authorities to these other agencies as state and local agencies they need to make sure that they include in the delegations agreements the requirements set by federal law.

For example Fisher, Sand and Gravel should be closed down but they delegated this without that language and the delegation so no one could close this thing down no matter how many people they kill. Is a real problem. Thank you.

Elizabeth Yeapierre: Thank you Mr. Brittle. Any comments or questions for this speaker? Okay we'll move on.

Victoria Robinson: Frank or Jan Whitefoot.

Jan Whitefoot: Yes. This is Jan Whitefoot. Can you hear me?

Woman: Yes.

Jan Whitefoot: Okay. My name is Jan Whitefoot. I'm from Yakima Valley in Washington State. We're known as the mad cow County. I represent the Concerned Citizens of the Yakama Indian Reservation. We have over 72 unregulated capos in the Yakima Valley.

With no - most of them don't have legal permits to operate. We have a crisis situation here with our drinking water. We found out self-regulating doesn't work. Pollution is being dumped into our rivers and seeping into our groundwater because of the lack of enforcement.

NPDS permit are worthless. So are the nutrient waste management plans because they're voluntary and they don't hold up under any law. Raw sewage is being applied indiscriminately without monitoring on fields and safe drinking water is becoming a thing of the past.

Over 22 years officials have been knowing about the problem in Yakima Valley and Yakima County but like the gentleman said before the state, the county, the Department of Ecology, the Health Department ignores the problem.

And we had EPA step in about a year ago and because none of them are doing what they're supposed to be doing. None of the government agencies, and so we need the EPA to become a leader in enforcement here. By the way we have the highest diarrhea and asthma rates in the state of Washington.

And this has been researched to death. The CAFO dairy feedlot problem. It is a national problem. We need EPA to take a look at this. Since 1972 days things been researched here. We know there's a problem. The Outlook school well was polluted.

The only thing was done was to dig a deeper well. None of the polluters were confronted. The kids have been drinking bad water. Okay. Dairies in Yakima County in Washington State create more untreated waste material than the city of Seattle does with human waste.

Yet the dairies and feedlots are unregulated in regards to their pollution. We need no more studies, no more meetings or excuses. We need action by the EPA. Because even our state, our governor refuses to return our calls. We need national help on this.

And this is what we want you to do. Point source pollution testing followed by a media enforcement. Not negotiating with polluters. The future of our entire watershed is depending on your actions. We - the dairies ignored endangered species, they ignore wetlands, floodplains.

They have total disregard for the law because there has been no enforcement on dairies in Region 10. The clear water, The Clean Air Act - there was over 1000 complaints by citizens with The Clean Air Act and yet not one citation was written.

I have a friend who is in his house had 6000 parts per million of fecal chloroform inside his house. And we have what we call federal air regulations for reservations here on the Yakama Indian Reservation. It is worthless. All they address is burning barrels and burning materials.

They say Ag is exempt. We want these factory farms treated as industry and therefore their waste treated as industry would be. Environmental Justice Issues, we didn't even know what Environmental Justice was here six months ago.

We have a high Native American, Hispanic population. We are isolated from Seattle. We're about 3 1/2 hours away. We need money, we need help, we need lawyers to help and we need the EPA to do their job. Factories farms are polluters who are acting as criminals and they should be dealt with not negotiated with.

Okay. The New York Times reported EPA has a 3% enforcement record. We need enforcement here in Region 10. Public health needs to be protected. Thousands of people have had their quality of life destroyed because of dairies.

Woman: One minute.

Jan Whitefoot: They are now burying dead cows here in water tables where the water table is high as four feet deep. There is no testing. People think mad cow is being tested for it's not. They're taking their dead sick cows burying them and calling them organic here.

Let's see. They're putting their poop in the sprinklers. And this is a national problem too. It drifts as much as ten miles within - on a still day. After taking a tour of the Yakima Valley we take people on poop tours here. (Howard Lyman) from the (Oprah) case this is what he said last week. "Yakima County has one of the most concentrated areas of capos I've seen in the United States."

So what we're asking you - we're pleading with you EPA we need a voice nationally on these capos. They are destroying the drinking water and the (unintelligible) of America, also our air. So we need no more beating around the bush, no more studies, we need action.

Woman: All right.

Jan Whitefoot: We need enforcement.

Elizabeth Yeapierre: Ms. Whitefoot?

Jan Whitefoot: Yes.

Elizabeth Yeapierre: Thank you so much for your compelling testimony. You know it is always really difficult when the issues are so deep and have such an impact to limit the amount of time that people have.

Jan Whitefoot: That's fine.

Elizabeth Yeapierre: And unfortunately we have so many on the - but what I like you to list just briefly are some of the health issues that your community is facing and then if the members of the NEJAC has any questions we could move on. Could you direct some of the health issues or list some of them?

Jan Whitefoot: Highest diarrhea rate in the state. Highest asthma in the state. We have people die from E-coli here, salmonella, anything regarding to fecal stuff we have problems with that. We have manure clouds that descend upon our community where we can't breathe.

With temperatures of 102 and no air conditioner we have become prisoners in our own home. And just picture your children and you sitting in a home with no air conditioning having to breathe fecal material.

Woman: I can't.

Jan Whitefoot: It's horrible.

Woman: I know it is.

Jan Whitefoot: And we've been hearing excuses for over 20 years.

Woman: Well thank you so much. Do any of the members of the NEJAC want to respond or make a comment relevant to Ms. (Whitefoot) testimony?

Jolene Catron: This is Jolene Catron again. Thank you for calling in. I'm sorry I didn't catch your name.

Jan Whitefoot: Jan Whitefoot. The way it sounds.

Jolene Catron: Okay.

Jan Whitefoot: J-A-N Whitefoot.

Jolene Catron: Okay. Thank you.

(Jan Whitefoot): Yes.

Jolene Catron: Thank you for your comments. I really appreciate hearing that. And again that goes back to the comment that I made about community voice and community input in enforcement when the tribe doesn't have TAS or even if they do have TAS Enforcement capabilities.

A lot of times that community voice is left out of the process and this is something that we need to be focusing on.

Jan Whitefoot: Well they say AG is exempt so they don't do anything. Even when they're burning manure. So there's no enforcement at all in the Yakima County whatsoever. One hundred and sixty tons a day of manure was going into Yakima River which is a salmon run. There's no enforcement here.

Elizabeth Yeampierre: Any other questions from NEJAC members?

John Ridgway: This is John Ridgway from Washington State Department of Ecology and NEJAC member. Jan, I met you a few months back in April. I will give you a call and follow up on this. I think for the sake of the Council and what we've heard before I'll leave it to a quick question though.

And that is you're referring to both the Yakima County and the Yakama reservation and this gets obviously into jurisdictional confusion and finger pointing as to whether locals had jurisdiction on the reservation or if it's strictly up to EPA.

And the points you bring up are quite relevant and I'm not denying them whatsoever. I will follow up with you off line. But for both you Jan and for EPA how do we get the EPA to work with these reservation issues when the states will say they don't have jurisdiction as the counties will say so as well in terms of at least is on the reservation recognizing the Yakima River and beyond reservation as the air and many other things.

Jan Whitefoot: John, we've asked the Federal to come in because the state won't do it anyway even off the reservation. They're not doing anything.

Woman: Are you still there?

Woman: Hello?

Victoria Robinson: Yes we are. Thank you. All right. We'll move to the - (Arthur) is there anybody (unintelligible)? We're going to go to the next question, public commenter. Thank you Ms. (Whitefoot). We're going to move to Ms. Tammy White.

But before we do to facilitate the note taking and for the transcript members please just say, you know, answer say you know, John and say your name before you give your question, okay? So that the note taker can make sure they have the right person.

Elizabeth Yeampierre: Who's the next speaker?

Victoria Robinson: Tennie White.

Woman: Okay.

Tammy White: Hello.

Operator: Your line is open.

Tennie White: Thank you. My name is Tennie White and my company is Trouble Shooters Inc. and we are functioning as a community advocate and environmental consultant here in Region 4. We're in Mississippi and we've been dealing with a company called Kerr McGee which is responsible for toxic levels of hazardous chemicals in Hattiesburg and Columbus.

And its apparently been allowed to perform remediation strategies which was almost certain to fail since they had failed. The remediation strategies that were approved by EPA Region 4 officials and our for local Mississippi Department of Environmental Quality officials has allowed ten years of exposure to those same communities of Hattiesburg and Columbus.

And so EPA's own Website list these as likely environmental justice communities because both of them have infant mortality rates that are equal to third world countries. Our infant mortality rate in both Columbus and Hattiesburg, Mississippi are ten. Our national average is six and so these companies -- no not these companies -- but this company is killing our babies.

And we what we'd like to know is when these communities can expect fair and equal treatment under the regulatory process and when that process fails what should these communities do. Because we began at the local level with the mayor. We moved from the Mayor to the county elected officials.

From the county elected officials to the state elected officials. From the state elected officials to our federal elected officials and to date the only response we received is when we sent a request to Ms. Lisa Jackson in Washington DC. So what happens and why does it take ten years for EPA to respond to something that they already know to be an issue?

Elizabeth Yeampierre: Okay. Thank you Ms. White. You know we're hearing a recurring theme theme I think in terms of time and a plan of action. Do any of the NEJAC members want to comment?

Hilton Kelly: This is Hilton Kelly in Port Arthur, Texas located on the Gulf Coast with the community impound of (unintelligible) association development and also a NEJAC member. I share the frustration. A few years ago that many of you are expressing on

this call today but I'm here to tell you today that we have a new faith in the new EPA under the Obama administration compared to the Bush administration.

So what we're seeing is a more assertive action from EPA Region 6 here in Texas, Louisiana in Region 6 area and I'm very hopeful that this present administration will change things and we will see more action rather than just talk.

Elizabeth Yeampierre: Thank you for that Hilton. And any other comments? Okay. The next speaker?

Victoria Robinson: Okay. Moving on. Thank you Ms. White. Audrey Gaines, City of Bridgeport? Is she on the call, operator?

Operator: Audrey Gaines is no longer on the conference.

Woman: All right thank you. Anhthu Hoang from WEACTION. Are they on the call?

Operator: Anhthu, your line is open.

Anhthu Hoang: Yes this Anhthu Hoang from WEACTION in New York City. I like to add to what the prior speaker said about getting supplemental and environmental projects. And getting the money back into the community and maybe setting up an environmental benefits fund for that community.

I understand the EPA has very specific policies about how SEPS are supposed to be set up and spent but I think that we can certainly find creative ways of addressing environmental issues that are facing communities without being bound by a lot of the real structures that I think we can also argue about it.

But to some extent self bound (unintelligible) so I would like for us to get together and develop some creative ways of getting SEP monies back into communities and making some environmental benefits for those communities. Thank you.

Elizabeth Yeampierre: Thank you Anhthu. Any comments NEJAC members? Okay. So we're move on to the next speaker.

Victoria Robinson: Juan Parras?

Operator: Juan is no longer online.

Victoria Robinson: Thank you. Kathy Andria.

Kathy Andria: I'm here. Can you hear me?

Elizabeth Yeampierre: We can hear you.

Kathy Andria: My name is Kathy Andria. I'm President of American Bottom Conservancy in Illinois not-for-profit organization working to protect the people and resources of Southwestern Illinois. While we're located in the metro East St. Louis area in the the American bottom flood plain of the Mississippi River. And for the past ten years have worked on EJ issues air, land and water.

How should enforcement be prioritized? While we agree with the priorities currently in place and may suggest others. I would like to address prioritizing within categories. Perhaps one way to do so could be key (enumerative) impact, areas that

receive emissions from multiple sources, areas that are non-attainment, areas that have multiple threats, areas that have vulnerable populations with a high incidence of pollution related impact.

Our area in the metro East St. Louis area would certainly be high on such a listing and while today's topic is enforcement, I would hope EPA will address cumulative and synergistic impact to communities in permitting and other actions as well especially as an earlier speaker said, in areas in which they have discretion.

We are non-attainment for ozone, for fine (particulates) and will be non-attainment when the new lead maps go into effect. We have a high hazardous waste incinerator located in the middle of an urban population. We have steel mills, a coke plant, metal fabricators, a petroleum refinery, tank farms, chemical factories and a cement kiln just across the river.

The cement kiln was built 2000 feet outside the non-attainment zone allowing them to escape more stringent control requirements. We have coal fired power plants to the north, west and south of us with a new pulverized coal plant being built just 1.8 miles outside the non-attainment zone, again gaming the system.

We have four Superfund sites and a sixth just proposed for which we are grateful, plus we have many other sites which should be Superfund sites. We are located in the American Bottom Flood Plain of the Mississippi River.

Our levies have been declared by the Corp of Engineers to be structurally unsound. Scientists say an earthquake of 6 to 7 point magnitude from the new Madrid Fault is all but certain within the next 50 years.

The USGS has produced maps showing the area to be a severe risk for liquefaction, a process where loose sand and silt that is saturated in this water can behave like a liquid when shaken by an earthquake. Not only do our homes and businesses sit on sandy soil but so do our levies.

What will happen to us when the river is up and the levies are saturated and an earthquake hits? All those toxins, all those pollutants and heavy metals, all of the slag, coal combustion waste, legal and illegal landfills and petroleum products will come flowing into the water. Certainly no new facility should be permitted until the levies are permanently fixed.

We have two solid waste landfills located in the flood plain. One incredibly is located on an island in the Mississippi River. There's a third one being proposed just outside of St. Louis, a fourth sits on the bluffs above us.

Our area consists of several communities - low income black, low income white, white income Latino and mixed communities all located in the flood plains. We are besieged with interior flooding from storm water run ups from the more affluent communities on the bluff and unbridled development in the flood plains.

We have high asthma rates especially among our children. We have high rates of heart and lung disease. And in June EPA listed us as having the second highest cancer risk in the entire country.

Woman:

I want to ask...

Kathy Andria: Pardon?

Victoria Robinson: One minute.

Kathy Andria: Whoa. I understand we we've moved up to the number one pos- place. Since NADA is used to identify and prioritize locations which are greatest potential concern, we hope EPA can help us by providing more monitoring and help the state enforce continuing violations of the permits, and that is for the steel mill and coke plant in Granite City which emit outrageous levels of benzene and other carcinogenics and have been in non-compliance with this Clean Air Act permit for 12 of the 12 quarters.

There's a school - preschool located across from the coke plant facility and yet it was not on EPA's high priority list to be tested. There are some other issues that I will - that EPA has discretion which I'll submit in writing.

And the state of Illinois has the lead on enforcement for the facility but I would ask that EPA could also assist us since it doesn't seem to be moving. It also has - it discharges 25 million gallons of industrial waste into a state park that is used for (subsistence) fishing and that has essential exemption - treatment exemption for zinc. It was supposed to be a one year exemption and EPA did write in 1997 that it was no longer qualified but the exemption still exists.

Not only our people have cancer but so do our fish and the people who are eating those fish have to cut around the growth as they have not caught enough healthy looking fish to feed their families.

We have refinery communities in which homes explode and people have benzene meters in their basement. Our problems seem overwhelming but EPA can help immensely by coming down on the side of protecting people over industry even in this time of economic distress.

Pollution control and compliances laws should be part of the cost of being - of doing business in good times and in bad. Most of the facilities here have been in compliance - in non-compliance for many years. We welcome very much this new administration and its commitment to environmental justice and the changes this has made on so many requ- so many fronts.

We request that you add coal waste and coal combustion waste to your requirements for financial assurance and we very much appreciate your efforts in conducting a health risk assessment and curving mercury emissions in response to comments we filed on a permit for a hazardous waste incinerator.

We want to help you know what's in our communities and how working together we can better protect our people and our air, land and water while we believe everyone's air, water and land should be clean. We hope where you can you will work to help those whose communities are disproportionately impacted.

Thank you for the opportunity to make this comment today.

Elizabeth Yeampierre: Thank you Ms. Andria. That was really beautifully presented and as I mentioned before it is difficult. It feels like an injustice to a lot - such a short amount of time to each presenter and given the breadth and depth and all the problems involved in all of our communities. And unfortunately we have so many presenters.

But I would urge you to submit the testimony in writing and if there was anything that you didn't have an opportunity to cover, that you provide us with that information because we would look forward to reading it and incorporating it into our (process).

Kathy Andria: Thank you.

Elizabeth Yeampierre: Are there any NEJAC members that would like to make a comment or ask a question of Ms. Andrea.

Lang Marsh: (Unintelligible). I would just want to mention that there is some ways, better ways of assessing the impact using (unintelligible). I think it would be very helpful if a number of speakers or (members) can talk about this. And I'd like to take that up with (unintelligible).

Victoria Robinson: Okay Lang, yes this is Victoria. Yes, send me a note about that in writing and we can pose that for an agenda item in the future, okay?

Lang Marsch: Thank you.

Victoria Robinson: All right thank you Lang. And when you speak again with - you're still breaking up so the next time you speak if you can hold it close to the mike, that'd be great.

Lang Marsch: All right.

Victoria Robinson: Thank you.

Elizabeth Yeampierre: Our next speaker, Victoria?

Victoria Robinson: Yes, the next speaker is Steve Jamison. Is he on the line operator?

Operator: Yes, bear with me one moment.

Victoria Robinson: I'm sorry.

Operator: Yes, bear with me one moment.

Victoria Robinson: All right. Thank you.

Operator: Steve, your line is open.

Steve Jamison: Thank you. My name is Steve Jamison. I'm pastor of the local church in Mississippi. The city is Columbus, Mississippi. My church has been operating basically as the community spokesperson concerning a problem we're having with the Kerr-McGee/Tronox facility here in the city.

Let me say this before I start though. Under the present Administration, we have received more information and more activity in the last three months then we did in ten years under the old Administration.

We were in the process of building a new church, about a \$2 million facility. One of the ditches - runoff ditches from Kerr-McGee ran through our property. At the time we didn't know what it was to be frank. We learned later on that it was creosote. We

had to stop our building program because our bond company who had issued our bonds to us insisted that we stop the process so we did so.

So for ten years we've been in court with Kerr-McGee trying to get this process underway. The problem we have is is that the local court system and state court system seems to work with the perpetrators to keep the issue from ever being heard and in many cases the local judges almost end up mitigating the cases for the defendant.

In our city we have a plant that's been here for about 72 years. It's about 90 acres of creosote laden land that we have a letter from MBEQ that says it would be emitting creosote into the neighboring ditches and the air for now - from now on.

Excuse me - we have a high infant mortality rate. We also have the highest rates of kidney failure, kidney disease, dialysis in this area, asthma as well. We carry high rates on that.

What we tried to do was to follow all of the protocols and do all that we have to do. We brought in the ATSDR. The ATSDR came in and did a report and finally after a seven year reporting period said that it was okay. When we asked them to give us their documentation suggesting that it was okay for the last three or four months now they have been avoiding giving us that documentation.

They did remove their report from the Internet that said it was okay and we can't get the CDC or the ATSDR to release the information to us concerning our drinking water and concerning the fish that are in our city.

We also have information from the perpetrator, a telephone and documented conversation with the perpetrator and a Region 4 agent where the perpetrator, Mr. Steve Lander - Lander I'm sorry - of Kerr-McGee tell the EPA operative that he was aware that in seven sites in Region 4 he has plants or he has filters that are out of compliance.

He said that it is so bad that he realizes that the bid to remove the cabinets would be massive and he's trying to find a way not to have to do that or even move the people out from the area. This information was put into the file in 1997 and so the EPA has known about it for that long and nothing has been done to correct it.

What we're wondering is how does the Justice Department and EPA work together to stop local legal entities and local courts from helping the perpetrators destroy the livelihood and destroy the quality of life of people in this area.

Victoria Robinson: Okay thank you Reverend Jamison. Any questions or comments for Reverend Jamison? Okay.

Kathryn Brown: This is Katie Brown. I'm a member of the NEJAC. It would be interesting for EPA to answer that question at some point. It's a very insightful question, the connection between the Justice Department and the EPA to address these issues.

Elizabeth Yeampierre: (Unintelligible). Absolutely I think that something we need to follow up. It would be great actually if even at the next meeting we could have some time to talk about how we can build that relationship.

Any other comments? Okay Victoria.

Victoria Robinson: All right, the next speaker is Will or Bob Collin from Willamette University in Oregon.

Will Collin: I'm right here. Can you hear me?

Woman: Yes.

Will Collin: Can you hear me?

Woman: Yes we can.

Will Collin: Okay this is Will Collin. Some of you know me as Bob. I'm chair of the Environmental Justice Task Force in Oregon. As a creature of law, we control the environmental justice cultural competency of 14 state agencies. We've just started meeting.

A big issue out here besides the pollution issues that (unintelligible) has we share in Oregon also. But a big issue is field burning. The nine whitest counties along the Willamette River or I-5 are - have no field burning allowed, but in Eastern Oregon where there's people of color and low income people, they have allowed it.

It's an issue of enforcement because our state legislature has not allowed the state agency to change the air quality laws in Eastern Oregon so they can continue to do their illegal burning. So it's a strong issue of enforcement.

The bigger issue I'm really concerned about and I agree with everything Ms. Ferris said, particularly as I look at the ninth circuit Court of Appeals Case of the Ninth Circuit that happened out here - Rosemere is from here - is that they found a systemic pattern of not investigating civil rights complaints at EPA.

So my question to NEJAC - and I was on NEJAC - is how can you have a national priority response when you don't even know what the civil rights complaints are in the regions like Region 10. They have had nothing out here. They have been programmatically stripped of anything NEJAC.

They've combined offices. They've chased people away. They're chasing people away as we speak. And so when you have these complaints going on, where do people go? They go to court and they get a case and this is a strong case.

And this is a case - it's a national case at their headquarters. And while you have EPA employees giving presentations they don't handle outside the box thinking of how can we come up with national priority lists that actually includes the people that are affected by the decision and instead of what business needs to come into compliance with?

So we're very concerned about this and I predict it's going to happen again. The last point that makes this even worse is that when are the regional directors going to be appointed and is cultural competency going to be a factor in their appointment?

We need some transparency and answers from that. You have a programmatically stripped process of environmental justice at a federal agency and I've written the only book on the EPA. You can look it up. And they just stripped EJ out of it.

And then we have bad things happening like (unintelligible). They're all over this region. They're in the Bering Straight. They're in Idaho. They're all over Oregon. There're so many of them and so when you ask me what should be the national priorities list for enforcement? It's civil rights laws.

And when I was on NEJAC that's what I would've said, that you need to have the civil rights law so that people of color, low income people, women, women with children can show up as needed and understand what's happening and no decision is made until then.

The cumulative risk, I was not very happy with an earlier presentation with that but I'll hold my judgment. I was the external peer reviewer of the EPA cumulative risk methodology in 1998 as an NEJAC representative. And it wasn't very good but people did a lot of work and it's in the Federal Register encour- employees of the EPA if they're going to talk to NEJAC about it need to know what they're talking about.

So I think you need a better presentational level of EPA's employees to the NEJAC. So institutional changes need to happen before empowerment of people in national priority lists. And I'll just stop it at that. There are other issues that I can respond to off line.

Elizabeth Yeampierre: Thank you Mr. Collin. Will you be submitting your comments in writing to us?

Will Collin: Well I guess I can if that's helpful.

Elizabeth Yeampierre: Yes it would be helpful. I mean, you've raised a number of issues and concerns that I think a lot of us share, even something that may seem more like a cultural competency of the regional director is something that, you know, those of us in New York City are really concerned about. These are concerns that I think are all across the board.

Do any of the NEJAC members want to comment or ask Mr. Collin a question?

Woman: Okay so we...

Woman: Yes.

Elizabeth Yeampierre: Okay yes.

Victoria Robinson: Yes go ahead.

Elizabeth Yeampierre: Okay so then if there isn't anyone we'll move on to the next speaker. Thank you, Mr. Collin.

Victoria Robinson: Okay Marcia Monestersy.

Marcia Monestersy: Yes.

Woman: Can you repeat the last name please?

Victoria Robinson: Monestersy.

Man: Yes I'm trying to read it.

Marcia Monestersy: Hello, I'm here.

Woman: Okay thank you.

Elizabeth Yeampierre: Can you begin?

Marcia Monestersy: Okay. I'm Marcia Monestersy from the Forgotten People of the Navajo Nation. And on the Navajo Nation there are over 580 abandoned uranium mines. And about 75% of the Navajo people continue to haul water from unregulated sources. And of those sources, about 10% exceed the maximum contaminant levels in ground water for heavy minerals including uranium. But more than 30% of the Navajo people do not have access to regulated water and that number compares to 12% of all tribal populations across the United States and 0.6% of the United States population as a whole.

For 40 years the people in Black Falls, Bob Springs and Grand Falls community have been drinking uranium and arsenic contaminated water without knowing what they were drinking and two of these families are currently receiving bottled water from super funds and this year long provision of bottled water is scheduled to end. There are systems that are used to transport and store the water to these high levels of bacteriological contaminants and dependence on water hauling for access to drinking water can be life threatening for the elderly.

What we are seeing is high incidences of cancer, brain cancer, stomach cancer, heart disease, what's called Navajo Neuropathy which kills young children, Legionnaire's disease which is caused by exposure to uranium from water contaminated by old mines. And symptoms include difficulty walking, muscle weaknesses, loss of sensation in extremities, severe liver disease. In the United States, Native Americans are 25% more likely to depend upon water hauling in the general population. On the Navajo Nation this increases to 66 times and 100 times in the (banded trees) communities where for 43 years people weren't allowed to fix their homes or have any infrastructure or safe drinking water systems.

The negative health consequences of the legacy of uranium contamination on the Navajo Nation is disproportionately born by one of the most disadvantaged minorities in the nation.

The core concern leading to executive order 12898 was that minority populations would bear a disproportionate burden of negative environmental impact. Addressing this injustice will require active (unintelligible) and the focus of the EPA an entire network of the (flat) distribution and storage upon this population in (alive) to its drinking water.

The responsibility of the EPA does not stop at the (unintelligible) of regulated sources but rather must also include the access to surface drinking water actively delivered to the people. The people that were signing it past the latency period and are being diagnosed and dying and this occurs in the Western portion of the Navajo Nation and throughout the Navajo Nation where people are living in close proximity to abandoned uranium mines.

Children are playing in uranium waste piles that are unremediated. People are build- have built their homes out of uranium. Where a relevant environmental statute

providing safe drinking water is mandated into international law and the U.S. has recognized it solving this problem in Indian countries, its (unintelligible) obligation.

At the UN world summit on sustainable development in Johannesburg in 2004 the EPA signed the agreement which set as its target the reduction of American Indian and Native Alaskan households without access to safe drinking water by 50% by 2015.

The EPA has made the provision of safe drinking water one of the true priorities for Indian countries. It has an active innovative new program to assist in the effort. We're working with region mines in this regard. But the money isn't available.

The Safe Drinking Water Act gives the EPA the authority to provide the public - protect the public from chemical, physical, radiological and microbiological contaminants in drinking water. How is it that we're going to get the help and relief for the people? How are we going to get the funding to have USEPA Region 9 give allocated money for a water hauling truck to deliver safe drinking water and expect that that delivery will happen in March?

What happens now that people have been educated by our grass roots organization to find that they're - the reason that they're dying and being diagnosed with cancer is because of the dangers of drinking water? How do we get the funding to provide safe drinking water facility infrastructure so when the water hauling trucks will deliver the water they don't put it into contaminated wells that lead to the huge contaminated (unintelligible).

So what we're asking for is your help. We believe the EPA has been mandated to support joint EJ efforts between the EPA, academic institutions and non-governmental groups with a shared agenda. The Black Falls Box Springs Grand Falls Drinking Water Project that we implemented in Black Falls under a US EPA environmental justice grant is a small example of what needs to be done on a larger level with 100 families. And we need to succeed in that with 1000 families and for all the water haulers throughout the Navajo Nation that are effected by a 50 year legacy of uranium mining on the Navajo Nation.

Woman: One minute.

Marcia Monestsersky: We need your help. People are dying. There's a Navajo Nation State of Emergency that's going to be declared tomorrow in a meeting in Box Springs but nobody from the US EPA is going to be at that meeting. And what we need is the commitment of the US EPA on a national level to address what we're going to do to provide safe drinking water and sustain that delivery and infrastructure for the affected people. Thank you.

Elizabeth Yeampierre: Thank you Ms. Monestsersky. Do any of the members of the NEJAC want to comment or ask any questions?

Marcia Monestsersky: Okay.

Elizabeth Yeampierre: Okay thank you.

Victoria Robinson: All right. We'll move on to Robert Campbell.

Operator: Robert Campbell is not on the line.

Victoria Robinson: Thank you. Amy Bates.

Operator: Amy Bates is not on the line.

Victoria Robinson: Shawna Larson.

Operator: Shawna Larson, your line is open.

Shawna Larson: Yes hello. Can you hear me?

Elizabeth Yeampierre: Yes we can.

Shawna Larson: Hello. My name is Shawna Larson and I'm with the Chickaloon Tribe of Alaska. I'm (unintelligible) on my mom's side from the Village of Port Graham. I'm Athabascan on my dad's side from the village of Chickaloon. And I work for Pacific Environment in Alaska.

My comments are more in line with questions about conversations with communities and tribes. It sounds like we really heard a theme here today about communities concerns with industrial activities that are taking place and constant troubles that communities are having dealing with industry and their ability to get permits to continue from EPA to continue doing these pollute - continue on with the pollution that's happening in the communities.

And it doesn't matter it sounds like whether we're hearing from tribes or grassroots community groups whether they're - you know, it basically sounds like these issues have no boundaries and don't respect any different political guidelines but these are the same issues that are happening all over the nation.

It was interesting once I attended a seminar with somebody who was teaching (unintelligible) and he said, "There's never been an environmental movement in the United States." And he said that that's because movements historically have driven from rights into the Constitution and so if you look at the Civil Rights Movement and think about the rights that were driven in the Constitution we did not - the EPA does not achieve that. And so for example, the Civil Rights Movement was not asking for a slavery protection agency the way that we've gotten EPA. And I think it's an interesting way to think about it.

My questions are really more about how we can (unintelligible) having more (unintelligible) about what's actually happening around the nation and how difficult it is. It's hard to sit by and listen to a teleconference like this where it almost sounds like we're competing in an oppression Olympics where the NEJAC can sit back and hear about how oppressed communities are by all the pollutions and all the toxics in their communities. And then they want to hear who's the worst and then they want to figure out how nationally people are suffering from these equally and then make that a priority.

And it seems like a very difficult process. That must be, you know, insanely hard for EPA to have to pick and choose who is the worst, you know, what are the worst scenarios across the nation. And so my question really is how can we start having honest communication and dialogue about the powers and authorities that industry has all the state and legislative entities in terms of government.

We've heard some concerns around jurisdiction today. My question (unintelligible) so when is it that EPA will really start communicating that they're not a human health organization and they're - they were never created to protect human health.

And although we call for that when we're talking about environmental justice and certainly, you know, when tribes are talking about this in their sovereignty they're asking for the protection of their health, but really we hear things inadvertently in meetings like EPA saying, "We really need NGOs and non-profits to keep coming forward. We really need them continuing to go to Congress. We cannot advocate for you to lobby but this education is very important."

We sort of hear these conversations in a very roundabout way but no one's actually having the dialogue that there's no constitutional amendment that protects the environment and people don't have more power than industry and it's obvious all over the nation. And so I just wonder how we can start having a more genuine and honest dialogue about how to adjust these serious issues.

Woman: Thank you.

Elizabeth Yeampierre: Okay thank you. Any NEJAC members who want to comment or ask a question to Ms. Larson?

Victoria Robinson: Thank you. We'll move on to Barbara Harper.

Operator: Barbara Harper, your line is open.

Barbara Harper: Yes. We're just going to submit written comments. I'm with the Confederated Tribe with the Umatilla Indian Reservation and we did not intend to say anything verbally but we'll submit something in writing. Thank you.

Operator: Thank you Ms. Harper. The next speaker.

((Crosstalk))

Victoria Robinson: Joan Vanhala.

Operator: Vanhala?

Victoria Robinson: Yes.

Operator: Joan Vanhala is not online.

Victoria Robinson: All right. Lauro Silva.

Operator: Lauro Silva, your line is open.

Derrick Bitsie: Yeah. My name's Derrick Bitsie and speaking in behalf of Lauro Silva. He's not able to reply right now because he's out of the office. But he'll submit a written response. Thank you.

Operator: Next speaker.

Woman: John Sullivan.

Operator: John Sullivan, your line is open.

John Sullivan: Hello. Check. Check.

Operator: You're on.

John Sullivan: Can you hear me?

Operator: Yes.

Man: (Unintelligible) are open.

John Sullivan: Okay. I just would like to - I'm speaking as a private citizen. I live in Galveston, Texas. I...

((Crosstalk))

John Sullivan: Pardon me?

Operator: Hello.

John Sullivan: Yes.

Operator: Hi. Are you - can you - can you proceed please?

John Sullivan: Yes I can. My name is John Sullivan. I live in Galveston, Texas and I work with a lot of environmental organizations in the state of Texas. And I would like to suggest...

((Crosstalk))

(John Sullivan): ...to the EPA...

Victoria Robinson: Would somebody please mute their line please? Members?. Go ahead Mr. Sullivan.

John Sullivan: I'd like to suggest that the EPA get more actively involved with enforcement that it turned over to the various states during the Reagan federalism way. And while that was a good thing and continues to be a good thing, I think a lot of things are happening under the radar now that the national agency isn't really aware of. And like right now the TCEQ in Texas is being sunsetted and it's going to be redesigned and resubmitted to the legislature for approval. And while I know the EPA can't get involved in the legislative affairs of a particular state, it would be good if they could provide information to NGOs and community based organizations that will be submitting testimony, that will be assisting legislators in re-commissioning the commission that has really been rather derelict in doing what they're supposed to do.

The enforcement here is universally decried by everybody. And I would like to see the Federal Government and many people I work with would like to see the Federal Government involved in some advisory capacity in helping re-commission this absolutely necessary agency who takes care of all of the permitting, all of the enforcement and all of the monitoring that's done in our state unless the EPA especially comes in to do something. And once again, I'm not saying it should, you know - re-seized control of the apparatus and become the state EPA. I think Federal isn't a good thing but it needs - you need to exercise more diligence and scrutiny over the mal- seasons, missed seasons, non-seasons of some of these organizations that

have been given the charter that the EPA once had to do enforcement of environmental law.

I'd also like to draw attention to, in terms of sets, to an article written by Global Community Monitor/Environmental Integrity Project by Suzie Canales about, and you can - I'm sorry I don't have the title and I'm not online and I can't draw it up. But if you would Google those three things, you would get that article if you put SEPs in there. And it brings out how many times SEPs have been used by industry to minimize or reduce their fine and enables them to choose something that has absolutely nothing to do with the - with their pollution that created a problem that resulted in an action which they came out on the wrong end of. And so they can have a SEP in another area, in another county with an organization that's not connected with the original action. And this qualifies and meets the letter of the law but does nothing for the community that was bearing the burden of cumulative risk.

And about cumulative risk, I'd like to commend the EPA for putting out their recent RFA to get models and measurement models of cumulative risk, something that will quantify the concept in a way that will make it admissible in permitting hearings because right now it's very difficult to bring that up if you don't have numbers. And to the best of my knowledge, and I'm not an epidemiologist, I don't know of a system that actually gives a number value to cumulative risk that could be used in a hearing and that it would have the credibility of assigned, you know, the (unintelligible) credibility basically. And I think it's great that the EPA is going in that direction. I think that ought to be one of your major, major priorities because that really bears on enforcement and really bears on permitting, which comes before the enforcements necessary. Because so many times permits are being given to companies for expansion or for a new facility in an area that already carries an undue burden of these kinds of facilities.

And the people are living next to them and they're just being piled on. And that really needs to stop. And it needs to be considered though in a way that is not soft science, that is not qualitative, that is not just testimony, not that I don't think stories are important because they really are. They show the aspect or side of what's going on with these things. But it doesn't really carry any weight in court.

So we need...

((Crosstalk))

John Sullivan: ...quantitative tools. And I'd also like the EPA to be using their EJ tools that they've already developed. I'd like to see more use of the EJSEAT tool and see communities being evaluated in this way so that they can say well we have an evaluated problem here. We are considered an environmental justice community. We're such and such a burden and we are going to use that to make sure that our burden isn't increased. And I know the EJ, the EPA has a number of other environmental justice oriented tools and I'd like to see more use made of them and training within communities on how to use them so that people outside the agency and outside the state agencies can actually try and use these things as well.

Thank you very much.

Elizabethe Yeampierre: Well then, any questions? Okay. I guess we can move on to the next speaker.

Victoria Robinson: Okay. Kim Ferraro.

Operator: Kim Ferraro is not online.

Victoria Robinson: Thank you. Sherri Jones.

Operator: Sherri Jones, your line is open.

Sherri Jones: Thank you. First of all I'd like to say good afternoon and I thank God for the opportunity to address this panel. My name is Sherri Jones, Forrest County Environmental Support. And I'm calling from Hattiesburg, Mississippi.

Our issue here in Mississippi is a lack of representation and a failure of EPA in our local MDEQ in the state of Mississippi. And I've heard this afternoon so many stories that mirrors what we are going through with here in the state of Mississippi. Reverend Jamison spoke earlier and communicated to the listeners what we have suffered here for the past 10 years. Also here in Hattiesburg we are dealing with the same company Reverend Jamison dealing with a company named Kerr-McGee. After almost 10 years of research here, what we have discovered and the records now support that is the fact that local and state agencies not only failed to protect the citizens but they assisted the company in perpetrating these injustices up on the citizens, the minority citizens here.

We also will ask and request that the Department of Justice weigh in on this action. My email address is <sjfcest48@Yahoo.com>. And I would ask listeners if you would please just send me your email and what I would forward you back is a recent - a couple of different letters that's very recent from the city of Hattiesburg and one from the Forrest County Board of Supervisors and the District Attorney here for Forrest County.

All three of these people understand the importance of looking at this case here. Some of the colleagues made reference to the fact that civil rights and human rights is what we need to be looking for. We don't have to look any further here to determine that our community has been poisoned, our water has been poisoned, our soil has been poisoned and our people have been poisoned and they are dying.

What's interesting is you have crystal sight just north of Hattiesburg in a predominantly white community named Davis Timbers that's been placed on the Superfund site. EPA did a visit here recently. They're getting ready to spend \$5.5 million to clean that site up. That site only operated 10 years. The size of the site is about 38 acres. The site on the south side of the city that's poisoning the community, the African American community, is a 80-acre acreage and six decades, six decades of operation in the community poisoned the water and the soil. And they only spent \$2 million on the cleanup there.

We know for a fact that the civil rights was violated because they excluded these people based upon a railroad track. Once the remediation project got the railroad track where the African American people own property, they changed the site from a remediation to a ditch and drainage. They had the city of Hattiesburg to come in and obtain the easements and right of ways to get access to the property and then they said that they was installing a ditch and culvert at the same time they was removing timber.

We have people dying here not only in Hattiesburg but what we understood is important for us to come together and find out what was happening in our neighbor

community. We got a community, Crystal Springs, Mississippi where they found chemicals in the public drinking water. Those people was poisoned with PCBs from a company named Kuhlman. They shut the waterwheel off. They just plugged the well and never notified the rest of the - never held a public meeting. These are some of the things that's going on. And one of the things that we discovered was causing so much of the problem here in the state of Mississippi was the fact that Region 4 was being ran by a gentleman named Mr. Jimmy Palmer. Jimmy Palmer was the executive director of MDEQ when Kerr McGee signed an agreement with MDEQ, so he later became the executive director of Region 4.

Reverend Jamison made it clear that we are seeing now more action since the new administration and a new director of EPA and we hope that this continues to hold true.

But we don't have a lot of time left. Other people that come in have told you, our people are dying on a daily basis. We are dealing with door-to-door cancers here. We're dealing with environmental conditions that should be unacceptable in 2009 in the United States of America.

If we could speak to the White House today, what we would say from the Forrest County Environment Support Team and the citizens of Mississippi is, bring our troops home. Until you can protect the citizens of the United States of America, until you can give us decent and safe environments here, bring our troops home, because we can only call this genocide.

In 1989, they discovered this creosote here in Forrest County. In 1993, the first lawsuit that was filed, in the first document that was filed, they called this a hazard to the public.

In 1989, they did a human health assessment and it was 2002 and 2003 before MDEQ notified the public. It's a joke. Environmental justice here in the State of Mississippi, the way we understand it, is being handled by a young lady called Gloria Tatum, she's a former 30 year employee of MDEQ.

The people in Crystal Springs, Mississippi, don't know who Ms. Tatum is. Reverend Jamison up in Columbus, Mississippi don't know who Gloria Tatum is. We don't see in our community, so our question is why is she getting a check, why does she have a contract with respect to environment justice.

Yesterday I was in New Orleans. My telephone rang...

Victoria Robinson: One minute.

Sherri Jones: . . . and on the other end of the phone was the young lady names Ms. Gloria Tatum. She advised me that they're getting ready to begin the whole community - environmental summit.

What we're going to continue to do here is partnership with other communities. We're going to go to Region 4 and advocate, and we're going to come to the United States Capitol. And we hope that we can continue to get people that's in position to make a difference to understand that our children our dying, our seniors are dying because they've been poisoned by companies that's in better representation from our elected officials than the taxpayers of this country.

And I thank you.

Elizabeth Yeampierre: Thank you Mr. Jones. Any comments or questions from the NEJAC members?

Hilton Kelly: Yes, this is Hilton Kelly in Port Arthur, Texas, Community and (Power) and Development Association, 501(c) organization and a member of NEJAC. I was just like to recommend for a lot of our citizens out there who are making comments, if you're not getting any type of reprieve at this particular point from the Environmental Protection Agency, I would like to suggest that you continue to request assistance from the EPA. I think the new administrator here, Lisa Jackson, and the Obama Administration is very serious and committed to stepping up and trying to right some of the wrongs that the last administration, the Bush Administration, put up on this country.

And I think that they're committed to trying to reach out to every organization out there that's fighting environment injustice. But until that happens, I would like to encourage you to do what the citizens here in the Port Arthur area - Port Arthur, Texas, have done. We sought legal advice; we used litigation to fight a lot of these companies that were dumping in our area.

And at present, even though I sit on NEJAC, we are still fighting to stop PCBs from being imported into the City of Port Arthur. There's a company by name of Veolia Incinerator facility. They are petitioning the EPA to bring in 20,000 gallons of PCB from Mexico into Port Arthur, Texas, to incinerate because they can't find anywhere else to bring it. And we think this is appalling, even though there is technology out there that can have the stuff neutralized on site.

So keep fighting, seek litigation, and may God be with you.

Sherri Jones: Well, sir, one of the things I would like to say is (unintelligible) Law University out of New York have begin to assist us. We got several of the colleges - Dillard University is involved, Clark University is involved. But we believe now with respect to your county, your city and your district attorney asking for an inquiry to be conducted. We believe the Department of Justice needs to look at what has happened to these communities.

And EPA - we know EPA is overwhelmed, but if EPA get involved and use one case as an example, it'll change the way people are doing business. If - when you talk about litigation, Reverend (Jamison) made it as clear as you can make it, for the State of Mississippi, sir, litigation will not get it done.

And I thank you.

Elizabeth Yeampierre: Thank you Mr. Jones. I just want to make a brief comment that, you know, Environments of Justice isn't just an issue here in this country and that oftentimes the infrastructure and the pollution isn't just imported into our communities here but sometimes exported into our countries, as well. So that, you know, we really need to work in solidarity and support with each other.

Let's go on to the next speaker.

Victoria Robinson: Yes. The next speaker, David Caldwell?

Operator: David Caldwell is not on the line.

Victoria Robinson: All right, thank you. Michael Jacoby?

Operator: Michael Jacoby is not on the line.

Victoria Robinson: Okay. Well, I think that - have any other people who had signed up, did any of them come back to the line like Audrey Gaines or Juan Parras?

Operator: No, ma'am.

Victoria Robinson: Okay, great. All right, we'll go on and reach to the closing of this call. And I'll turn it over to Elizabeth.

Elizabeth Yeampierre: I want to thank everyone for the time, patience and commitment to addressing issues of environmental justice. This was a long call and I know a lot of the NEJAC members, you know, we all do this as volunteers and we all work really hard in our communities to address these issues.

And while we're listening to all of this, we realize that it's difficult to turn around a legacy of injustice, and I always feel tremendously humbled not only hear the stories of how our people are impacted all over the country, but to hear the strengths, the integrity of our people and how they actually site these things. And also the specification in their analysis and the recommendations that they put on the table are also humbling and really show the commitment that our people have to justice.

I think that we have - that this is a new day and I do think that there are - that we owe a heartfelt thank you to Administrator Jackson to Assistant Administrator Giles to Charles Lee and Victoria Robinson, all who have worked extremely hard to bring us together and to make sure that we can have some positive outcomes.

And I would encourage everyone who's listening to make sure that if you didn't get everything out, if that this is not - there's still an opportunity to weigh in, to send in your recommendations in writing. It's great when recommendations are put in writing because it creates a document and we have to be accountable for that document and we can share that information. And history is something that always has to be documented, so I would urge you to do that and I know that that's time-consuming, especially when you're so busy fighting on the ground.

This is also really interesting because these are oftentimes people in our community with limited or no resources that are fighting these behemoths to address EJ every day.

And so I want to thank you on behalf of the NEJAC for your leadership, for your commitment and for being relentless and we look forward to seeing you again and hopefully knowing that we've made some progress at the interim.

Victoria Robinson: Okay. And I also want to do some housekeeping, okay, before we hang up. Do you have anything else Elizabeth before I go into housekeeping?

Elizabeth Yeampierre: No, just - I just want to say thank you to everyone who's been involved in this and Victoria, you've done, again, a phenomenal job.

Victoria Robinson: Thank you.

I want to thank everybody again for participating, but a couple of quick things, one, you know, please members, send us your comments in terms of suggestions for any enforce or compliance priority sectors or areas. In fact, one member has already sent me an email with an idea. So please just jot it down real quickly. It can be two or three sentences, that's it, and I'll make sure we pass it along to the appropriate people.

I want to also - I'm going to call out some names of members who when we did roll call at the beginning of the call were not on, but they may since joined us.

Paul Mohai, are you on the line? Okay. Paul did not join.

Chuck Barlow, I believe he had another conflict so he could not participate.

Christian Holmes? Okay. Not available.

Greg Melanson; I know he was unavailable.

Did John Rosenthal call in? No.

Wynecta Fisher? Okay.

Don Aragon?

Don Aragon: Yes, I'm here.

Victoria Robinson: Wonderful. Thank you, Don.

Did Jody Henneke make it on the line? Okay, great, no problem.

Last couple of things, the audio recording will be available via call in. There's going to be -- starting tomorrow you'll be able to - we'll set up EJ lists and we'll send out an announcement that for those people who were unable to listen to the call, they'll be able to dial in for a two week period to listen to the audio via telephone call in.

And that's open - that's available 24 hours a day and it'll be for two weeks.

We anticipate having the written transcript available early next week and post to the Web late next week, as well, an audio podcast, which is different from the audio recording and that the audio pod has to be mp3 file available for downloading and hope to have that post to the Web next week, as well; late next week.

So I want to again thank everybody and look forward to our next call. And if anybody has any questions or couple of comments that they'd like to submit, please follow the instructions for when you registered the call to submit any written statements and we'll have those incorporated with the transcript if we receive them in time and have it posted to the Web along with everything else.

Once again, thank you everybody and have a good weekend.

END

APPENDIX A

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

Public Teleconference Call

September 24, 2009

WRITTEN COMMENTS SUBMITTED FOR THE RECORD

Submitted by:

Will Collin, Oregon Environmental Justice Task Force

Anhthu Hoang, WE ACT for Environmental Justice

Barbara Harper, Confederate Tribes Umatilla Indian Reservation, Pendleton, Oregon

Joan Vanhala, Coalition Organizer, Alliance for Metropolitan Stability

Marsha Monestersky, FORGOTTEN PEOPLE

Michael Jacoby, Citizen from EPA Region III State of Pennsylvania

Minister Robert L. Campbell and David Caldwell, Rogers-Eubanks Neighborhood Association (RENA)

Submitted by:
Will Collin, Chair, Oregon Environmental Justice Task Force*

The Oregon EJ Task Force was established by law last year. We can be accessed via a link from the Oregon Governor's Web page. I have also published a law review article on this called "EJ in OR: It's the Law" in the Lewis and Clarke Environmental Law Review that give specific details.

We are working across 14 state natural resource agencies to establish EJ as part of cultural competency used in managerial evaluations. Using the Lee model of multiple agency collaboration, we are facilitating the incorporation of principles of EJ as part of cultural competency.

Field burning has emerged as an EJ issue in rural Oregon because it is prohibited in the 9 predominantly white, higher income counties along the I – 5 interstate corridor, but allowed, and includes more combustibles, in Eastern Oregon with a poor, higher concentration of communities of color. The state legislature will not allow DEQ to include these Eastern Oregon Counties in their field burning ban, and this is why it needs EPA enforcement.

The big picture:

The Rosemere case held last week that the EPA has evidenced a systemic failure to investigate civil rights complaints. This is in our region and I know that case.

Environmental enforcement is driven by citizen complaints, reactions, and shared observations. If the citizens most affected are most discriminated against then all environmental enforcement suffers. The most important priority for environmental enforcement is the equal treatment of citizens.

We have watched the regions get stripped of EJ revenues, programmatic support, and slashed and combined ftes. Withered and weak, these programs retract to their physical roots ,here Seattle. This withdrawal had a big impact in Oregon, causing EJ groups to collapse. The big EPA programs no longer perceive the need to include EJ components in their activities. This includes not even investigating civil rights complaints at all and just hope they go away because of marginalized nature of some of our communities. A federal court of appeals just said no. The void left by EPA in our Region was filled in Oregon by us, the OR EJTF. We do not have money, and need it for community capacity building and health mapping.

Today, the EPA Regions do not have Regional Administrators that evidence minimal necessary cultural competency. They do not evidence knowledge of complex environmental issues that confront EJ every day, such as intergovernmental relations, TAS, cumulative impacts and effects, non responsive state agencies, a failed environmental federalism, and grass roots land use. Without this knowledge, these Administrators fail in the basic mission of the EPA to protect and preserve the environment. EJ issues are ultimately environmental issues, and ignoring us will lead to more federal courts of appeals decisions that require EPA to develop civil rights procedures in its decisions. Collaboration is often a route pursued by EJ, but a recalcitrant EPA may force EJ issues into more federal courts.

Unfortunately, broader societal goals will suffer if adversarial methods are our only recourse. Sustainability cannot proceed without EJ as a priority.

I am proud of the work we have done in Oregon around EJ. We still have many challenges and need regional support from the EPA. Please contact me if you have any questions or comments. This is my personal testimony. Thank you for this opportunity, and for all the work of the NEJAC members.

*Former member of NEJAC: external peer reviewer, EJ, for EPA's cumulative risk assessment, and author of only book on EPA, *The US Environmental Protection Agency: Cleaning Up America's Act*. (2003); also *Battleground: Environment* (2 volumes) (2006); *Encyclopedia of Sustainability*, with Robin Morris Collin (3 volumes) (2009). Senior Research Scholar – Willamette University College of Law



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Environmental Protection Agency Enforcement Priorities

WE ACT for Environmental Justice (New York City) thanks the EPA for the opportunity to comment on the Agency's enforcement priorities. In New York City and other urban communities residents, particularly children, continue to be plagued by toxic exposures from a variety of sources; chief among these are air pollution, pesticide use, soil and air pollution from brownfields, and water pollution.

Air Pollution – Toxic air pollution come from many sources. In many communities, air pollution is generated by a small number of sources such as private industry operation such as factories. However, in some urban communities such as those in New York City, air pollution is generated by a disperse set of "smaller" sources. In Northern Manhattan, where the childhood asthma hospitalization rate is six times the national average and one out of four children is afflicted with asthma, our air is soiled by a diverse set of sources; among them are bus depots, a water treatment plant, old and poorly maintained building heating systems, and roadway emissions.

Ironically, many of the polluting facilities such as bus depots, sanitation facilities, and water treatment plants are state and city-run. Even though state and city governments are delegated policing duties and are responsible for ensuring the health and safety of all the City's citizens, these very same entities overburden our low-income communities by overwhelmingly siting polluting facilities in our neighborhoods. Further, they frequently violate federal environmental protection laws.

We hope that the agency would focus its enforcement efforts on ensuring that facility operators, particularly those operating in environmental justice communities, comply with appropriate environmental laws. Furthermore, when they are found in violation of these laws, we hope the agency would ensure that supplemental environmental projects that arise from enforcement actions would benefit the communities impacted by the violation.

Pesticide use – Pesticides, especially household, industrial rodent control, and landscaping applications, seem to be pervasively (and overly) used in our communities. We would like to see the agency develop districter regulations on governing safety requirements for pesticide applications and require more safety training applicators. The agency should focus attention on health protection for residents and park users, especially children.

Brownfields – Toxic exposure from vacant and redeveloped brownfields continue to pose a public health problem for our residents. Vacant and

abandoned properties, especially former manufacturing and industrial service sites, continue to produce toxic emissions of industrial chemicals such as trichloroethylene and benzene, and redeveloped brownfields that are inappropriately “capped” allow emissions to seep into surrounding land uses, including schools, day care centers, senior citizen centers, and health service facilities, and endangers the health of the occupants. Additionally, when developers build on brownfield properties, they either do not provide information regarding potential exposures of remediation and construction activities to surrounding land users or they provide incomplete information to them. Finally, brownfields that are vacant or inappropriately remediated unnecessarily expose children to toxic substances. We hope that the agency will work to ensure that brownfields are appropriately remediated when they are being redeveloped and work to find responsible land owners where they are vacant so that children will not be exposed to their toxic contaminants.

Water Pollution – Water pollution continues to be a public health threat in our communities. Northern Manhattan is host to no less than two water treatment plants, serving a combined population of nearly 600,000 people and processing both residential and commercial uses. Our combined sewer overflow system is frequently overwhelmed by storm water runoff. On rainy days, raw sewage pours into our local waterways. This is a danger to recreational users but also to our subsistent fishermen. Finally, commercial establishments notoriously discharge illegal and toxic materials into our sewer systems; such discharges include substances ranging from cooking grease, automotive maintenance chemicals such as anti-freeze, TCE, and others. We would like to see the agency take a more active role in ensuring businesses and municipal agencies responsible for maintaining water quality comply with relevant rules and regulation.

Please contact me with questions and comments.

Anhthu Hoang
General Counsel
347-465-8495
anhthu@weact.org

Submitted by :

Barbara Harper, Confederate Tribes Umatilla Indian Reservation, Pendleton, Oregon

(not in attendance, but requested that statement be read into the record)

I will NOT be in attendance, but I would like to submit the following written statement to be read into the public record:

EJ analysis methods have never been suitable for Native American tribes, particularly in the western U.S.

There is an EJ problem in Indian Country. For example, off-reservation impacts in areas where Tribes retain rights to access and use, or in their usual and accustomed areas, may be significant, but this is frequently unrecognized and/or improperly quantified.

The Confederated Tribes of the Umatilla Indian Reservation have described a method for evaluating and quantifying disproportionate impacts under NEPA or as a stand-alone study.

The first step is to identify whose rights and resources are at the greatest risk and are most affected, rather than the conventional demographic approach. Then, we describe the eco-cultural system that pertains to the tribe and its resource interests, and describe the features, attributes, goods, and services provided by the baseline conditions of the area and its resources. Then, we have specific measures to evaluate interruptions in service flow and risks to traditional lifeways over multiple generations. Finally, we look at cumulative impacts to eco-cultural well-being, and to the subsistence eco-social and economic systems that are crucial for tribal health and well-being.

This is very different from the conventional demographics and public socio-economic evaluations that are usually done under NEPA. We hope that EPA will talk directly to tribes and their technical staff and build on methods that tribes have developed. Thank you.

Submitted by:
Joan Vanhala, Coalition Organizer
Alliance for Metropolitan Stability
2525 E. Franklin Ave.
MPLS, MN 55406
612-332-4471
joan@metrostability.org

Thank you for the opportunity to have input into the EPA National Enforcement Priorities for 2011 – 2013. I am basing my comments on the experience of working with the Stops for Us coalition in St. Paul, Minnesota within the time period of 2008 -2009.

The Alliance for Metropolitan Stability is a broad coalition of 26 faith-based, social justice and environmental [organizations](#) advocating for public policies that promote equity in land use and urban development.

The Alliance for Metropolitan Stability is a member of the Stops for Us coalition which represents a total of 67 constituency-based and/or citizen participation organizations. This coalition's specific focus is to ensure that three additional Central Corridor Light Rail Transit Project stations are built to provide transit access to the environmental justice (EJ) communities along East University Avenue, St. Paul, Minnesota. This campaign is part of a larger equity strategy in response to the future development of this major transportation infrastructure investment.

Description of concerns:

1. Long-standing research documents how poor and minority communities are adversely affected by local and regional investment and planning decisions regarding transit.

We note that “long-standing research documents how poor and minority communities are adversely affected by local and regional investment and planning decisions regarding transit. Spatial and transportation inequalities are often contributing factors to persistent poverty and unemployment for low-income and minority neighborhoods.” (Equity Impact Report, David Karjanen 2007). In the specific case of the Central Corridor LRT, the local MPO planned to increase the station distance from one half mile to one mile apart within EJ communities despite the fact that these communities were also some of the most densely populated along the line. As a result the EJ communities would not only suffer from reduced transit access but would also host the four year construction phase, a future barrier to community cohesion, and the likely outcome of the gentrification of their community.

2. Inadequate data collection on environmental justice communities:

In the case of the EJ communities on the Central Corridor LRT, the MPO demographic analysis underestimated the negative impact the line will have on the minority, poor, and transit-dependent populations that live along the corridor. The MPO used data at the more aggregated block group level so that they label uninhabited blocks containing industrial areas, office buildings, the University of Minnesota, retail shopping areas, and parks as predominantly non-minority areas and or low income areas. The MPO also calculated the poverty rate using income comparisons from a very large seven county metro area delineating the entire corridor as low income. Using MPO analysis, every block in the study area was considered predominantly low income. When individual block data is available, this analysis gave the appearance of deliberately reducing the appearance of the concentration of both poverty and minority populations.

3. Lack of full and fair participation of environmental justice communities:

The MPO for the Central Corridor LRT provided many opportunities for community involvement throughout the planning process. Although resources were dedicated to community involvement, this involvement has lacked full and fair influence in the Central Corridor planning process. As was commented by Anne White, District Councils Collaborative Co-Chair and Community Advisory Committee (CAC) member in her testimony on the SDEIS, “there are several aspects of the current Public Engagement Process that we find lacking.” To illustrate this issue, she points out that the CAC has not been allowed to forward recommendations in the form of motions to the Central Corridor Management Committee, communication between CAC members has been discouraged, and there has been overall lack of responsiveness and transparency on the part of MPO’s Central Corridor staff towards specific details and concerns of the CAC. The issues and concerns of the environmental justice community were raised many times at the CAC but were never addressed or included into the project plan. It has only been through community organizing and advocacy with public officials that these issues have been given some measure of redress.

4. Inadequate mitigation measures:

We think it is also important to note the disparate contrast between the dedicated staff resources of the MPO and the formation of the Northern Alignment Steering committee¹ spent on resolving the complex issues with University of Minnesota alignment versus the lack of staff resources dedicated to resolving the complex issues of environmental justice communities along east University Avenue. The Northern Alignment Steering committee created an analysis of the alternative route of the Northern Alignment and traffic mitigation studies that included: four traffic studies, analysis of electromagnetic impacts, design criteria and an environmental analysis. Although this alignment was not selected this specific public resource investment resulted in a \$30 million mitigation package for the University of Minnesota and its surrounding area.

Due to the hard work and diligence of the Stops for Us coalition the below ground infrastructure for the three additional stations for the environmental justice community were included in the Central Corridor LRT project plan. Yet the other outstanding mitigation issues of reduction of bus service, loss of on street parking, adverse construction impacts on small businesses, over concentration of power traction stations, DBE contracting and workforce, and increasing land values have yet to be addressed in a comprehensive manner by the MPO or local governments.

We appreciate that the environmental justice communities’ concerns were noted in the EPA comments to the Central Corridor LRT FEIS stating “We recommend that the ROD include specific plans for parking loss mitigation, completion of the three proposed additional stations, and continued discussions with the Rondo² community about cumulative impacts regarding community cohesion and function.” Kenneth Westlake NEPA Supervisor, Office of Enforcement and Compliance Assurance, July 27, 2009.

Yet in the Record of Decision issued by the Federal Transit Administration it is stated “Therefore, FTA finds that the additional analysis required by the Department of Transportation Order to Address Environmental Justice in Minority Populations and Low Income Populations, 62 Fed. Reg. 18,377, 18,380 (Apr. 15, 1997) is not required because the Project does not and will not have a disproportionately high and adverse effect on minority or low-income populations.”

Recommendations or desired outcomes:

¹ Comprised of technical representatives from University of Minnesota, Metropolitan Council, Hennepin County Regional Rail Authority, Ramsey County Regional Rail Authority, Minnesota Department of Transportation, City of Minneapolis, and City of St. Paul

² The historic African American Rondo community was displaced by the construction of I94 in 1960. I94 was constructed through the heart of a vibrant business district and economic engine.

1. Recognition of major federal transportation funded projects as a powerful investment that can cause great harm or provide great opportunity to environmental justice communities requiring increased delineation of socio-economic impacts and mitigation measures.
2. Require accurate and specific population data analysis at the census block level and income comparisons within a practical regional level.
3. Increase the influence of Community Advisory Committees for transportation projects within the local MPOs to include the power to pass resolutions and recommendations.
4. Provide local resources to assist with data collection, federal regulations, and targeted studies capacity within state human rights agency's to environmental justice communities.
5. Increase the effectiveness of the Environmental Protection Agency in relation to the Federal Transit Administration to enforce mitigation measures related to environmental justice communities.

Submitted by:
Marsha Monestersky
FORGOTTEN PEOPLE
Rob Redsteer, Executive Director
Don Yellowman, President
P.O. Box 1661
Tuba City (Navajo Nation), AZ 86045
(928) 401-1777
forgottenpeoplecdc@gmail.com

On the Navajo Nation, about 75% of the Navajo people continue to haul water from unregulated sources. Of those sources, about 10% exceed the maximum contaminant levels in groundwater for heavy metals, including uranium. More than 30% of Navajos do not have access to regulated water. That number compares to 12% of all tribal populations across the US and 0.6% of the US population as a whole.

In light of these statistics, Forgotten People respectfully requests a discussion of enforcement mandates be conducted to ensure the provision of safe drinking water to close to 100 families in Black Falls/Box Springs/Grand Falls area in the western portion of the Navajo Nation that have been drinking uranium and arsenic contaminated water for 40-years. Two of these families are currently receiving bottled water from Superfund. This year-long provision of bottled water is scheduled to end.

Health Impact of Issue

Water hauling increases health risks. While safe supplies are available in the region, families are often accessing water from unregulated sources despite of warnings by health providers and environmental health staff.³ Up to 25 percent of the unregulated sources in the western Navajo reservation exceed drinking water standard for kidney toxicants including uranium.⁴ Livestock wells are sometimes used for drinking water despite contamination with livestock feces and urine as well as volatile chemicals.⁵

There is a clear connection between sanitation facilities (water & sewage) and Indian health. The Indian Health Service (IHS) considers the availability of essential sanitation facilities to be "critical to breaking the chain of waterborne communicable disease episodes". In addition, many other communicable diseases, including hepatitis A, shigella, and impetigo are associated with the limited hand washing and bathing practices often found in households lacking adequate water supplies. This is particularly true for families that haul water. The Indian Health Service reports that American Indian families living in homes with satisfactory environmental conditions required about one-fourth the medical services as those with unsatisfactory environmental conditions.⁶

The systems used to transport and store the water often introduce high levels of bacteriological contaminants. Dependence of water hauling for access to drinking water can be life threatening for the elderly.⁷

³ "Addressing Uranium Contamination in the Navajo Nation", US EPA, Region 9, <http://epa.gov/region09/waste/sfund/navajo-nation/contaminated-water.html>

⁴ Statement by Robert G. McSwain, Deputy Director, US Department of Health and Human Services, on The Health and Environmental Impact of Uranium Mining on the Navajo Nation before House Committee on Government Oversight and Reform United States House of Representatives, Tuesday, October 23, 2007 <http://www.hhs.gov/asl/testify/2007/10/t20071023c.html>

⁵ "Concerns About Livestock Wells". Navajo Nation EPA, <http://navajopublicwater.org/Livestock.html>

⁶ Merchant, James, "Social Impacts from the Navajo-Gallup Water Supply Project", Dornbusch Associates, Berkeley, CA, April 11, 2006

⁷ "Navajo Nation Endures Water Crisis", The Arizona Republic, posted on Arizona Small Utilities Association site, http://www.asua.org/navajo_nation.htm

Water hauling also serves to trap residents in a circle of poverty. The cost to haul water on the reservation has been estimated at \$113 per 1,000 gallons, whereas a Phoenix homeowner pays less than 70 cents for the same amount.⁸ The constant struggle to meet the most basic human need diverts the human resources needed to overcome poverty in communities where most people live below the poverty line.

Forgotten People requests a study be done of adverse health effects such as kidney disease, cancer, leukemia, liver disease, Heart disease, autoimmune disease, DNA, birth defects, diabetes and hypertension for people that live near abandoned uranium mines, have been drinking uranium and arsenic contaminated water for 40 years, live in a house that was built with contaminated material, their children play on waste piles, they drink contaminated water, from unregulated wells and eat livestock that drink contaminated water and graze on contaminated vegetation and suggested remedies.

According to a Study done by Johnnye Lewis, Ph.D., principal investigator for the DiNEH Network for Environmental Health Project and director of the Community Health Program at UNM Health Sciences Center at a briefing before the joint state Indian Affairs/Radiation and hazardous Materials Committee, residents living close to uranium mines, especially large mines are more likely to have kidney disease, hypertension, diabetes and autoimmune disease.

Also, prevalent on the Navajo Nation is Cancer, Heart disease and Neuropathy, a rare genetic disease believed to be caused by exposure to uranium from waters contaminated by old mines. Symptoms include difficulty walking, muscle weakness, loss of sensation in extremities, corneal ulcerations, and severe liver disease

Disproportionate Impact of Environmental Harm

In the United States, a Native American is 25 times more likely to depend on water hauling than the general population. On the Navajo Reservation, this increases to 66 times, and is over 100 times in the Bennett Freeze communities⁹. The negative health consequences of 50 years of uranium legacy issues on the Navajo Nation and economic consequences of this method of providing access to water are disproportionately borne by one of most disadvantaged minorities in the Nation.

In addition to uranium mines and naturally occurring uranium, between 1951 and 1958 the wind was blowing radioactive fallout from Nevada Test Site over Coconino County. A number of residents qualify for RECA compensation as “downwinders.” For some people this has resulted in thyroid cancer. For others, their thyroid has just stopped functioning. If it progresses to cancer, then they will qualify for \$50,000, but no medical coverage.

The core concern leading to Executive Order 12898 was that minority populations were bearing a disproportionate burden of negative environmental impacts. Addressing this injustice will require proactive efforts to extend the focus of the EPA to include the entire network of supply, distribution, and storage upon which this population relies for its drinking water. The responsibility of the EPA does not stop at the wellheads of regulated sources, but rather must also include the access to safe drinking water actually delivered to these citizens.

Results to be achieved and how the communities will benefit:

The health issues in the communities Forgotten People serves are suffering from a lack of access to safe drinking water and sanitation. Our goal is to eliminate these impacts by providing safe access to drinking water sanitation for all families in our communities.

Our organization can play a vital role in this process in many ways:

- Providing community involvement in the implementation of the solution. We can provide the outreach and education that will be necessary to make any solution work effectively.

⁸ "Navajo Nation discusses water issues in Las Vegas", Gallup Independent, Dine' Bureau, May 12, 2007

⁹ Bitsuie, *ob. cit.*

- Providing energy and initiative. When the people in a community are fully engaged in the process, it provides a dynamic motivation to all agencies to get the job done.

The long-term goal is to provide safe access to drinking water for the families in these communities. The immediate purpose is not to collect data, but rather to identify practical and effective solutions for the problems confronting families lacking access to piped water. The data from the assessment phase will be useful in identifying and quantifying problems, and all stakeholders will then work together to transform this information into an effective action plan so that safe access to drinking water can be achieved.

Relevant environmental statutes:

Providing access to safe drinking water is mandated under international law and the US has recognized that solving this problem in Indian country is central to its fulfillment of these obligations. At the UN World Summit on Sustainable Development in Johannesburg, 2004, the EPA signed the agreement and set as its targets the reduction of American Indian and Native Alaskan households without access by 50% by 2015.¹⁰

The US was also a signatory to the UN Millennium goals, which also required cutting the number of people without access to safe drinking water by half by 2015.¹¹

The EPA has made the provision of safe drinking water one of the three priorities for Indian Country for 2008-2010.¹² It has enacted innovative new programs to assist in this effort such as Region 9's Drinking Water Capacity Clearinghouse.¹³ The Safe Drinking Water Act gives the EPA the authority to protect the public from chemical, physical, radiological, and microbiological contaminants in their drinking water.¹⁴ The EPA has set Tribal- Microbial Rules as a Compliance and Enforcement National Priority.¹⁵

The primary goal of the EPA tribal strategy is to significantly improve human health and the environment in Indian Country through building tribal capacity and direct implementation. The provision of safe drinking water is one of the three priorities outlined by the EPA Office of Enforcement and Compliance Assurance (OECA) for FY2008 - 2010.

Environmental justice is also a key goal for the EPA, which has recently been directed to conduct the first round of EJ reviews in FY 2009.¹⁶ The national drinking water safety program was explicitly directed to identify and improve EJ issues.¹⁷ Safe drinking water is an essential part of OECA's commitment to transparent, measurable, and accountable environmental justice in its Strategic Plan for 2006-2011.¹⁸

The EPA has also been mandated to support joint EJ efforts between EPA, academic institutes, and non-governmental groups with a shared research agenda.¹⁹ The Black Falls/Box Springs/Grand Falls safe

¹⁰ <http://webapps01.un.org/dsd/partnerships/public/partnerships/1336.html>

¹¹ <http://www.un.org/millenniumgoals/>

¹² *Data Planning and Results, Enforcement and Compliance Assurance Priority: Indian Country*
<http://epa.gov/compliance/data/planning/priorities/tribal.html>

¹³ EPA Tribal Drinking Water Program, Region 9, US EPA, Tribal Water Protection.
<http://www.epa.gov/region09/water/tribal/tribal-sdwa.html>

¹⁴ Drinking Water Management, Tribal Compliance Assistance Center, EPA Drinking Water Management.
<http://www.epa.gov/tribalcompliance/drinkwater/dwdrindrill.html>

¹⁵ Enforcement and Compliance Assurance Priority: Indian Country Data Planning and Results
<http://epa.gov/compliance/data/planning/priorities/tribal.html>

¹⁶ Johnson, Stephen, "Strengthening EPA's Environmental Justice Program", USEPA, <http://www.epa.gov>

¹⁷ Grumbles, Benjamin, "Clean and Safe Water, 2006-2011 EPA Strategic Plan- Charting Our Course", Office of Water, USEPA, 2006.

¹⁸ Nakayama, Granta, statement before the Committee on Environment and Public Works Subcommittee on Superfund and Environmental Health, United States Senate, July 25, 2007

¹⁹ Office of Environmental Justice 1996 Environmental Justice Implementation Plan, Enforcement and Compliance Assurance (2201A) EPA/300-R-004 April, 1996, p. 12

drinking water project exemplifies how this type of partnership can deliver vital services and enable the EPA to fulfill its mandates and incorporate these priorities into their Five-Year Plan to address uranium contamination and abandoned mine lands on the Navajo Nation.

Respectfully submitted,
Marsha Monestersky
Program Manager
Forgotten People
P.O. Box 1661
Tuba City, Navajo Nation, AZ 86045
Phone: (928) 401-1777
E-mail: forgottenpeoplecdc@gmail.com

Submitted by:
Michael Jacoby
Citizen from EPA Region III State of Pennsylvania
jm@yorkinternet.net

Public Comment Topic: The proposed correction to the National Data Verification problem as it pertains to inaccurate, incomplete or misleading data within the EPA database system in my opinion should now be moved to the top of the NEJAC's National Enforcement Priority list.

My public comments today are a continuation of my public comments made on July 21, 2009 along with some updated awareness information that was work in progress.

These problems have since received a lot of attention and now as an end resolve of what happened this summer throughout our nation an opportunity to quickly solve this problem now exists.

Again without question our nation is at risk from within, because... the status quo cannot continue as politicians continue their rhetoric between the Administration and Capitol Hill tearing our nation apart while failing to address the obvious which affects ALL... demographics.

To the best of my knowledge nobody has yet come publicly forward from the Energy and Commerce Committee who was responsible for oversight over the EPA to explain why they did not address these underlying issues in the past which are now becoming evident during HealthCare and other discussions that the information being supplied to the public was... and some is still... inaccurate, incomplete and misleading.

Since July's meeting I hope that the NEJAC and others were able to take some time to look into the EPA database to confirm the massive scope of this problem.

Sadly to say it now appears that we might just need some oversight, over... our OVERSIGHT COMMITTEES.

As the NEJAC may have already concluded by now, the public is presently caught in a dilemma. Who can they trust to solve this problem?

Again as I pointed out in July's NEJAC meeting a change was made to the EPA database just prior to your annual meeting. Again sadly to say upon quick review it is apparent to me that somebody forgot to do their math!

With these new changes the EPA just made it more difficult for the public who are less fortunate to quickly find the vital information that they will need to protect their family and loved ones in times of crisis.

Simply put they forgot the same thing that Capital Hill did and for those in the NEJAC who have tried for years to protect your local communities this... should outrage you!

The only thing I can say at this point in time is that this database speaks for itself!

Ladies and gentlemen the public by simply reviewing the EPA database records are discovering that this goes to the heart of some of our national Health and Public Safety problems.

Updates: In August during a five state "public" executive meeting that was held in Newark, Delaware this EPA data problem was brought to their Executive Committees attention and this time it was by another well respected individual who looked at the EPA database information for his local area and quickly realized that we have a very... big problem looming out there!

Later on September 1, 2009 I received a response to a request that I made earlier to an individual who presently holds a position that falls under the umbrella of the Department of Homeland Security and asked if they would take a good look at some information that was recently published.

Those involved in the review of this information were from the National Fire Programs Division, National Fire Data Center that falls within the United States Fire Administration and after a thorough review and discussion by staff they concluded that this issue... is an Environmental Protection Agency function.

I am bringing this to the NEJAC's attention just to tell you that this Federal Administration has already confirmed that this function falls within the EPA's domain.

As the nation slowly wakes up to this national problem a woman with her young daughter recently stopped me after a public gathering where HealthCare issues were on the minds of many and she looked directly at me and said "the TRUST is GONE" which should explain to many why the nation is so upset!

When Lisa Jackson personally told me that we need... the information, my response would be to her if... she is listening today, then... let's make sure that the EPA information is accurate, updated and not misleading!

Unless I'm mistaken which the NEJAC can confirm doesn't the EPA database fall with in her domain?

My question to the NEJAC committee today is... now that the challenge has been made by certain members of Congress who believe that the public outrage that some are seeing is racially motivated should the media as suggested be contacted so that they can start their investigation to see if racism is a factor?

As I mentioned, the greatest fear voiced by others in the past was that our electronic gateway to public health and safety information to protect our communities "EGATE" would be turned into a political issue.

Over the summer did this just happen in front of everybody's eyes?

In my opinion: If our President really wants to implement an unprecedented amount of transparency and accountability as he promised our nation many times, this would be a perfect time and place for him to start addressing this Federal Informational Data system deficiency.

Again... thank you for giving me the opportunity to bring this updated information to your attention and please consider my request to move this Data Verification problem to [the top](#) of NEJAC's National Enforcement Priority list.

Sincerely,

Michael Jacoby

Submitted by:
Min. Robert L. Campbell and David Caldwell
Rogers-Eubanks Neighborhood Association (RENA)

Representatives of the Rogers-Eubanks Neighborhood Association (RENA) in Orange County, NC would like to participate in the EPA's National Environmental Justice Advisory Council (NEJAC) public teleconference call on Thursday, September 24, 2009 from 1:00 to 4:00 pm Eastern Time. However, if it is not possible for a member of RENA to take part on the call, RENA requests that the following written public comments be submitted to NEJAC as a part of this public participation process:

Address/Telephone/E-mail: P.O. Box 16901, Chapel Hill, NC 27516-6901; Phone (Min. Robert L. Campbell): (919) 933-6210; Phone: (919) 967-4442 (David Caldwell); Email (Min. Robert L. Campbell): rplcampbell@gmail.com Email (David Caldwell): davcald778@aol.com

Description of Concern and its Relationship to a Specific Environmental Justice Policy Issue(s): Lack of basic amenities

Low-income, communities of-color straddling rural-urban unincorporated boundaries of municipalities across the United States often fall within extraterritorial jurisdiction (ETJ), joint-planning agreement (JPA), and/or industrial zoning designations that tend to concentrate locally unwanted land uses (LULUs) and psychosocial stressors, and limit access to health-promoting infrastructure¹⁻⁴. Residents of these communities are often disproportionately and adversely burdened by co-occurring environmental justice (EJ) issues such as landfills, wastewater treatment plants, Superfund sites, brownfields, toxic release inventory (TRI) facilities, hazardous waste sites, heavily trafficked highways, and concentrated animal feeding operations (CAFOs)^{1,4-13}.

Residents of these communities tend to rely on a complex mixture of unregulated private wells and septic systems and inadequate public drinking water and sewer services^{5-7,10-12}. Recently, national media attention focused on this issue during the case of Jerry R. Kennedy, et al. v. City of Zanesville, Ohio^{14,15}. Residents of Coal Run, OH, a predominately black community built on top of abandoned coal mines located just outside the Zanesville incorporated city limit, were awarded a settlement of nearly \$11 million (USD) after repeated requests for public water service were denied by local officials for more than five decades^{14,15}.

Because there is often a complex mixture of private and regulated public drinking water services in these marginalized communities, the benefits of routine federal monitoring of community water systems (CWSs) and required public notification and reporting under the Safe Drinking Water Act (SDWA) amendments of 1996 are not shared by all^{16,17}. State and local regulations of private wells and septic systems, where they exist, typically require a minimum amount of testing and monitoring (usually once at the time of construction and installation). Given the limited extent of testing and monitoring performed on drinking water and sewer services in these low-income communities of color, knowledge of the magnitude of water quality problems and public drinking water and sewer service disparities is limited. Recent research by Uhlmann et. al., (2009) examined differences in risks of sporadic enteric disease by drinking water source (groundwater vs. surface water) and type (regulated, public vs. private)¹⁸. The authors' findings of an increased risk of enteric disease among individuals living on land parcels serviced by private wells underscore the importance of improving our knowledge of the vulnerability of drinking water and sewer services in such marginalized EJ communities straddling rural-urban boundaries¹⁸.

Community-based participatory research (CBPR) has advanced popular movements for environmental justice (EJ)^{13,19-28}. The denial of basic amenities, which include regulated public drinking water service (RPDWS), regulated public sewer service (RPSS), storm water drainage, paved roads, sidewalks, community lighting, curbside solid waste collection, access to public transit service, and emergency

medical, fire, and police protection services, is being identified by community-based organizations (CBOs) in areas of North Carolina, the South, and the country as an emerging EJ issue^{9,11,29,30}.

The denial of basic amenities can be tied to historical and ongoing institutional racism^{3,9,11,14,15} and CBOs face singular challenges for data collection to encourage remedies of these issues. Residents facing this EJ issue often harbor deeply rooted mistrust of elected officials, state environmental protection agencies, local health departments, and academic researchers investigating household drinking water and sewer infrastructure problems⁹. Residents often fear condemnation of property if violations are discovered, presenting barriers to data collection to document the existence of drinking water and sewer service disparities in these marginalized and underserved communities⁹. Community-based participatory research (CBPR) has advanced popular movements for environmental justice (EJ)^{13,19-28}.

A novel community-driven research approach, that builds on the principles of CBPR stresses a community-facilitated strategy whereby the CBO maintains ownership and management at each stage of the research process, promoting CBOs with demonstrated organizational capacity to the role of principal investigator and project manager^{9,29}. Principles of community-owned and -managed research (COMR), have been described in the scientific literature^{9,29}, and go beyond traditional CBPR and other forms of university-managed communities research by emphasizing the credibility and capacity of CBOs to maintain ownership while facilitating solutions to EJ problems in a manner that preserves community trust.

This community-facilitated COMR approach was developed by the West End Revitalization Association (WERA) through its organizing efforts to preserve three low-income, African-American communities in Mebane, North Carolina, a semi-urban town of 7,284 people. WERA is now reaching out to other CBOs across NC and the United States to attempt to replicate its success using this approach. WERA's community-facilitated COMR strategy is being replicated by residents of the predominantly African-American and low-income Rogers Road/Eubanks Road communities in Orange County, North Carolina.

In 1972 when the Chapel Hill purchased 80 acres of land to site a regional landfill on Eubanks Road the surrounding area was a thriving African-American community. Politicians coaxed neighbors to accept a landfill for 10 yrs., promising no future expansion of solid waste facilities and a park and basic amenities (e.g., public regulated drinking water and sewer, garbage collection, bus service; paved roads; sidewalks; street lights). That was 37 years ago. Today, predominantly low-income and African-American, this community remains socially cohesive and culturally rich, but remains plagued by environmental hazards and threats to health and quality of life from the landfill. In 2007, residents organized, forming RENA (a 501(c)(3)) with goals of reversing decisions on expansion of solid waste operations and facilities (including but not limited to a solid waste transfer station), obtaining promised improvements (basic amenities), and protecting residents' health. RENA has begun to achieve these goals by following community-facilitated strategies to educate low-income, of-color residents, the general public, media, and politicians about on-going problems in their community. To better inform educational outreach, RENA initiated research on its own, canvassing homes and collecting air and water quality public records. In 2007, RENA identified research partners that it trusted at local universities and began to collect data to document a lack of compliance with existing environmental and public health standards and emissions from the landfill.

RENA also worked with WERA and legal partners at local universities to file an administrative complaint under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. and Executive Order 12898 of 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) (DOJ#273121, HUD Case #05-08-0589-8). In its complaint RENA sought solutions to address the following EJ-related issues experienced by Rogers Road/Eubanks Road community members; including, but not limited to:

- 1) The disproportionate and adverse impact of the siting and operation of the Orange County, NC landfill (Orange County Landfill) on Rogers Road/Eubanks Road community;

2) The disproportionate and adverse impact of the future plans to site a regional solid waste transfer station in the Rogers Road/Eubanks Road community going against public comments of opposition expressed by Rogers Road/Eubanks Road community members through their public participation, and input during the County's siting process;

3) Rogers Road/Eubanks Road community members' concerns about the lack of compliance with existing environmental and public health standards in their community; including, but not limited to:

- a) Safe Drinking Water Act,
- b) Clean Water Act,
- c) Clean Air Act,
- d) Solid Waste Disposal Act,
- e) Toxic Substances Control Act

4) Rogers Road/Eubanks Road community members' concerns about the public health risks and health related quality of life effects [including, but not limited to: increased vehicular and truck traffic, foul smell and malodor, surface and groundwater contamination, animal vector carcasses and waste (e.g., feral cats and dogs, rats, and swarms of buzzards)] as a result of the siting, operation, and daily activities of the Orange County, NC landfill and future siting, operation, and daily activities of a potential Orange County, NC regional solid waste transfer station;

5) The disproportionate and adverse impact of contamination of groundwater, household well water supplies, and air on Rogers Road/Eubanks Road community members due to the siting and operation of the Orange County, NC solid waste landfill (which is located in the Rogers Road/Eubanks Road community) and the future siting, operation, and daily activities of the proposed Orange County, NC regional solid waste transfer station in the Rogers Road/Eubanks Road community;

6) The disproportionate and adverse impact of a lack of basic amenities in the Rogers Road/Eubanks Road communities; including, but not limited to the lack of:

- a. public, regulated drinking water service,
- b. public, regulated sewer service,
- c. paved roads and streets,
- d. safe traffic flow (e.g. traffic ingress/egress)
- e. stormwater drains,
- f. street curbs and gutters,
- g. street lights,
- h. sidewalks,
- i. covered bus-stops,
- j. public transit bus service and routes at times that would support transportation to and from extended hours and night-shift occupations (regular bus service),
- k. adequate law enforcement to enforce traffic laws,
- l. fire and emergency services,
- m. voting rights to choose representation of officials responsible for decision-making in complainant's communities.

7) The disproportionate and adverse impact of zoning, services planning, and development activities performed by the Town of Chapel Hill, NC, the Town of Carrboro, NC, the Town of Hillsborough, NC, Orange County, NC, the Orange Water and Sewer Authority, and the North Carolina Department of Environment and Natural Resources related to the siting and operation the Orange County, NC solid waste landfill and future plans to site and operate the Orange County, NC regional solid waste transfer station in the complainant's community.

8) The just compensation for the residents of the Rogers Road/Eubanks Road communities for the disproportionate and adverse impact of the Orange County landfill and stopping of expansion of future solid waste landfill operations in their community; including, but not limited to the siting of a regional solid waste transfer station in the Rogers Road/Eubanks Road communities.

RENA's recommendations and desired outcomes from EPA's NEJAC in setting national enforcement priorities:

The EPA's National Environmental Justice Advisory Council (NEJAC) should consider the experiences of CBOs like WERA and RENA when setting its national priorities for enforcement to bring EJ to low-income communities of color lacking basic amenities. NEJAC should prioritize community-facilitated strategies and community-owned and managed research (COMR) that increase funding of 501(c)(3) CBOs directly. The communities that have been burdened by negative land uses and live daily with EJ problems should have an equitable share in the process to obtain long-term solutions. In setting national enforcement priorities NEJAC should consider the following:

1) Increasing federal and EPA regional funding programs like the EPA Collaborative Problem Solving Partnership and EJ small grants program to fund 501(c)(3) community-based organizations to collect community-facilitated data supporting a demonstration of the non-compliance with existing environmental and public health laws in low-income and minority environmental justice (EJ) communities. Many local, state, and federal census, surveillance, and environmental monitoring databases lack accurate and complete information on non-compliance in low-income and minority communities that have fallen through the cracks of local, state, and federal monitoring and reporting systems and programs;

2) Prioritizing the lack of basic amenities as a top national EJ issue and initiating a comprehensive review of federal, regional, state, and local zoning and planning practices that lead to the clustering of locally unwanted land uses and denial of safe drinking water and sewer and other services in low-income minority communities;

3) Providing more administrative, procedural, and legal support to environmental justice CBOs that have followed the federal Department of Justice (DOJ) administrative complaint process to obtain remedies under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. and Executive Order 12898 of 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) to address the discriminatory activities of the local town governments (e.g., Rogers Road/Eubanks Road community members' DOJ complaint on actions by the Town of Chapel Hill, NC, Town of Carrboro, NC, Town of Hillsborough, NC, Orange County, NC, and the Orange Water and Sewer Authority, and the North Carolina Department of Environment and Natural Resources);

4) Developing "how-to" training materials that will provide step-by-step instructions and real-life (or case study) examples to fledgling environmental justice CBOs on how to file a Title VI complaint and collect "ground-truthing" data on environmental conditions in their communities to document non-compliance with and non-enforcement of the following environmental laws in low-income minority communities:

- a) Safe Drinking Water Act,
- b) Clean Water Act,
- c) Clean Air Act,
- d) Solid Waste Disposal Act,
- e) Toxic Substances Control Act;

5) Developing a capacity-development grants program that funds positions for Community Research Associates (CRAs) so impacted community residents with skills and the historical context of local EJ problems can work and staff environmental justice CBOs with 501(c)(3) status. This will further support CBOs capacity to collect data with identified and trusted research partners (e.g., scientists, engineers,

attorneys, planners, public health professionals) that can lead to more information about compliance with and enforcement of the following environmental laws in low-income minority communities:

- a) Safe Drinking Water Act,
- b) Clean Water Act,
- c) Clean Air Act,
- d) Solid Waste Disposal Act,
- e) Toxic Substances Control Act

Specific to the historical EJ movement of RENA and Rogers Road/Eubanks Road community members in Orange County, NC

The NEJAC should support federal and regional EPA staff (including staff within the federal Office of Compliance and Enforcement and Region IV Office of Compliance Assistance and Enforcement) involvement to work to resolve issues including, but not limited to:

1) Ensuring that the Town of Chapel Hill, NC, Town of Carrboro, NC, Town of Hillsborough, NC, Orange County, NC, and the Department of Environment and Natural Resources do not approve decisions to site, permit, or place future solid waste facilities (including but not limited to a solid waste transfer station) in the Rogers Road/Eubanks Road communities;

2) Encouraging the Town of Chapel Hill, NC, Town of Carrboro, NC, Town of Hillsborough, NC, Orange County, NC, the Department of Environment and Natural Resources to conduct a lawful and thorough site selection process for a site for any future solid waste transfer station that excludes the Rogers Road/Eubanks Road communities from their search process (in part because of the 37 years the community has been burdened with the County's solid waste disposal activities);

3) Encouraging the Towns of Chapel Hill, NC, Carrboro, NC, Town of Hillsborough, NC, Orange County, NC, the Department of Environment and Natural Resources and the NC Department of Commerce (Community Development Block Grants Program) to fund connection of Rogers Road/Eubanks Road community households to basic amenities; including, but not limited to:

- a. public, regulated drinking water service,
- b. public, regulated sewer service,
- c. paved roads and streets,
- d. improving safe traffic flow (e.g. reducing speed limits on community roads, traffic ingress/egress)
- e. stormwater drains,
- f. street curbs and gutters,
- g. street lights,
- h. sidewalks,
- i. covered bus-stops,
- j. public transit bus service and routes at times that would support transportation to and from extended hours and night-shift occupations (regular bus service),
- k. adequate law enforcement to enforce traffic laws,
- l. fire and emergency services,
- m. voting rights to choose representation of officials responsible for decision-making in complainant's communities.

3) Encouraging the Town of Chapel Hill, NC, Town of Carrboro, NC, Town of Hillsborough, NC, Orange County, NC, the Department of Environment and Natural Resources to begin the process of closing the Orange County, NC solid waste landfill and remediating the site and surrounding areas to address issues including, but not limited to groundwater contamination and malodor and air quality problems in the Rogers Road/Eubanks Road communities.

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