

**National
Environmental
Justice
Advisory
Council
Meeting**

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Baltimore, Maryland

Thursday, December 12, 2002

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NEJAC Members Present

Peggy Shepard, Chairwoman
Larry Charles
Veronica Eady
Judith Espinosa
Tom Goldtooth
Richard Gragg, III
Walter Handy, Jr.
Robert Harris
Lori Kaplan
Pamela Kingfisher
Rev. Adora Iris Lee
Harold Mitchell
Mary Nelson
Graciela Ramirez-Toro
Wilma Subra
Jana Walker
Kenneth Warren, Esquire
Terry Williams
Tseming Yang

EPA Representatives:

Barry Hill
Charles Lee, DFO

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Keynote: "----" indicates inaudible in the transcript.

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MORNING SESSION

(3:02 p.m.)

Preliminary Matters**by Peggy Shepard, Chairwoman**

MS. SHEPARD: Everyone take their seats, please, so we can begin.

(Pause)

MS. SHEPARD: All right. Good morning everyone. How are you feeling today? Tired. Well, welcome to the opening of our or executive session. We are going to begin today discussing some process issues, and I'm going to turn to Tseming Yang to begin that discussion.

MR. YANG: Thank you, Peggy.

MS. SHEPARD: And after that discussion, we will then be following the agenda as already outlined.

MOTION

MR. YANG: Thanks, Peggy. I, actually, have two motions that I would like to make that I hope will dispose of the Fish Consumption Report matter, as an administrative matter. The first part is a motion to correct an omission from the final report as it was transmitted to the administrator. And the second part is a motion to clarify terminology for the Fish Consumption Report, retrospectively as we've adopted it, as well as prospectively for purposes of the pollution prevention report and for future purposes.

Let me just go through it and if there is any discussion, obviously. The first part is the matter of the omission. As an administrative matter, I'd like to move on behalf of the NEJAC that two items that are missing from the final report as it is printed be corrected and added to the Fish Consumption Report. One item is the set of "proposed over arching recommendations," dated March 15, 2002, which were submitted to the NEJAC by the Fishing Consumption Workgroup, and that were approved by a vote of the Executive Council to be added to the final report as an appendix. That the oversight be corrected and that appendix be added to the final Fish Consumption Report.

And the second item that was inadvertently omitted is a cover page, a preface, which contains a quote by Daisy Carter made during the NEJAC's Seattle meeting in 2001. And just as a reminder to everybody, it's only a couple sentences. I'll read it. Her quote was:

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"Let everybody know this environment belongs to all of us. And when you contaminate the water and contaminate the fish, you are contaminating all of us. I tell you, I don't know if you know anything about Isaiah. Isaiah was a great profit, you know, and he said, 'I have played, I have taught, and I have preserved'" -- I'm sorry, I may be misreading something -- "and I wonder if anybody is listening -- so I want to know if anybody is listening. And if you are listening, I want to know what you are going to do about it." Remarks of Daisy Carter, Project Aware, member of the NEJAC Fish Consumption Workgroup, and its Air and Water Subcommittee, December 4, 2001, at the Seattle National Environmental Justice Council meeting.

And as an additional matter, it's not an omission, but an oversight. I would like to request also that as part of this correction, the work of the Fish Consumption Workgroup and also, especially, the work of Catherine O'Neil, Associate Professor of Law at Seattle University, be specifically acknowledged in some early part of the Fish Consumption Workgroup. Otherwise, those contributions aren't specifically acknowledged anywhere else in the report.

And I would like to ask that these changes be made as soon as possible, ideally, before the end of the year and that those changes to the report, and the entire report be retransmitted to the administrator and re-posted on the internet. And then, of course, all future publications be corrected in this fashion.

Could I just set out the second part of the motion as well?

MS. SHEPARD: Sure.

MR. YANG: That would clarify. And the second part of the motion serves to clarify terminology nomenclature about how the Executive Council ought to, or should try to, refer to various requests for actions by the agency. And, in particular, I think the issue has come up in the past in this Executive Council meeting, as to how those kinds of requests for action be termed with regard to, or how they should be termed, after action and approval by the full Executive Council versus those request for action that have been forwarded to the Executive Council by some other workgroup or subcommittee or else.

And the motion is, essentially, to term and to use the word "recommendation" for those requests for action that have been

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approved formally by the Executive Council and to term those requests for action "proposals" that have been forwarded to the Executive Council for action by either the workgroup or subcommittee, or some other kind of entity. But that, obviously, have not been approved by the full Executive Council. That is a two-part motion.

MS. SHEPARD: All right. Is there any discussion on the motion?

MR. YANG: I think I heard a second.

MS. SHEPARD: Larry.

MR. CHARLES: Yes. I would like to second the motion. And in doing so, just make a couple statements. Number one, a lot has been invested over the past year, especially, in helping to focus NEJAC on its true purpose, mission and work. And I think the activities of this particular NEJAC conference and the products that have been coming out of this conference is reflective of that good investment. And, I think, it's necessary by this motion to help take it another step forward, to help clarify and define role and terms.

The main part of this motion is to establish that the work of the council and the communications from the council to the administrator be defined precisely as recommendations. And that work and reports and outputs from the subcommittees be defined precisely as proposals to the council. And so that there would be no confusion that one of the subcommittees would be making recommendations which, as we understand, has a certain connotation and has a certain level of required response for EPA to track and report EPA's responses to the recommendations of NEJAC.

So we want to make it clear that the things that we want to bring forward to the administrator, or the recommendations of the council, not recommendation of the subcommittee, that those things will be processed by the council and then brought forward.

Secondly, the effect of this motion would be to apply these standards, not only from this point forward, but also to the most recent report we did, the Fish Consumption Report. That we find that there are some mixing of terms in the report declaring in the subcommittee components of the report, certain items are listed as recommendations. And so what we want to do is all those things that are listed in the appendix from the subcommittees be listed as proposals and those action items from the council going to the

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administrator be listed as recommendations. And that the things that we would track and hold and expect action and response from EPA on would be those recommendations from the council.

So, I think, it's an improvement in clarifying terms and process and that that's a good thing for us. And so to reform the Fish and Consumption Report to be consistent with those standards, I think would be a good thing for us and another step forward in improving how we communicate to the administrator. So I'm seconding the motion for that purpose, asking that those standards be applied to the Fish Consumption Report. And that as we finalize the Pollution Prevention Report, that we respect the same standards.

I know there are terms of proposals and all that inside the standards, but the final document that comes out in the P2 Report, you know, should also reflect that standard. So I think it's a good motion and it helps us move forward in clarifying and defining relationships in terms between EPA and the NEJAC in a positive way.

MS. SHEPARD: Okay, thank you. Point of clarification.

MR. HILL: Larry, thanks for that. I just want to make sure that I understand what is being said by the council. The 100 or so recommendations that were proposed by the Fish Consumption Workgroup will now be termed proposals?

MR. CARTER: Yes.

MR. HILL: Okay. No, I just ask that question because we have to be consistent with the law, the bylaws, and with the charter. If that's the case, then I don't see any problem with that being referred to as proposals.

MR. CARTER: All right. I guess you wouldn't have any problems in just doing what was asked by the motion. I think leaving out the preference was just accidental. You know, that's not a big thing. But just repackaging that report so, one, it wouldn't cause any confusion and then retransmitting it to the administrator, I think, would be a good thing. So, all right.

MS. SHEPARD: All right. The motion has been moved and seconded. Are we ready to vote? Everyone in favor, please raise your hand.

(Show of hands)

MR. LEE: I think Veronica had to say something.

MS. SHEPARD: Oh, sorry, Veronica?

MS. EADY: Should I do it before we --

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1 MS. SHEPARD: All right, go ahead.
 2 MS. EADY: I just want to say that I really appreciate the motion
 3 and I think that over the last year, and maybe even as far back as the
 4 facilitated dialogue, that NEJAC has made a lot of progress in how it
 5 does business. Bringing more definition and consistency to how we
 6 do business. You know, we did a wonderful job of putting forward our
 7 strategic plan. I think that this motion by Tseming is a step in the
 8 same direction. To bring definition and consistency to how we do
 9 business. And so what I would suggest is that we continue on this
 10 course. And I think that we need to, at some point, have discussion
 11 as a council about how we do things.
 12 Over the last year, you know, we've spent a lot of time talking
 13 about recommendations and proposals. And, I think, we learned a lot
 14 out of Fish Consumption and took those lessons and incorporated
 15 them into the P2 Report. But I would really just throw out there,
 16 encourage us as a council, to take a hard look at how we do business
 17 and come up with some clear protocol about how we do business.
 18 About how we reach consensus and what we mean about proposals
 19 and recommendations which, you know, obviously, we're taking care
 20 of right now.
 21 MS. SHEPARD: Yes, Wilma.
 22 MS. SUBRA: Just as an issue of clarification. The proposals
 23 will be in the appendix. The six recommendations in the body of the
 24 Fishing Consumption Report will be recommendations. We're all on
 25 the same page?
 26 MS. SHEPARD: Yes.
 27 MS. SUBRA: Thank you.
 28 MS. SHEPARD: Any other discussion?
 29 (No response)
 30 MS. SHEPARD: All right, everyone in favor of the motion,
 31 please raise their hand.
 32 (Show of hands)
 33 MS. SHEPARD: Opposed.
 34 (No response)
 35 MS. SHEPARD: And abstentions?
 36 MR. GOLDTOOTH: Not opposed.
 37 MS. SHEPARD: Okay.
 38 MR. WILLIAMS: I just wanted to make a comment here. And
 39 for some of you who don't know me, I'm Terry Williams from the

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1 Tulalip Tribe in Washington State. My Indian name is Satail.
 2 MR. CARTER: I am going to make a motion that we sit at the
 3 same place from beginning to end. Once they adjust the mics for
 4 you, we're having trouble trying to figure out what the mic numbers
 5 are.
 6 MR. WILLIAMS: Is this mic up now?
 7 MR. CARTER: I think so.
 8 MR. WILLIAMS: Okay. I was just going to say I haven't been
 9 able to meet all of you yet, but my name is Terry Williams. I am from
 10 the Tulalip Tribe. And my Indian name is Satail. And where we're
 11 from, we have a lot of concerns about fish consumption and the
 12 problems. But what I really wanted to say was a lot of the information,
 13 data, that made up the Fish Consumption Report is work that we did
 14 about a decade ago. And you are just getting to adopting it and
 15 getting recommendations out now. Things take a long time.
 16 And what I wanted to say about that is, in the last decade, we've
 17 learned a lot more and we've learned that there are a lot more
 18 problems out there in the waters than we knew a decade ago. And
 19 we're learning a lot more about the health problems, not just the
 20 things you already know about in cancer. But now we're learning
 21 about reproduction problems, not only in fish but in people, caused by
 22 a lot of the discharges.
 23 So, you know, I think even as you are wrestling over how you
 24 deal with this, just have an understanding in the background that this
 25 is old information and that we've got a lot of work to do yet in the
 26 future. Thank you.
 27 MS. SHEPARD: Thank you. We are now going to resume our
 28 agenda. Unfortunately, Hal Zanick, of the Office of Research and
 29 Development, is not able to be with us this morning, so you will find at
 30 your desk his report. And, perhaps, if there are any questions on that,
 31 after lunch we can take up any particular comments in that report.
 32 We are going to move on and ask Charles Lee to present the
 33 upcoming panel on the Region 6, Environmental Justice Listening
 34 Session.
 35 **Region 6 Environmental Justice Listening Session**
 36 MR. LEE: Good morning. While Richard is making his dramatic
 37 entrance. Richard, your sense of timing is just exquisite. Let me, first
 38 of all, ask the council members in your notebook for the meeting to
 39 turn to the pad that's entitled Regional EJ Listening Sessions. This is

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1 a session that gives from every single region in EPA, all 10 regions,
 2 their status report on the progress being made towards implementing
 3 recommendations around conducting EJ regional listening sessions.
 4 And we're going to hear from Larry Starfield and Richard Moore about
 5 their experience in planning and implementing the Environmental
 6 Justice Regional Listening Session in EPA's Region 6, which was held
 7 in Houston on November 14th through 16th of this year.
 8 Let me just say in terms of background and what we hope to get
 9 out of this discussion, and then turn it over to Richard and Larry,
 10 which is that in the briefing, the update, you will find that different
 11 regions are approaching their Regional EJ Listening Sessions
 12 differently. And, of course, that conforms to the different types of
 13 circumstances and strategies within each region towards not only
 14 environmental justice, but how environmental justice fits into the
 15 larger mission of each region.
 16 And there are, in fact, a few regions that have conducted
 17 regional listening sessions, but I don't think any of them have
 18 matched the kind of intensity and effort that EPA's Region 6 has
 19 devoted to its session in November in Houston. And because of that,
 20 we thought it would be really great to have Larry, who is the Deputy
 21 Regional Administrator in Region 6, and we're really fortunate that
 22 Larry took time out and stayed an extra day to have this conversation
 23 with you -- and Richard Moore -- to converse with you.
 24 And because of the kind of effort that's put into it, there are just
 25 an incredible array of lessons that can be learned. And they are
 26 learning from having undergone this effort. I guess the other person
 27 who we should recognize is Sunita -- I'm not going to get your last
 28 name right, Sunita -- who is the team leader for the Environmental
 29 Justice Team in EPA's Region 6.
 30 Larry and Richard.
 31 **Presentation**
 32 **by Richard Moore**
 33 MR. MOORE: We wanted to begin this morning by wishing
 34 everyone a good morning and by thanking the council for allowing us
 35 the opportunity to share with you some of our experiences. And it's
 36 just been a couple weeks ago, so I mean it's not -- we need to
 37 understand that in terms of the listening session, that we're speaking
 38 about that this has been kind of a very recent venture and it's only
 39 been over the last several weeks.

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1 One, I would like to begin by just affording us the opportunity to
 2 understand some of our experience in terms of involvement over the
 3 last several years with Region 6. And I think that's very important to
 4 note some of these moments in history, because from our opinion, as
 5 you'll see with Larry's and my presentation, that we think in the region
 6 that we've come a long way. Although, sometimes that path to a long
 7 way lead us through some interesting moments. And so I think some
 8 of those just need to be kind of from a historical perspective be
 9 referred to.
 10 One, you know that I've testified here at the NEJAC throughout
 11 the years. Particular concerns that grassroots organizations have
 12 had in the past regarding our involvement, or communications, or lack
 13 of communications, with the region, not only during public comment,
 14 but also during varying presentations that we've conducted here at
 15 the NEJAC Council. Quickly, one, this relationship going back to the
 16 1990s, at least from our experiences, was not so positive. And that's
 17 very clearly to be noted.
 18 Now, I wouldn't say, actually, that that positiveness only lead
 19 itself to Dallas, Texas, or Region 6, in our circumstances from the
 20 Southwest Network side, there are two states that are actually related
 21 to Region 6. Because Region 6 covers Oklahoma, Arkansas,
 22 Louisiana, Texas, and New Mexico. And as you can imagine, those
 23 are, one, very large states, which one sometimes kind of
 24 underestimates because although even the State of New Mexico,
 25 which may not necessarily have quite a large population compared to
 26 some of the cities and the states that you come from, in terms of
 27 space itself, is pretty incredible.
 28 You know, so moving us right along there, you know, I think that
 29 in the 1990s you remember that there were several letters that were
 30 sent by different organizations challenging national environmental
 31 organizations on the question of the environmental racism. And one
 32 of those letters that was presented during that time period was a letter
 33 that was sent to the Environmental Protection Agency, basically,
 34 charging and laying out how from our experiences, from our opinions,
 35 and from a documentation, that the U.S. Environmental Protection
 36 Agency played a major role in terms of what we consider, and still
 37 consider, environmental racism, not only in the southwest, but
 38 throughout the United States.
 39 And then you would also remember that, historically, we had

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sent letters both to Region 6, 8 and 9, Dallas, Denver, and San Francisco, requesting meetings with the regional administrators. And although we didn't think the task or the job was going to be that easy, on the other hand, I do have to admit this many years later we didn't expect some of the circumstances that took place in regards to that letter.

What I'm saying is that we sent the letter, we requested to have a meeting with the regional administrators -- in this case, the regional administrator in Region 6 -- and we wanted to bring a delegation to share some of the experience from a grassroots perspective with the regional administrator and some of its staff. Now, some of you may remember, or may not remember, but the U.S. EPA office in Dallas is located in a bank building. And we said, that's kind of interesting because the bank has always had a negative overtone to many of us, and we just -- well, you go to the bank to get some money. And a lot of times, we don't have no money so we don't spend that much time at the bank.

(Laughter)

MR. MOORE: But I think given a much bigger way than that when we went to Dallas the doors, basically, were locked on us. And some of you may remember Reverend Conley from New Start from Better Environment from the New Waively Baptist Church in Dallas, Texas, who had been leading that struggle there in Dallas for many, many years. And so, you know, we were kind of young then, it wasn't very long ago. And so we thought that the reception would be pretty good.

But for those of you that remember, we were locked in the stairwell. We were trying to get up the elevator because we didn't want to walk that far up. But we were locked in the stairwell when we went up to do that. And, basically, challenged by the Dallas Police Department that if we didn't leave the building, that all of us were going to be arrested.

Now, this is historical because I want to skip that many years to say that we have went through a long process. And you all, as NEJAC Council members, and others, understand that process in question. Some say sometimes in organizing, put the process to the side and let's get straight to the activity. But for us, the process is part of developing the activity. And as a matter of fact, if we negate the process that we need to go through then, in fact, the foundation

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that's being built for the circumstances that we're involved in may or may not have quite an end result.

I am here to tell you today that I am honored to be here with Larry. And we've got incredible respect. Unfortunately, our Regional Administrator, Greg Cook, is out-going at this point and that there will be a new appointment made to replace Greg. I am saying that not to just pat Larry and Greg on the back and the staff at Region 6, but it hasn't been easy. And that's why I use the word processing, because for us, one, if you're going to have a listening session -- and a listening session, as far as we're concerned, is connected to a whole set of different possibilities and activities -- one, that our relationship, as I said, with the staff and the administration at Region 6, the first thing for us is that you need to build trust.

And as you all know, trust don't come easy. And we can't exactly sit what took place in Region 6 in any other region because every other region has its own set of circumstances. But in very simple facts, you usually know when somebody you are working with or communicating with -- and, you know, you say it different ways. I mean, your gut tells you, or whatever that is, whether, in fact, somebody really wants to be with you, somebody wants to deal with you, or whatever.

And, you know, when you are talking to somebody very quickly you are saying to yourself, this person don't even want to do it, they've just got a job. They are just carrying out whatever function that they are doing to move this forward. So laying the framework for a trust building relationship, laying the framework for a process, to go through a trust building relationship is something that was very significant to this.

Now, I'm not going to speak for our sisters and brothers in Louisiana, nor in Arkansas, or nor in Oklahoma. And only our constituency in Texas and New Mexico. But, what I'm saying to you is that, it wasn't just about a listening session. That's one of the points that I'm trying to bring to you this morning. We've made agreements, you could say, in various efforts within Region 6. Now, one on the trust side, I don't think that -- one, I think that the administration in Region 6 needs to give the moral authority, and gave the moral authority, to its staff, both political and moral authority, to do some of the things that the staff always wanted to do.

And one of those was to carry out the mission of the U.S.

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Environmental Protection Agency. And we've got an incredible amount of respect for our sisters and brothers that are on staff in Dallas and in the region. And that moral authority, as far as we're concerned, was given by the leadership; both the regional administrator and the deputy regional administrator.

Other was the planning process. And I said this yesterday, very frankly, I think probably there was only one decision that was made before we came to the table. And we had been talking about coming to the table equally. And, I think, there was probably only one decision that was made before we came to the table. And one was to have a listening session. That was the recommendation made by this council to the administrator and also then going to the regional administrators and the leadership in the regions.

Other than that, I don't think there was any other decision that was made. And that's pretty unique as far as I'm concerned because we're usually on the other side. And as you all know, you are looking for me to get a little bit nasty, and I'm not going to get nasty.

(Laughter)

MR. MOORE: Not only because it's early in the morning, but because there was no reason to do that at this particular moment. Though, I could work myself up to get nasty, but I'm not going to do it.

(Laughter)

MR. MOORE: Based upon that, so then the decision-making process, which you all know as council members, is crucial to the process. And so like I said, in terms of all stakeholders -- and I don't use the word stakeholder very often too. You know, I'm not anti-stakeholder, I just think that those that need to be at the table should be at the table. And you can call us whatever you want to call us, but we're one of those folk that need to be there. Because we're coming from our impacted communities.

Industry was there. And quite frankly, we don't get along all that well together sometimes. State agencies were there, particularly, the State of Louisiana and the State of Texas. And some of our staff from the State of Texas, the Environmental Agency. You know, they just changed their name. We used to call them train wreck, but they've recently changed their name. That's significant as far as we're concerned.

The states need to be there. And not just be there, but need to be there as equal players, as equal partners in this process, but also

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need to bring resources. Because I must tell you, although I pay taxes in this country in the State of New Mexico and federal taxes, I think that there needs to be other -- as far as the resource standpoint, agencies and others need to bring resources to the table.

Because that's part of the ownership of this process. Whether it's grassroots communities, or whoever, we may only be able to bring WIC coupons, or Food Stamps, or whatever it is. But on the other side of that coin, we bring a lot of experience, history, and so on, along with us. So everyone needs to bring something to the table.

And I think that took place here. Now, you need to understand that this was a fairly new process, not that some of its never been done before, but in terms of attempting to try to bring industry together with state, grassroots together with the EPA, and so on. So the resource and the right people being at the table is very significant.

From a grassroots perspective, if we have any opinion or impression at any particular time that we're there, or somebody is trying to get over on us, we're going to pull out. One, we'll never come there in the first place if the impression is there; and, secondly, if we feel as we're moving through that that's happening then, in fact, we will not be participants. So one of the first things is, what do you do before you get there.

This staff -- and I have to give credit to the EJ team, to the EJ team leader, to Sunita, and Shirley, and Warren, and all those others that come out of that EJ team in Dallas, because that's a third one from me -- that you've got to have people that are not just doing it because someone told them to do it, but that are doing it because they sincerely believe in this process and this activity that's getting ready to happen.

And I have to tell you that that EJ team and those staff, those sisters and brothers in Dallas -- and I know everybody is getting surprised and saying either Richard is going to close this thing with something, because again, he's being awful nice this morning -- I'm used to being kind of nice. I don't have any problem with being nice, but I do have a problem if I've got to tell a lie. Okay? Because that's something I don't feel very positive about. And I'm telling you all that we've got incredible respect for those that are in that, and part of that, EJ team in Dallas, Texas.

Now, we've been on the other side of that and you know that Barry and others here, we've been on the other side of that. And if we

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1 need to be on the other side, we'll still be on the other side. So I want
2 to assure you of that, okay. But respect has to be given where
3 respect is due. And these folks worked their asses off, if you excuse
4 the language. And they are to be respected for that.

5 So, then it's process before you get there, it's creating the equal
6 space in regards to assuring -- which is not easy -- that all of those at
7 the table will be participants and, truly, decision-makers. It's trust and
8 confidence. It's then, fourthly, as far as I'm concerned, where you go
9 from when it's all over. Because one of the things that came out of
10 the meeting in Houston, Texas was -- and I think it's something that
11 Larry may speak about, and the council may take under consideration
12 -- is that I'm not really too sure whether they should be called listening
13 sessions. To be quite honest with you. That's to be decided or
14 whatever. We discussed that a little bit.

15 Because part of where we were really at was not -- I mean,
16 listening is one thing and we understand that. But on the other side of
17 that coin, we want to take care of some business. Now, we've been
18 living around slaughter houses and dog food companies, and
19 refineries, and you name it for many, many years. So, yes, we want
20 somebody listening to us because we've got a little situation we want
21 to work on, trying to come to a solution to. But to call it a listening
22 session, I'm not sure because for us, what we decided initially in this,
23 this was a solution session, not necessarily just a listening session.

24 That's crucial to us because we don't want to go to Houston,
25 Texas, or Baltimore, Maryland, or wherever, just for everybody to
26 listen to what our problems are. But we do have some and we
27 respect, and expect, to be listened to. But in this particular session,
28 it's about what are we going to do about it. What's the
29 recommendations, what's the solutions, that those that should be at
30 the table bring to the table in terms of moving things forward. And
31 that was very crucial.

32 You know, so I want you to understand that because we're just
33 going through a re-examination process because this particular
34 activity just took place, as I told you. Now, there's a lot to be learned
35 in this process, and I want to turn this over to Larry. But there is a lot
36 to be learned in this process. And one of those was naming it a
37 listening session, as I just shared with you.

38 One of the other things that took place here was that we had
39 really tried to work with organizations in Louisiana, and others, when

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1 we come here -- and there are some photos being shown of our
2 activity there -- is that would you come with some recommendations.
3 Give us some recommendations. Now, I say that from a learning
4 process because I don't know if we would do that any more. And I
5 say we because I think Larry expressed the same kind of somewhat
6 misgiving that we were thinking about in this process.

7 And what I mean by that is it's easy for us to be able to give
8 recommendations to the problems, but it's not so easy to do that
9 when we have to go straight to the recommendations and not discuss
10 for a minute or two what the problem was before we get to the
11 recommendations. And so we had high expectations of those
12 grassroots sisters and brothers that were there and others. And I
13 think skipping that -- and you may not quite understand what I'm
14 saying because we just came out of this process, but we would ask
15 people, give us three pieces. What's the issue, very quickly; what
16 problem did the issue create; and what's some recommendations for
17 solutions to this issue, or to this problem.

18 And so doing that, I think the anticipation was good, but I think
19 there was some frustration on the part of many that they need to
20 spend a little bit more time on what was the issue, what problem did
21 the issue create. Because we had a short period of time and we were
22 going through a lot of things in that short period of time. And on the
23 other side I think for industry, just to be quite frank, to go straight to an
24 example of the solution and not really building on right quick what was
25 the issue, then created a little bit of an unequal balance. Whatever it
26 was. But I think we had some frustration.

27 Lastly, two or three things. We tried to do a whole lot. You know
28 that. The NEJAC agenda, you know, you put a whole lot on the
29 agenda and our meetings, or whatever, and then the thing that you
30 think would take five minutes ended up taking 45 minutes, or
31 whatever. And so when you look at the agenda of this particular
32 listening session, we really set ourselves out to attempt to try to do a
33 whole lot in a short period of time.

34 And then, lastly, two items, I think that we primarily operate
35 under consensus, which is -- now, that's a pretty interesting situation
36 when you bring those particular players to the table when we're trying
37 to go through this process. If you look at the agenda for the listening
38 session, then there are some very important activities that may not be
39 on the agenda.

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1 I mean, for one, the issue of sovereignty, the issue of Native
2 Americans, and possibly, the issue of how do you, coming from a
3 sovereign nation, then how do you react to that from a southwestern
4 perspective. We made some agreements that there were some
5 things that we could not do. And we didn't even want to dabble in, to
6 some extent, and only give like a very short period of time to.

7 The commitment that was really put together by the Planning
8 Committee was that everything is important, everything is significant,
9 but at that same time then, we're going to hold some things. Now,
10 that to me has to do with the trust relationship. Because if somebody
11 tells me we don't have time to deal with your issue right now, we'll
12 deal with it next year, then I might be one of the first ones to be a little
13 bit on the rowdy side. But that's why I'm bringing it to the trust side
14 because when we made a collective decision that some things would
15 not be on the agenda -- because like I say, in that short period of
16 time, and just didn't want to take that up, I do believe, firmly believe,
17 that those issues will be taken up within the region and we will
18 continue to be a part of bringing those up.

19 So, again, thank you very much. I wish you the best in terms of
20 developing your sessions. And we look forward to working with Larry
21 as the Deputy Regional Administrator. If we have any
22 recommendations to make to the Bush administration, one of those
23 recommendations would be that Larry become the Regional
24 Administrator and be moved out of the Deputy Region. But as you
25 know, our influence with the administration over the last couple of
26 days has not been so positive, and so we wish you the best.

**Presentation
by Lawrence Starfield**

29 MR. STARFIELD: Good morning. I am very happy to be here.
30 I'd like that recommendation to be stricken from the record. But I
31 agreed with everything else Richard had to say.

(Laughter)

33 MR. STARFIELD: I am very happy to be here and I was very
34 proud to be part of our listening session in Houston. And I do want to
35 say -- I think Richard said it as well -- the way we did it was the way
36 we came up with it. It's not perfect, it's not going to work for
37 everybody, but it worked, I think pretty well for us. We had over 200
38 people attend and, as you can see, some of the folks on the screens
39 there.

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1 I think what Richard talked about is critical. There was a
2 tremendous amount of groundwork for a couple of years before the
3 listening session that really made it possible. Because we worked
4 with Richard on getting air monitors in Corrales, we worked with
5 LEAN with getting air monitors, we brought a children's health
6 symposium to Baton Rouge. We made small steps. We also are
7 sued pretty much every week by LEAN. There are protests,
8 occasionally, by the Southwest Network, and yet we continue to talk
9 to each other.

10 That's the sort of great thing about the relationship is that we
11 recognize that there are issues we are not going to agree on, but
12 there's enough mutual respect that we keep talking about the next
13 issue. And to me, that's the whole secret. And what that enabled us
14 to do was to say, can we have a listening session that is more than a
15 listening session. We really don't want to have two days, or three
16 days, of people just talking to us and we write things down and then
17 people say, okay, we've checked that box, we can go home now, and
18 we've finished with Environmental Justice for this year. That's not
19 what we wanted to do.

20 At the same time, we're realistic and we didn't want expectations
21 to be unrealistic. And we know that we're not going to solve the
22 massive problems that exist in Region 6. And there are massive
23 problems. But we do think that we can make some progress on a lot
24 of issues. And that requires some patience, but it also requires a lot
25 of trust that we are going to continue. That the EJ Listening Session
26 was a first step that we were going to try to be very solution oriented,
27 try to get people to identify. We hear you and it's important.

28 And Richard talked about it, the stories are important. People
29 have to have an opportunity to sort of explain what brought them
30 there. And we have to provide time for that. And that's the difficult
31 balance. But we really need to get to the next step, which is what can
32 we practically accomplish. What should we be working on, what can
33 we do, who else do we need to bring to the table. And that that's
34 really important and we can make some small progress and just keep
35 going at it. And this is just the first of many steps.

36 Richard and I didn't want to spend a lot of time on the nitty gritty
37 details of things, so we have a bunch of handouts that you should
38 have gotten. The goals of the session, the planning. This Planning
39 Committee was, I think, one of the better ideas that we had which is,

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NEJAC came up with what I thought was a very logical conclusion. Which is that the community issues are local-based. If you really want to get the people and the mayors and the states involved, you've got to have this closer to the real problems. And having a national meeting in Baltimore to deal with issues in Baton Rouge or in Albuquerque just doesn't really make a lot of sense. And it's not going to accomplish as much as you can if you move it down lower.

And so we were trying to figure out, well, what's the right way to do that. And we recognized that we don't really know. You know, we just don't have the answers. It hasn't been done before in our part of the world on that scale. We knew what issues we might put forth, but we didn't know if that's what the communities wanted. So I reached out to Richard and to Lawrence Robinson and Marylee Orr, and Albertha Hastings at LEAN, and Awant Barras in Houston, Texas Southern, and different people. And they came together and we were fortunate to get a few industry folks who were willing to take a risk and be part of this process. And I think we'll be able to do more of that next year.

And we had four of our five states participated and that was -- and we sort of said to this planning group, you tell us what do you want to talk about, how do you want to split up the time, who should be at the table. We have "X" amount of dollars for invitational travel, scholarships, who should get it, how many per group. These are terribly difficult issues. We could have decided them all and, of course, we would have been tremendously criticized because we would have missed the mark on probably every one of them. But by doing it in the consensus process and letting the Planning Committee, basically, design the listening session, it had much more credibility. And, I think, -- actually, I don't remember a complaint about that during the entire three days -- that anybody said this was not fair.

You know, there are always too many issues. You can't figure out -- you just don't have enough time. And that's why you have to view these things as the first step, not the box to be checked, but the beginning of an ongoing dialogue. And one of the really important things is making the connections between community people, and EPA people, and state people, and getting industry to see that there is a positive role that they can play.

So there are a lot of things that we tried to do and the Planning Committee was just essential. They were the ones that put the

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ground rules together about limitations on time, about the way we were going to talk in courtesy to one another in terms of speakers. And it was not smooth sailing for the whole time. There were a couple of sessions that were pretty hot, but I think everyone stayed professional. It was constructive and everyone was sort of focused on is there something we can do to move the ball forward a little bit, even though we're never going to change overnight the situation.

So in terms of overall philosophy, I think, it was solution oriented. This was not a one-time deal. We tried to give people an opportunity to talk beyond the issues. We had two open mic sessions, one Friday evening and one Saturday afternoon. And then we had questions and answers. So it sort of filtered through it, but we did give people opportunity to raise other issues.

We recognized one of the issues that the Planning Committee wanted to talk about was employment. Well, EPA really doesn't have a very big role in employment issues, but we brought the Department of Labor in and they were very active in our listening session. We had a couple of other federal agencies and some state agencies that had expertise and authority that we don't have. And that's something that we'll want to continue to build on.

Let me see, in terms of lessons learned, you have the planning and preparation. You also have a list of the ground rules, you have a list of some of the action plans. And these are draft. The Planning Committee has to get back and review this stuff. And this is only from some of the sessions, but you get a sense of the type of recommendations. And some of them are within EPA's power, some of them are going to be up to the states to decide if they can do. But in terms of lessons learned, we didn't do it perfectly by any means.

I think it was very important that we did a regional listening session as the first one for us because, I think, it was important for Louisiana to hear Texas, to hear Arkansas, to get a sense that the states are in very different places and have very different issues. And that's a good thing and a bad thing. And a part of it means that when Louisiana issues are on the table, the Texas people are not as interested, potentially, because they don't have the same problem. But it's interesting and I think it's useful and it's important for the states to get the sense of it.

The next time we do this, which we hope we're going to be able to do multiple ones next year, I've talked to the, what's now the Texas

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Commission on Environmental Quality, about their leading the next listening session. And we will facilitate it and we'll provide money, and we'll be there in force, but that they would lead it. I've talked to Hal Bollinger, who is the Secretary of the Louisiana DEQ, about Louisiana doing one next year. And those are our two biggest problems. New Mexico would be the third. And they are in transition right now, but we'll be talking to New Mexico.

But in my mind, success next year would be if we could have one in Louisiana and one in Texas, focused on those issues, bringing in more of the local state agencies, and more of the local groups and the local industry, so that it's a real dialogue. And one of the benefits that I really hope we get out of this is we had the Louisiana Chemical Council as part of our Planning Committee and as a participant in our panels. And I'm hoping we're going to have a lot more industry folks. They were not, you know, shoosed out of the room. There was some spirited debate, but they hung in there. There were some other companies that were there and I think we'll have more industry. And I think industry, they've got a tough role, because as Richard said, they can't just sort of walk in the door and say, here are two small things we're doing so you should applaud us, if we're doing 20 bad things over here. They've got to understand that there is a need for some discussion about the other issues. But there is a place for positive community industry interaction.

We were talking about SEPs a lot at our, Supplemental Environmental Projects. And the fact that we have a bank of ideas and the communities can give us those ideas. And then we have enforcement actions with industry, we can get the money from penalties funneled back into communities if industry is a willing participant. So there are a lot of synergies that we saw that are possible that, I think, we're going to do an even better job on next year.

It was also important for the states to see that it was a professional solution-oriented debate and that environmental justice doesn't have -- those words have sort of a -- a lot of people in the southwest have a negative connotation of those words and see them as something negative and hostile. And I think what our listening session, I hope, showed is that what we're talking about is there are certain communities that are subject to a very high level of pollution, or impact. And those are big problems.

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And I don't think there is a regulator, State or Federal Government, who if you go to them and say, I know one of your communities is suffering from severe environmental problems who wouldn't say, well, we should take care of that. If you say to them, I know of an EJ community, then you may get a different reaction, but I think we made some progress with our states to look at it -- it just happens that a lot of these problems are in communities of color and low-minority communities.

But everybody who is in the business of regulation is in the business of trying to help their people. That's what they are supposed to do. That's what we're all supposed to do. So, to me, it's just a matter of getting folks focused on it. As Richard said, what's the issue, what problem is it causing, and then is that something we should address. Is it something we can address, or do we need to bring in the Department of Labor, or OCEA, or who do we need to bring in. But not have a discussion where we at EPA say, well, that's beyond our jurisdiction, you've got to call somebody else. Or have the state say, that's not ours. Have all the people at the table that you need and it's easier to do that on a local level.

The problem is, we can't hold 50 listening sessions a year, we don't have the resources for it. And the reality is, I think the states are the right place and they've got to be full partners, if not the lead. That's where I'm hoping we're going to get to in Region 6, but we're not there yet. We're working on it. But I think with Richard's help in New Mexico, and with the help of LEAN and other groups in Louisiana, and some of the groups in Texas, we're going to make progress.

So I'm very optimistic. I'm very proud to have been part of this and I appreciate the invitation to be here. Thank you.

(Applause)

MS. SHEPARD: Thank you very much for that very positive report. The NEJAC has been very concerned about the listening sessions being organized and how they'd be implemented and this is a great first report. We've, certainly, been very concerned over the last couple of years of having so many community residents come from across the country, knowing that their concerns were not being adequately addressed. And we were hoping that by going to the regions and being able to begin to develop some capacity and relationship building there, that it might make a difference. So it

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sounds like this is a good first step. So thank you very much for your reports.

Well, we're going to start with Wilma and Jana and Mary. MS. SUBRA: Thank you. I have a few things to add, Larry, and I think it was an outstanding meeting. And everyone is going to have a few little criticisms around the edges, but from start to finish, it was just a wonderful experience.

EPA, actually, brought the program people with them to the meeting. They participated in the panels, they participated in answering the questions. And it's crucial that the program people be engaged, if not, it's like the community talking to the EJ Division. The community talking to the EJ Division of EPA is like preaching to the choir. And if you don't engage the program offices, that's where the solutions will be developed and the resolution of the issues.

I think at the state level, it's going to be crucial that you engage the program offices at the state level. You have to engage the EJ office at the state level because that's what makes it happen, but you have to have the participation and involvement of the program offices when you do these various listening sessions. And from Louisiana, even though we participated well as a state in the planning, the person we sent was like in the public outreach office. And the person from the EJ office couldn't come because she had a death in the family. But the program officers were not there. So you lose something in the translation if they take it back and tell the program offices; whereas, from Texas, there were people from the program office who could stand up, explain things, take the information back and do something about it. So that's real crucial.

The other really positive thing was Sam Coleman, who is head of Enforcement, agreed to do the top five things after the enforcement session. I mean, he agreed to whatever we came up with, and whatever we prioritized as the top five, he agreed to do. And he told the people that. And then at the end, there were more than five and he stood up and said, you don't have to prioritize them, I'll do them. So there was really positive feedback that the community develop these issues. And they were up there on the overhead and he agreed to do them, right then and there.

And the last thing is that the recommendations were put together as the sessions occurred. And at the end, all the recommendations were put up on the overhead for everyone to see. So it was a real-

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time thing and when you walked away, you knew not the sessions you went to, but you knew the recommendations from all the sessions. So I think that made it really, really, a wonderful experience. So thank you for a great experience.

MS. SHEPARD: Thank you. Jana.

MS. WALKER: I brought this up in Seattle, but I was just looking at the EPA Region 10 materials in here for the planning. And I think, especially, with Alaska Native villages, it's very important that those listening sessions go to the people, because the resources are very limited for people to try to come down to a major city. And I don't think the teleconferences, I think that's useful, but the Alaska Native villages need more than that.

And just generally for Indian country, the reservations and Indian populations have some of the highest poverty levels in the country, and very unique issues. So I think that it would be good to have the tribes involved in the planning of these sessions and that some of these sessions go into Indian country to deal with those unique issues.

MS. NELSON: As Peggy said, I am also really encouraged that coming out of that strategic planning and seeing that the real discussion, the real input, needed to happen on the regional and the local effort areas and so that it's more accessible to people, and the people who need to hear this are going to hear this.

I have a couple of questions, and one is -- so congratulations, I think, on putting together a really good model, and on your lessons learned. Hopefully, they can be shared with the other places so that we all don't have to reinvent the wheel in terms of doing this. But my concern would be that as you go to the state kinds of hearings, which I think is really important, it would be, I think, just as important that the regional EPA office stay very much involved because you are the next level of appeal on these things. So, hopefully, there will be a good balance between the states sponsoring it and the regional office still being very much involved.

My only other question then was what's going to happen? This is just amazing and so short-order that you've got all these recommendations down. And it looked like your process was one that gave people feedback as you moved along and maybe that needs to be described a little bit more in your lessons learned. You know, having the overheads with the recommendations on it and people

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having a sense that we came to some action points.

My question is then, what is going to happen to these recommendations? I'm gratified to hear that the enforcement person said they were going to work on all of those, but what is the process for the next steps on these recommendations?

MR. STARFIELD: Well, first of all, I agree with you on the first question in that we have to be involved, we will be involved with the states. And we just would like them to be as active. Wilma's point is exactly right, there are some many questions about -- most of the programs are state run, the procedures for permitting, how much time people have to comment, and the state folks really need to be out front. But we need to be there with them and we can, certainly, help and will.

I think one of the reasons that it worked as well as it did for us, one step I neglected to mention, is the Planning Committee also formed workgroups for each topic. When we decided there would be a topic on public participation and permitting, and employment, and U.S.-Mexico border, there was a workgroup formed. And they met the night before the session began and they talked about what they were going to talk about, they started to tease out some possible action items even then. We had recorders taking things down as the sessions went so that by the close on the last day, on Saturday afternoon, we had on the screen action items from almost every session that occurred. So people really felt it in real-time.

In terms of what is going to happen with -- some of the action items are for us and we will -- I can tell you, we will move forward on those. A lot of the action items are for the states, where the group asked us -- and the states weren't there in equal numbers. So what may happen in Texas may not happen in Arkansas, or one of the other states. So it's hard for me to say what's going to happen, except that we're going to follow-up with the states and encourage them to engage the communities and to take seriously the recommendations.

But most of these are for us, some of them are for the communities, such as contributing ideas. I think every community ought to be giving a list of projects from their community into our SEP Bank and to the state's SEP Bank if they have one, so that they can be processed and the enforcement actions in real-time and companies see an opportunity to do something that gives back to the

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community rather than to the Federal Treasury.

But we'll have to see. And one of the things I said to folks at the listening session is, you know, hold us accountable. Here's the list -- although, this is not final yet, but it will be and it will be sent to the 200 plus people who attended -- and hold us accountable for what we can do. A lot of this stuff is not regulatorily required, it's not statutorily required. We can't force the states to have a longer comment period than what the regs say, but we can encourage, communities can encourage, and we'll follow-up. Richard, I don't know if you had any --

MR. MOORE: I think that, you know, as I said, we've got a lot of work to do, we realize that. We've still got a ways to go, but I think -- you know, I mean, I think for us, we're real serious about creating models. And that's very, very important to us. And so I say that with industry at that particular point, although we may be in struggle over particular issues, but we're serious about trying to come to some solutions to those problems. And at the same time, then trying to create model projects.

At the state level, as Larry mentioned, at least in the State of New Mexico, we are going through a present transition, a new Secretary for the Environment will be named at any particular time. And so there is some transition that needs to happen and some processing that needs to happen, particularly, with State Government in New Mexico at the moment as we go through this. But I agree with the comments that were made.

I just say that what we did is the way we did it, and we would think that some of the issues would be helpful. But on the other side of that coin, each particular location has its own set of circumstances. I will, again, agree with several of the points that Larry made, I think it was also important that we had a regional session. And we discussed even before the Planning Committee was developed, people's impressions about whether we should go state-by-state, or whether we should attempt to really try to have a regional session. And that's the conclusion we came to, and at the end of the day, I think, that decision was very, very important.

MS. SHEPARD: Okay, Judith.

MS. ESPINOSA: Thank you. I want to thank both of you and all of your other partners in this, I think, most credible session you held. And I look forward to you coming to New Mexico. And if there is something I can do to help, let me know.

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I think this is a model for civil society. The fact that you started the partnership with all the groups early on to do the planning, the fact that you still may have differences on certain levels with one another, and the fact that despite that, you are going to move forward on attempting to do problem-solving and get some actions and really attempt to put those actions on the ground, and those recommendations on the ground. And I think that when we talk about civil society, this is what we talk about. And I appreciate that.

And there will be, I think, what Richard said, there will be conflicts and fights in the future, but from the standpoint of Region 6 to be able to look at the differences on how you proceed with this model and take care of conflicts in a different way, I congratulate you on that.

MS. SHEPARD: Okay. Tom.

MR. GOLDTOOTH: Thank you, Peggy. Just a couple comments real quick here. I appreciate the presentation and it is definitely the beginning of an excellent model. And I especially like the establishment of, I understand there was a Steering Planning Committee of the various stakeholders, which also included industry and the various other federal agencies with participation from LEAN and SNEEJ. So, definitely, that's something that we have to assure that is built in, is the diversity of the stakeholders.

And I remember when I was part of some of the emerging discussion as we were starting to evaluate the effectiveness of the public comment period at the national level, at the national NEJAC level. And concerns with funding, many other different layers of concerns. And then the discussion of bringing the issues more closer to our communities, to the region level, since a lot of -- I wouldn't say all the issues, but many of the issues -- that were brought to this body very often got filtered back down to the region for follow-up. So it made some sense to introduce the concept of having many, many NEJAC meetings at the regional level. I think out of that, I lost touch after I left NEJAC, but I guess it was, the term became listening sessions.

But I understand the point that Richard talked about, is we have to be always cognizant of the interpretation of the terminology that we utilize and how that's interpreted by the community that we serve.

And the other comment that I wanted to talk about is the importance of participation of the tribes. Now, I understand that those

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of you that come from the regions, those of you that are in EJ coordinators, or those of you that work with the tribes with respect of government, those of you, the various programs, you know that it's challenging as you fulfill your commitment to reach out to the tribes.

And also, you know from the learning experience from NEJAC is that there are also tribal citizens, the tribal public, and you know that they come here -- some come here organized as part of organized, non-profit Native organizations that are doing environmental justice work. Some come as individual tribal members with no organization. Okay, but they have concerns and maybe they have exhausted all local remedy at the tribal governmental level.

Okay, so do not assume that by working with tribal governments, which we still have to do, that is a government-to-government responsibility. But always be cognizant that sometimes in your reaching out to tribes as governments, you may miss out on the opportunity of tribal public citizens that have concerns, that have been expressing concern of environmental justice.

And also tribes dealing with the issue of the definition of environmental justice. Okay, just because tribes do not respond to the concepts of environmental justice, do not assume that the issues that they are dealing with concerning environmental protection and the development of their tribal governmental environmental programs is not an environmental justice issue. Somewhere in the history of the EJ movement, and our own history of tribes building our own programs, there has become a divide between EJ and tribal efforts to develop programs and address our issues as sovereigns.

And I was really impressed on the Indigenous People Subcommittee that they were addressing this issue, and that were committed through the Indigenous People Subcommittee to continue to educate our tribal environmental managers that are working out there to address this issue, to get more participation in this NEJAC forum. So that goes back to the listening sessions.

MS. SHEPARD: So, Tom, you are going to --

MS. GOLDTOOTH: Yes, I understand, Peggy. Each region, I noticed going through here, have not listed tribes in their outreach agenda. Okay, so all those people that are responsible for putting the plan of actions -- very reach out to the tribes. That's all I need to say. Okay, thank you.

MS. SHEPARD: Thank you, Tom. Adora and then Veronica

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and Lori.

REVEREND LEE: All right, my question is sort of a follow-up to Mary's question about action steps and next steps. But first I need to say, Richard, I appreciate the context you gave of what lead up to these listening sessions and the environment out of which people were coming to do the work. Because I know I'm not the only one around this table that either got e-mails, a whole bunch of them -- and telephone calls about the skepticism of these listening groups. People have been listened out and just felt they were going nowhere, and here we go again. And so I really appreciate you laying that ground work.

And I guess it's a recommendation, or a comment that I have, in terms of monitoring these wonderful action plans that are very specific. You've got names attached to them, but all of us know when we leave a place like this -- and many of us have done public hearings, listening sessions, or what have you -- when you go back to the office, or wherever we end up, there is a whole bunch of other stuff on our desk that we have to deal with.

And I think while this is an excellent model or way of doing it, I think it pushes us to push, perhaps, Charles, some of the people in the regions, to think about using EPA's Small Grants Funds for monitoring to make sure that some of the stuff really happens. And I appreciate what you said, Larry, about what you all are ready to do and you probably have already begun doing in terms of follow-up. But there is a whole lot of other issues on your plates as well.

And so I'm saying, and what I'm recommending, is that we recommend to you, uses of other dollars that are already out there for a specific monitoring when you get something this good. So that SNEEJ, and LEAN, and all these other organizations that are lean on resources -- because we're coming back to the issue of capacity. So I think if we're going to go this far and create something this wonderful, it ought to be resources, and expanded capacity for even grassroots groups to do the monitoring to make sure the state folks are doing what they commit to do.

So I think it's an opportunity that we have here.

MS. SHEPARD: Thank you. Veronica.

MS. EADY: Thank you. In the Waste and Facility Siting Subcommittee yesterday, we were very fortunate to have Sunita come and do a presentation on this. And so I've had an opportunity

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to look through the handout and, you know, it's just so impressive the amount of effort and thought that went into this. And it seems like a lot of positive action is going to come out of it.

So I wanted to commend you on that and also say that the first thing that I thought when I heard the presentation yesterday from Sunita was that this is much more than a listening session. It's definitely a model.

One question that I had for you though was that -- and correct me if I'm wrong -- but my understanding was that one of the states, Oklahoma, wasn't able to participate. And so I had just a question about, first of all, you know, sort of how that came to pass and if you have specific plans for engaging Oklahoma and bringing them into the fold?

MR. STARFIELD: Well, let me just say they were invited and they decided not to come. One of the things that I was talking about earlier is I am hopeful -- well, for whatever reason, historical or otherwise, and I think part of the reason Oklahoma is that we don't have a lot of organized EJ groups in Oklahoma. So to sort of say EJ to Oklahoma and they say, that's not our problem, that's Texas and Louisiana. That's not our problem.

But the second part of that is I think there is skepticism on the side of some state officials and some industry officials about participating in these processes if it's just going to be, you know, let's just talk about how terrible the state is, or how terrible the industry is. And I think, I hope, that what we accomplished through three days of meetings with four of our states and several industry groups, is that we gave some credibility to the fact that we can have these sessions, not necessarily love-ins, but constructive sessions.

There will be some rough moments, but it's constructive and I think everyone from industry to every -- I think every participant that I talked to was positive about it. And I'm hoping that when that story gets out in our part of the country, that it's going to make for broader participation next year.

But we do have a problem in finding groups in Oklahoma. And that is true, organized groups.

MS. EADY: I just wanted to, as a follow-up, just say that on our subcommittee, we have Randy Gee from the Cherokee Nation, and so this might be an opportunity to continue ringing that bell, but to engage some indigenous groups in Oklahoma. I understand there

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are various inter-tribal and tribal environmental consortiums there. So many Randy might be a person for you to engage directly to help you with some of those issues.

MS. SHEPARD: Okay, Lori.

MS. KAPLAN: Okay, thank you. I am really impressed with this forum and do commend Region 6 for putting this together and the enormity of it. And as we've heard, not every state is as engaged in EJ as other states. Some are more engaged, I think, some state agencies don't have any programs at all, virtually. Likewise, I think some regions are more engaged in EJ issues than other regions.

And so my question is, is there an avenue at the federal level to have the presentation we just had? Because I think having a presentation like this is tremendous motivation to try to recreate the same thing in your own home area. And I'm hoping there is a forum for that as opposed to just hoping that the word gets out.

MR. LEE: The reason why we are having this discussion is so that we can promote opportunities to have more of these discussions. And I think if you want to recommend that they take the show on the road, you could do that. But, certainly, what I was going to say is that in terms of my own observations on this conversation, is that Delta Valenta, Marva King and I were really privileged to be there. And I don't think what they said, where they talked about really the equal -- the kind of depth of understanding and the sincerity of commitment that's necessary to address to achieve collaborative problem solving. And that's the heart of it.

And you can't talk about it, you have to really understand what it is. That's what Judy meant in terms of civil society. And I think that this kind of dialogue needs to be promoted more. So I would say to you, Lori, invite them to Indiana. And I would say to everyone else, we need to take this and have this discussion promoted in every way possible.

MS. KAPLAN: I agree and I can bring it to Indiana. I can't take it to the other states. I can try to bring it to Region 5, but is there some effort at the federal level to let the other regions know, or have a synopsis of how it was done so, perhaps, they can strive to recreate it there.

MR. HILL: Lori, maybe I can answer that. The Executive Steering Committee for the Agency on Environmental Justice -- and that's all the deputy regional administrators and the deputy assistant

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administrators are members of that steering committee. We've all agreed to have each program office and each region develop environmental justice action plans. And part of those action plans, many of them have environmental justice listening sessions. That was agreed to by the leadership of the agencies. So on the national level, on the regional level, as far as every headquarters and regional office, this is being done.

And Region 6 is just a reflection of one of the regions that has done it this particular way. You have Region 1 doing it differently, you have Region 8 doing it differently, but it's being done at the regional level in conjunction with the states.

MS. KAPLAN: Thank you.

MS. SHEPARD: Bob Harrison and then I would like to ask a couple of questions.

MR. HARRISON: And I'll be very, very brief. A follow-up to Barry's response to Lori, Region 9 is doing it a little bit differently. They are doing it in concert with the California Environmental Protection Agency's of Environmental Justice Advisory Committee. As a matter of fact, Region 9 has someone on loan to the State of California. And California has held a number of -- I think four -- listening sessions all in concert with Region 9, as well as the local agencies. So I think it is happening in some states.

MS. SHEPARD: Okay. I have two quick questions to Lawrence. What was the role of localities like mayors? And secondly, did you find that this was the best vehicle to engage tribes, or do you intend to have separate meetings with tribal organizations?

MR. STARFIELD: We had the Houston Mayor's Environmental Director join us for the session in Houston. It's hard, Region 6's five massive states, it's almost impossible to get any kind of representation from mayors, which is why I sort of think the more local we can go with this the better over time. I think that's really the answer. But we did have the city and we did have some local industry.

And you are always going to get more people from the locality where you hold your session, and that's going to be true even if we do one in Baton Rouge, we'll miss some folks in Eastern Louisiana. There are choices and there are prices. So we made some effort, but it wasn't on a major scale.

My sort of vision of this thing -- but I really step back and let the

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Planning Committee do it -- but my vision of the way it should work, if we do the planning early enough, is the Planning Committee identifies issues and with a fair amount of precision. And then you say, who is relevant to that issue. What state, federal and local agency. And then you get those people committed to come to that panel for that discussion. So you will have different people for every session and it's pretty ambitious and it takes a tremendous amount of cooperation and coordination, but to my mind, that's how you do it.

That if the people in a certain parish or a certain county have a certain issue, well, then we ought to get the local officials from that county or that parish to join that session. But it wasn't on that level of detail. But ultimately, I would have liked, or would like in the future, that part of the three days be some specifics -- let's pick five specific issues and from five specific localities and try to solve them there. Give people briefings in advance, do a lot of leg work in advance, so you come to the table, you have all the people there and you, actually, solve it in front of the community rather than -- this is sort of the issue of reaction items. Are we going to really do it?

But we didn't have enough time and it's awfully ambitious. And I'm not sure it will work, but that's sort of my ideal goal of how you do this, is you get really specific, you do a lot of upfront leg work, and then you bring everybody who has a stake in that issue to the table.

On the tribal stuff, we work a lot with tribes. We have a regional Tribal Operations Council and we met with the tribes in October in Oklahoma to talk about tribal issues and tribal priorities and building it into strategic planning. For some reason, we didn't get any response from tribes on attending. I don't recall -- I don't know where Sunita is -- where are you? Did we get any tribal reps?

SUNITA: No. I think we tried to work with ---

MR. STARFIELD: I think we can do better, but we meet with tribes, we have an established forum for talking with tribes about their issues and the government-to-government relationship, we haven't transcended that. They don't seem to be in our EJ world for some reason and I'm not sure if that's a bad thing or a good thing, but it's something we will explore if we can do better on.

Could I take 15 seconds for one little thing? Richard had to leave before the end of our conference and I had a little plaque that I wanted to present to him. I think this is probably a better forum. But I wanted to give this to Richard Moore in appreciation of his

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outstanding support for the Environmental Justice Listening Session in Houston, November 2002.

(Applause)

MR. MOORE: Thank you.

MS. SHEPARD: Thank you.

MR. MOORE: Well, thank you very much. It's come a long ways, huh?

(Laughter)

MR. MOORE: But Larry knows, it's plaques one day and picket signs the next. But I say that -- seriously, it's very much to be appreciated and we look forward to continuing it. Just a last quick couple questions.

MS. SHEPARD: I have a couple of questions for your Richard.

MR. MOORE: Excuse me?

MS. SHEPARD: I have a couple questions for you before you are finished.

MR. MOORE: Please.

MS. SHEPARD: One was you talked about the need to bring resources. That states and entities needed to bring resources. So I wanted to hear a little bit more about what those resources were and what you thought you needed. And then, finally, how can NEJAC -- how, as an Executive Council, can we follow-up and work with regions and regional groups to ensure that what we hope is happening is happening?

MR. MOORE: I think maybe taking the second first, I think it's very important that the NEJAC Council continue to monitor the process of the development of these listening sessions within the region. And I think it would be important, depending on the resources, the Council at that point -- that some of the council members attend some of the other sessions, because the recommendations did come from this Council and I think it's important to kind of watch the development of that as we go through it.

I think the second part with that is that from my anticipation, that I think it's very important that public comment continue to take place within the NEJAC Council. I'm not going to go into a long process with that, but I wouldn't want to leave the venue for grassroots organizations -- many times, that is not getting the support from its state, whether it be the region of the EPA or state agencies, or whatever, I think that's not to be taken lightly.

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Sometimes we only have specific places to be able to come to and, I think, one of those places should continue to be the NEJAC. I do support issue focused recommendations and so on, but I think it's important to continue the public participation, even if it goes to 11:00 or 12:00 at night.

But with regards to the first, I think one of the things that we discussed, and I think, Peggy, with that question is that in the earlier time, let me just say this. And we still have that struggle with state agencies, and with others at times. What we've always asked is that could you step out of the box. I mean, we know in the case of the EPA sometimes the regions, that this specific issue is not an EPA issue. It could be another government agency issue. It could be whatever, but could we get a little bit more creative than just saying no. No, we can't do that. Nope. Great idea, but we have no responsibility to that specific issue.

I say that from the state agencies -- because I think for many of us, we have still got a long ways to go and we'll always have a long ways to go when it comes to really getting these issues on the table -- the resource question, to me, is that I believe that grassroots people brought an incredible amount of integrity, respect, ideas to this process. And I think from a resource standpoint, that is just as important as putting some money on the table. But on the other side of that table, resources are needed to do this.

You all would know very clearly that many that were there present in Houston would have probably not been there if the question of scholarships and some other things were not being able to do that. So I think resources, very broad and whatever.

Lastly, I just wanted to say I think we're appreciative of the time and know you have the continuation of the agenda. I think it's very, very important on our part that the commitment to continue this process. I'm sorry, and I know there is another card up there, but I think the follow-up, and Larry had spoke about that, but the follow-up to this particular work is very, very important to, I think, not only us -- there is a lot of integrity at stake here. And I want us to really understand that. Some of the issues that were not discussed, and even the involvement of the All Indian Pueblo Council, and others in New Mexico.

In the State of New Mexico where tribal governments and grassroots organizations, we've got some very significant undertaking

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that still needs to be processed here. I think there is a commitment, there is a definite commitment on the part of ourselves, and I think there is a commitment on the part of the region to make sure that those issues do not fall through the cracks.

Lastly, in terms of my comment, again, we congratulate the National Environmental Justice Advisory Committee, its leadership, the Office of Environmental Justice, and would highly encourage the same kind of support through the Office of Environmental Justice and others to continue this process next year. I think it needs to be monitored.

And then really lastly, I think that -- you know, I had a little problem with sleeping last night. I was like tossing and turning and it was just kind of hard because I had been thinking about the last couple of days, or probably about the last 115 years, and I came up with something. I just want to offer it to you in closing. I have not discussed this with Larry and I am not speaking on behalf of Region 6 of the Environmental Protection Agency, which I would never do anyway because I don't have the authority to do that.

One of the things that I understood over the last couple of days was both the financial situation with council meetings and so on. And I wanted to offer you for thought an idea, not to be discussed, but -- you know, the second meeting of the NEJAC, the National Environmental Justice Advisory Committee, the second meeting -- the first meeting was, actually, held in Washington, D.C. I'm trying to think back that many years ago.

The second meeting was held in Albuquerque, New Mexico, if I'm correct, from its historical perspective. What I would like to do is to extend an invitation to the NEJAC Council, the Southwest Network and, I think, that Region 6, that we would be willing to host the next National Environmental Justice Advisory Committee meeting next year.

Now, what I mean by that is we can't pay for it. Okay?

(Laughter)

MR. MOORE: And that some of you may have to stay in bunk-beds, you know, you can sleep on our couches. And I'm saying this sincerely. I'm not saying this as a whatever. Because, you know, many times when we travel we stay in the back seats of cars, we stay on the floor, we stay on the couch, we stay at the retreat center, whatever that takes. So I would like to extend an offer on the part of

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the Southwest Network for Environmental and Economic Justice that we would be willing to host next year's -- to be a participant in hosting next year's NEJAC Council. And I seriously say that to you, we may be having green chile stew three days in a row -- you know, and I mean we love it. So it's nothing about that.

So I appreciate the work of this council, I appreciate the work of the leadership, and please take seriously what I'm saying. Because we think it's important that a NEJAC Council meeting does take place next year and we're willing to extend our hospitality to you to come to New Mexico. And thank you very much for your time.

(Applause)

MS. SHEPARD: Thanks to both of you very much. A great presentation. Charles?

MR. LEE: I just had one last comment which did not come up, and this is really important to note. Region 6, under Larry Starfield's leadership and direction made a commitment to have a regional listening session before this NEJAC meeting. So that they could have a discussion like this, so that they can make sure that this effort that was initiated under ideas emanated from the NEJAC got the kind of prominence and attention and momentum that is going to be carried through throughout the other regions, and lessons can be shared.

So with that, that's something I think Larry, he said in Houston, that he was really happy that that happened. He really put a lot of effort behind it. And thanks so much to the Region 6 staff for making this happen and also to all the community folks that participated in the effort. And we're all really benefitting from this.

MS. SHEPARD: Charles, I have just one question related to this before we move on. Is it possible that we as council members could get a list of the up coming sessions? Because I see there are a couple that are still scheduled that we might attend on our own resources?

MR. LEE: Absolutely. And, you know, Wilma Subra, it was not mentioned, participated in the Region 6 effort, behind the scenes and every way possible helping out. And we really encourage that the relationship that you have with all your regions and with your communities, be in such a way that you participate in efforts like this.

MS. SHEPARD: Okay, thank you. We are going to continue. We will take our break after the next panel, which is the Business

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Practices Study. And Charles will introduce Tim Fields and Michael Steinberg.

Business Practices Study

MR. LEE: Okay, while they are doing that, as you know, during the past couple years the Office of Environmental Justice, through different avenues, have been commissioning a number of studies related to environmental justice.

One round of opportunities advance environmental justice under existing environmental statutes from the Environmental Law Institute, the National Academy of Public Administrators, both in terms of environmental justice programs at the federal and at the state level. There is a third one going on looking at environmental justice at the local municipal level, particularly, focusing on issues of land use. And then the last one being a study on environmental justice practices in business and industry.

And we contracted with Morasco Newton and Tim Fields who you all know well. And Michael Steinberg from Morgan, Lewis and Bockius to conduct the study. So what you are going to be getting today is an update, a status report, on that study which is in progress and nearing completion. So, with that, I'll turn it over to Tim and Michael and to say welcome. Michael.

Presentation by Michael Steinberg

MR. STEINBERG: Thank you, Charles. Good morning everybody, it's great to be here. I look forward to giving you an update on the progress we've made on the industry study.

(Slide)

I am going to give you a quick overview on the objectives, the staffing, and the methodology for our study, and an initial report on our findings and observations to date regarding the industry perspectives part of the study. And Tim Fields will then give you an update on our initial observations and findings relative to the industry practices part of the study.

Essentially, the study is designed to learn more about industry perspectives on environmental justice and to highlight some best practices, with a particular focus on how EJ issues arise in the context of facility siting and environmental permitting. Can everybody hear okay?

MS. SHEPARD: Yes.

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MR. STEINBERG: Okay, great. And the contractor team, as was mentioned, consists of Morasco Newton Group, Morgan, Lewis and Bockius, which is my law firm, and Tetra Tech EM. We're working in close collaboration with the National Association of Manufacturers and the Business Network for Environmental Justice.

(Slide)

The objectives of the study are important to understand right at the outset. We really have four principal goals and they are interconnected. The first is to get a better understanding of how business and industry view environmental justice, again, with a focus on facility siting and environmental permitting. EPA has been involved in studies on a number of other stakeholder groups but, to date, I think no systematic effort has been made to understand how industry approaches these issues. And it's important to understand how industry approaches these issues.

The second goal is to look for successful approaches and to identify and document those approaches. I think it goes without saying that successful is a little bit in the eye of the beholder in this area but, nevertheless, it's important to look for things that work and try to learn from them.

And that leads to the third goal, which is sharing experiences and lessons learned, both with other companies so that industry can learn from what is being done by other companies, by other colleagues in industry, and so other stakeholders, including community groups can learn as well from those successes.

And then fourth, to try to identify and highlight benefits to business and industry that result from the adoption of EJ practices and incorporation of EJ into siting and permitting. And the idea here is if business and industry can realize benefits, whether they take the form of reduced delay in the permitting process, improved community relations, costs avoided, benefits in any of those categories by incorporating EJ more successfully into their practices, that's worth capturing, trying to quantify and spreading the word.

These are the objectives and the intent of this study was not to do any rigorous quantitative work, but rather to take a qualitative approach and see what we could learn.

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Which leads to the methodology. We decided to focus first on a small number of industry sectors that, hopefully, would give us some

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representative snapshot across different sectors to identify companies in each of those sectors to whom we could talk and from whom we could get information. We also identified other stakeholders, notably community groups, because we thought it was important to capture the perspective of non-industry spokespersons on some of the examples and case studies that we were looking at. If we reported solely on the industry perspective on a particular example, there wouldn't be as much credibility to that report if it's lacking the perspective of other stakeholders.

The next step was to go and interview industry representatives and other stakeholders to discuss in some detail specific situations, as well as general perspectives. Part of the process is to look at technical documents which might be relevant, such as company permits that were the subject of EJ controversies, company EJ policies, where those exist, things of that sort. And then to draw from this whole process some case studies that would let us highlight successful practices, draw conclusions from them and, again, share with industry and with other stakeholders lessons learned.

We realized at the outset, and I think this was proven to be the case, that to get good participation in a study like this, it would be essential to afford anonymity to those who we spoke with. And so we went out to talk to companies and to other stakeholders. We gave everyone the option of remaining completely anonymous throughout the process. And as you'll see, I think that turned out to be quite important.

(Slide)

To date, we have conducted interviews with a number of EPA headquarters and regional personnel with over a dozen EJ activists in different communities around the country. And the focus of those interviews was to look for success stories to try to identify situations where EJ controversies had arisen and been handled by the companies in a way that people regarded as successful. Again, successful is a little bit different, depending on who you are talking to. But we asked everybody, show us the success stories.

We drew from that a list of companies in five industrial sectors that we thought we could approach and talk to about successes. The five sectors, as you can see, were light industrial and manufacturing, chemical manufacturing, the petroleum industry, the energy and utilities sector, and the waste management/disposal sector. So we've

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now completed interviews with 10 companies in those five sectors.

And those interviews were done using a standardized questionnaire that tries to systematically walk through EJ issues without suggesting a particular response, but simply drawing out how folks see the issues.

And with that as a background, I'm going to switch now to some initial impressions and observations on what we've heard so far, what we've learned so far, in the way of industry perspectives. And then as I say, Tim will talk about some of our initial observations with respect to industry practices.

I think I'm going to say at this point, if you don't like some of the views that I'm going to share with you, please don't shoot the messenger. The point of the study was to find out what people are thinking. I think we've found out a lot. It's not necessarily what anyone might have hoped for, but it is what it is. So let's take a look at it.

(Slide)

We found that most companies recognize that EJ is different than just community involvement, that there is a distinctive set of issues to be addressed above and beyond good relations with your local host community. But whatever folks think and feel about community involvement in general, you get a negative connotation pretty quickly when you move over into the field of environmental justice.

Specifically, the term EJ induces anxiety on the part of some industry representatives. And we heard the sentiment expressed that the language of environmental justice, specifically, the language of discrimination, the language of civil rights, polarizes people and, in the view of many, increases the sense of confrontation, gets in the way of open discussion and dialogue.

I think the most striking evidence of this is the fact that a number of companies we approached declined to participate in the study at all. And remember, these were companies who were recommended to us by EPA and, in some cases, by community groups as having just completed successful examples of handling EJ issues effectively in the context of facility siting or permitting. So we went to them and said you have been touted as a success, everybody is pleased with what you've done, and we'll keep it anonymous if you want. And they said, no thanks. I think that is powerful evidence of how uneasy a

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number of companies still are about environmental justice.

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Moving beyond the visceral reaction and trying to get some clarity on where the problems arise, I think there is a sense in industry that folks want to do the right thing, but they are very uncertain what that is. Particularly, this relates to the definition of environmental justice and the perceived lack of clear legal and regulatory requirements for what facilities are obligated to do. So before you ever get to the question of is a particular company willing to do more than it's required to do, you have the basic issue of they are not sure what it is they are even required to do. There is a sense of confusion and of anxiety as a result.

EJ is identified as a term that has many different definitions. Some folks use EJ to mean no intentional discrimination, some folks use it to mean standards are set equally, regardless of demographics. And they are enforced even handedly, regardless of demographics. Others talk about EJ focusing mostly on meaningful participation by all who are effected. And finally, some folks talk about EJ in terms of equal distribution of environmental burdens, sometimes called fair treatment or something of that sort.

And I think it's that fourth bullet, which is the part of EJ where the greatest sense of confusion and resistance and controversy comes up. People are unsure, for example, what disparate impact means, unsure what it is they are required to do to deal with disparate impact. So the lack of clarity, I think, is seen as a significant part of the problem.

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This, in turn, leads to frustration in terms of what the business community is looking for in carrying out its activities and making its business decisions. Industry needs -- and we heard this over and over again -- industry needs certainty and predictability in order to make decisions about modernizing facilities, siting of new facilities, industry needs to know what the law requires in terms of EJ in order to make good decisions, and industry is frustrated, as are local communities, as are state permitting agencies, as is, I dare to say, EPA, by the fact that we tend to approach each situation in an ad hoc way because we don't have clear legal rules or clear definitions that tell us what's required and what's expected.

And one of the more provocative comments made by a certain

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person was that EJ, in general, is an unsubstantiated obstruction to the process of siting and permitting facilities. Again, it's evidence of how far we still have to go to get to yes here.

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Some other quotations and specific views that we heard that are worth sharing, one focused on the lack of real models to follow. And I think the point here is not lack of computer models to track air emissions, but the lack of process models to take an EJ controversy and apply a set of standard rules to it so we know in advance how it ought to work out so that everyone knows in advance what's expected.

Similarly, the difficulty of trying to translate EJ principles into action. And no community should have a disproportionate burden, even if you accept that as a governing principal, what in the world does that mean in the context of a specific controversy, source of real frustration.

We talked about the definitions, the fact that no one is sure what meaningful involvement means, what significant impact means. This comes up in the Title 6 context, perhaps, most often. The frustration with proceeding case-by-case. The sense that each time an EJ problem arises, even for a company that has been through several of them before, each time it's starting from scratch all over again without a sense of ground rules, without a sense of clear process or clear objectives.

And this is further complicated by the fact that it's not clear who owns the issue, who is the appropriate community representative if a particular community group says with this package we're happy, does that mean you are done. Or does it mean it's still fair game for someone else to say, but we're not happy with this.

We heard the sense that with -- and this was expressed as a source of both confusion, frustration, anxiety, all of the above, it's not enough that the state runs a permitting process that is itself neutral, color-blind. It's not enough that all in the community who are interested can participate. It's not enough that the facility complies with all the environmental standards that it's supposed to meet, and as we were saying a moment ago, it's not enough that some, or many, or even most, in the community support the facility, approve the proposal, would like to see the permit issued.

Even with all of those boxes checked off, there is still the very

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real potential for an EJ controversy to arise that can derail the permitting process or actually block the issuance of the permit. And that's a source of a great concern, including potential EJ legal challenges even for facilities that have checked off these boxes.

So that's a quick interim update on what we've heard in terms of industry views and perspectives. Again, don't shoot the messenger. And I think at this point, I'm going to turn it over to Tim Fields to share with you some of what we've heard about industry practices, especially, practices that work.

Presentation by Timothy Fields

MR. FIELDS: Michael, thanks very much. I think as we transition into some of the practices, we've got to keep in mind that as we did the study, we were focused on environmental permitting and siting. We do not focus on all aspects of a company's operations, we purposely focus on that aspect as we discussed this with EPA. Some of this may vary, or be modified to some degree as we look at other aspects down the road in the context of industry in terms of, for example, environmental remediation or clean-up or other issues, but this is in the context of permitting and siting programs that are administered by companies across the country that this study focused on.

Also, I commend EPA for commissioning this study because since the 1994 Executive Order, there have been a lot of focuses on what the Federal Government has done, what State Government have done, what local government has done to deal with EJ issues. This was really the first time there had been a real focus on what is American industry and business doing, what are they doing to deal with EJ issues and their --- front.

So we are going to talk now about what are some of the practices we observed as we did do these interviews that Michael referred to.

(Slide)

Some of the companies interviewed have formal EJ policies in place. They have specific policies they have developed over the last several years that deal with how they integrate environmental justice into their community involvement processes as they deal with permitting or siting of facilities. But other companies have chosen to incorporate environmental justice considerations into social

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responsibilities, sustainable development, good neighbor policies. They generally encompass some EJ principals, like the American Chemistry Council's Responsible Rare Program, for example, or they try to deal with EJ in the context of a broader focus on community involvement that they may have in place.

One company we interviewed follows an EJ approach. By that I mean that they look specifically at the make-up of a community as they are looking at siting or permitting activities they may be conducting. They look at how the make-up of that community relates to the overall population within a state, how does that population of that community compare in terms of racial ethnicity income with the overall characteristics of a state, and then they focus, as need be, how to address the specific needs of this particular community.

Several of the interviewees cited the need for the use of a neutral or third-party facilitator. They felt that had worked successfully. They had invoked and hired facilitators to help them convene meetings with stakeholders, community reps, local and state government officials, and others as they dealt with permitting or selection of sites for their facilities. And they thought that a facilitator was a helpful instrument to making community involvement successful in their permitting action.

(Slide)

Some companies look at the overall national criteria. They look at how the Office of Environmental Justice, for example, defines environmental justice to mean fair treatment, effective community involvement, collaborative decision-making, and then they look at how that applies on a specific local level. For example, one company has adopted the NEJAC Public Participation Guidelines that NEJAC, obviously, developed several years ago. And those guidelines were applied to a specific facility situation and those guidelines allowed them to effectively involve the community in a permitting action that they were conducting for their facility in working with State Government, Federal Government, Local Government and the community. And so those guidelines were felt to be helpful in that context.

In some other situations, companies have found that effective partnerships with state and local government in getting community needs met has been effective in addressing EJ concerns. For example, in some cases, states have helped to host public

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involvement meetings prior to a permit application being applied for to make sure stakeholders were involved early on prior to the formal process starting. So state and local governments have been allies in helping some of these processes become more effective.

The last bullet -- some of the companies we interviewed have established community advisory panels that they fund where they create a panel to involve the community early on in the process of identifying the needs and issues of a community, identifying how those issues might be resolved to identify potential people in the community that need focused involvement. And so community advisory panels are being established by several companies now to deal with environmental permitting and site selection processes that they are involved in.

(Slide)

Some of these highlights I'd just like to focus on. I'll note three here on this slide. One is in the first bullet, some companies now are finding that it is quite helpful to actually establish, pursuant to the NEJAC Public Participation Guidelines, a public participation process prior to a permit even being applied for. They feel that if they can work with the community, identify their issues, develop a process through facilitation and a series of public participation meetings where they commit to identify the issues and develop potential solutions to those issues upfront, that helps to facilitate the permit process once it gets formally established.

So some companies have found that this allows significant resources to be saved when they address the community concerns upfront, have the community involved early on in the planning for the applying for a permit, and that allows them to save time much more on the end of the process if they have such processes up front. Some companies have even said if this public participation phase does not work successfully, we will not even apply for a permit. So we think that is a useful tool.

On the next bullet down, there are a couple of items there, one is that we're finding that more and more communities want to know that if I'm going to live next to a facility that's going to be permitted by the regulators, we want to know that the company agrees that this facility is safe as well. So some top facility managers have agreed to begin living in a community where a facility is being permitted. That way they provide some greater degree of assurance, or at least a signal

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that they believe that facility is safe also and they are willing to live there with their family in the same neighborhood where that facility is being permitted.

So we are finding that that is also something that a lot of community people feel is a strong signal, when you have a plant manager or someone who is in that community who is actually living in that community and believes that he and his family, or her and her family, are safe in that community where that facility is burning hazardous waste, or treating solvents, or whatever the issue may be. And that we have found is something that resonates with a lot of community people as well as now with some of corporate America.

The other element there is training and job creation. Community representatives we have talked to in some of these successful models we've captured have found that if a company is willing to commit to hiring of people to be part of the work-force at that facility once it is permitted, if they are willing to train people to be part of the work-force and provide job training and prepare them for jobs that may be created when that facility is up and running, that also is a very powerful commitment that the company cares about that community and wants to make sure that facility is going to provide for some benefit economically to that community as well.

(Slide)

So, what does this all tell us. Some of the preliminary observations -- keep in mind that this is an interim presentation right now of a study that we're not yet done with. We are still working on it but we wanted to give you, the NEJAC, at this meeting at least a preliminary report on what we're finding. We're finding, I think, as Michael mentioned earlier, that EJ is a loaded term for many in industry.

You know, some people they just don't understand what environmental justice is all about, they don't understand exactly what it means, and in some cases, some people have adopted it and they have focused on it, they have developed specific environmental justice policies. Other companies, they are real leery about it, don't really understand it so, therefore, they try to encompass environmental justice in the context of overall community involvement policies or programs they already have in place. But it's a source of nervousness on the part of many who we interviewed, as well as some that declined to be interviewed.

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Although most firms interviewed recognized the distinction between general community involvement and EJ, only a few firms have formal EJ policies or approaches. There are less than the number of fingers on my hand that have actual policies in place.

Thirdly, many companies are uncertain about how to approach EJ because some of the definitions in legal and regulatory requirements are unclear to them. They are not clear on exactly how a particular environmental statute that they may be operating under in the context of a permit program, the Clean Air Act, the Clean Water Act, RICA, how those requirements that they have to comply with relate to embodying environmental justice considerations into the permitting process that they are administering.

Two practices we have observed so far that seem to be working on the part of the 10 companies we've done detailed interviews with, plus some of the others, is to work closely with the community upfront, even before a permit, for example, is being applied for. Make sure that the community concerns are put on the table, that potential solutions to those issues are identified, even at the very beginning of a permitting process that a company is going to conduct.

Also, we have found that several companies have found that having hiring facilitators that would work with the community, work with the other stakeholders, work with the company to help facilitate a dialogue between all the parties is also a very effective way of getting EJ issues on the table and having them resolved as they go through a permitting process.

(Slide)

So, as I said, these are preliminary observations on our study. The next steps are to complete additional interviews with industry stakeholders, but also non-industry stakeholders. If you know of some companies that you know you believe we should be talking to, or other stakeholders you believe would have some insight into how industry and business are dealing with EJ issues in their permitting programs or site selection programs, please let us know. We are still looking for additional folks that we might talk to.

Our intent, secondly, is to prepare some detailed case studies of highlighting some of the best practices and lessons learned. These are not always going to be successful. Lessons learned means that there are some things we have learned that will help guide others in the future as they implement permitting or site selection programs in

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the future. But there will be detailed case studies prepared over the next several weeks on some of the interviews we've done to date, as well as some of the future interviews we'll be completing.

And then, lastly, our intent would be to prepare a final report on this study of the industry and business views and practices on environmental justice. And our intent would be to issue that during 2003.

Okay, so I think that's a quick overview of where we are, our preliminary observations on the study. And Michael and I will be happy to take any questions you might have. Thank you very much.

(Applause)

MS. SHEPARD: Would you all like to take your seats over here.

MR. FIELDS: All right.

MS. SHEPARD: Thank you very much for that very interesting presentation. We look forward to the conclusion of the study.

All right, I believe I saw Tom, Veronica, Bob and Larry.

MR. GOLDTOOTH: Yes, I'm curious if you are collecting -- I'm sure you probably might be -- and if you are going to be presenting in your report the characteristics of the companies, the industry that you interviewed. Why I bring that up is because some of them you said are embracing environmental justice and are addressing environmental justice in their permitting process, or in the work that they do. And that just gives me some assumptions that are those the smaller companies, or are larger corporations -- you know, so that's why the characteristics is important. Who is doing what.

Okay, and then the other one is, as part of EJ stakeholders, EJ activists, within the past couple years some of the Environmental Justice Networks have formed an alliance with the unions. For example, like what used to be Oil Chemical Atomic Workers Union, partnered up with the Paper Union, which is now PACE, and the Trust Transition Alliance. So some of the workers are rank-and-file are also addressing just transition as an EJ issue, when they are concerned about their health in the plants that they work in. So I'm just wondering if you are going to outreach to some of the workers as an EJ stakeholder.

MR. FIELDS: I'll start. The first question you posed there, we have interviewed large and small companies. The make-up is among these five that are in the slides. But some of these companies are very large Fortune 500 companies, some of them are smaller

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companies with only a few facilities in the United States, but it's a great diversity of companies who have been participating in the interviews. We want to interview some other categories of industry sectors as well that we've not yet talked to, but it's a broad mix of facility types and companies that have been addressed in our study to-date.

We do want to talk to some other categories, particularly automotive, steel manufacturing, and retail establishments beyond the categories we've already talked to. But we've been working with the National Association of Manufacturers, we've got a set of categories that we agreed to focus on in our study, and we have been calling companies within all those seven major categories of American industry to interview for our study. We want to continue to talk to other companies, both large and small, within those categories.

MR. GOLDTOOTH: Are you open to some of the mining companies as well?

MR. FIELDS: Yes. Mining is one of the categories that we would want to talk to as well. We have called, we have not yet gotten the acceptance of an interview, but we have called, for example, a couple of mining companies. One in Idaho and one in Utah. I don't want to name the companies, but we are still waiting for a response on a interview request.

MS. SHEPARD: Okay, Veronica.

MS. EADY: I wanted to thank you. I think that your presentation was great and I think that it's really important. In my former life as a state policy-maker, I did quite a bit of work with industry and I found that some of your results were surprising. Such as, you know, what works, the innovative approach of ensuring that top facility managers actually live in the neighborhood totally surprises me. Some of your results I found really discouraging and, although, I see that the results that you got and the results that I got are very similar. And that sort of confirms that it's not my lack of people skills that lead me to feel like a lightning rod many times.

I just wanted to give you a suggestion. I found in my work that Chambers of Commerce had a lot of input on environmental justice and they hear a lot from the industries that they work with. And so if you are looking for further people to interview, you might try to engage some chambers of commerce. And, Tim, as you and I have talked about this, so if you want to give me a call, I'd be happy to give you

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some names.

MR. FIELDS: Great. Good, thank you.

MS. SHEPARD: Okay.

MR. FIELDS: We can use all the help we can get. So we appreciate that.

MS. SHEPARD: All right, Bob.

MR. HARRIS: I, too, would like to commend you on your study thus far. It's clear to me, at least, that if we are ever going to really get our arms around environmental justice, we have to have a corporation of business. They are essential to that. For the record, I just want to say that Pacific Gas and Electric Company in San Francisco, a Fortune 500 company, the nation's largest gas and electric company, has an EJ policy, which is on our website, PGE.Com. Not only that, we have an implementation manual.

And one of my employees, Holly Wells, has been -- that's her full-time job on EJ issues. And I may point out further that we have begun to get calls from other companies who are interested in pursuing EJ policy, once they get beyond the perception that this is something that's going to bite them, or is bad, and all that stuff. So I do think that there is hope out there, but we do have a long, long way to go to get there. But I think we will.

MR. FIELDS: I want to just comment. I want to commend Pacific Gas and Electric. I was on a panel about a month ago down in Charlotte with Holly Wells and she talked about your company's EJ policy. And it was very well received. And so I commend your company for the bold steps you've taken in this regard and I hope that other companies would emulate what PG&E has done here in this area.

MS. SHEPARD: Okay, Larry.

MR. CHARLES: I'm sorry, I forgot your first name.

MR. STEINBERG: Michael.

MR. CHARLES: Michael. I want to commend you both on your presentation and throughout the whole thing I was in deep concentration on every word of the presentation. And some moments, more deeply than others. But maybe we might want to talk about the environmental justice as we look at the grueling schedule that's put out on us.

But this whole work of studying possibilities for industries as a full partner in environmental protection is an extremely important and

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an extremely timely work. And I do commend whoever decided to commission the study and also to select you, and Mike in particular, based on your experience for that decision.

I am very interested in the companies that refused to participate in the interview. There may be more of a learning there than those who are participating, to understand the perceptions that these companies have of environmental justice and the fact that in many cases there may be some breakthroughs by understanding the causes, the nature, the assumptions that are being made by these folks, that that could be valuable to us as we attempt to bring people to the light.

I think in the general sense that one come to a Jesus meeting won't convert everybody, but if we have some idea as to what their thinking is regarding this, it might be helpful. And I think when you get into it you are going to find a lot of myths are out there about the motives and the tactics of the environmental justice community that are not well-founded at all and that assumptions, such as the cost of compliance versus the cost of non-compliance with environmental laws, might be something that if we could bring to light would be helpful in converting many of these other folks.

So, finally, I then wanted to indicate that the value of your work is going to be relevant to other activities that are going on inside NEJAC and, in particular, the International Subcommittee right now is pursuing a particular work of developing tools, developing best practices, to encourage corporations to be more pro-active on this.

And then finally, another part of that is that we are beginning a process that may take a little while to develop, similar to the Sullivan Principals, a set of principals for environmental stewardship for U.S.-based multi-nationals and foreign countries. And your work in the end will contribute greatly to that and I look forward to the outcome. Thank you.

MR. FIELDS: Thank you, Larry. I want to just say on that point that the genesis for the study was really not our idea by any means. This was an idea which came from EPA, so we commend Barry Hill, Charles Lee, Linda Smith of EPA who really commissioned the study. So it's their brainchild, if you will.

MS. SHEPARD: Okay, Ken.

MR. WARREN: Well, I'd just like to say to Michael, in particular, that if this group was going to shoot the messenger, I'd no longer be

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here. One of the real satisfying aspects of my participation in the NEJAC over the last couple years has been how deliberative and reasoned the process has been and how the exchange has been an exchange of ideas. And I think just the fact that the people in this group do process ideas and issues in the way that we do, should give comfort to the business community that environmental justice is something that all can participate in. And I would hope that you all would publicize to the business community that the NEJAC itself is a good example of a collaborative, multi-stakeholder process. So it can work.

And while the results may not always be the results that the business community wants, I can say that I probably lose more issues than I win, I always come to the view that when the issues are lost it's because there were good reasons on the other side, not because it's vindictive or emotional, or anything of that nature.

Having said that, I would say that your experience, Michael, and, certainly, given the context that you have, and your firm have, with the business community your experience is, certainly, consistent with the experience I have had. That there is a lot of distrust and fear and anxiety, and I want to stay away from this issue approach in the business community rather than a desire to engage. And while I think that your mission of finding successful models is a very good one and would be very helpful to have, I think that having a successful model will not, in itself, cause anyone to employ that successful model.

And so I think that your report would be more complete if there were some additional recommendations in it as to how to get those models to be implemented by the business community. And in that sense, you know, because this is something that the NEJAC is concerned with and we provide advice to the administrator, I would just offer three thoughts for you to at least think about incorporating into your report.

The first would be that the EPA ought to send out a clear message to the business community on what environmental justice means from the point-of-view of the agency so that when the agency is making permitting decisions, industry can know this is how the agency is going to treat environmental justice. The agency, of course, can't speak for all community groups, but it can speak for its function and its regulatory capacity. You know, when it will grant a permit, when it won't, when it will review a state favorably, when it

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won't. And I think we have not yet heard that message, and we should.

And I know the sort of the way that complaints are processed by the agency, which is very slowly in after the fact, creates a lot of anxiety. And maybe one thing that you might say from the point-of-view of the business community, and the certainty that he business community needs, is to adjust that kind of approach.

The second is that, I think, the agency has a role, not only as a regulator, but as a facilitator. And that environmental justice should not only be the focus when there is a problem, but should be an ongoing dialogue between all of the stakeholders, which government should be out there facilitating at times when there is not a crises. Because if those bridges are built when there isn't a crises, there is a greater likelihood that the trust and relationships will be there for there to be an effective resolution of a problem when it arises.

And then, finally, I think, part of the uncertainty as a result of the incomplete integration of environmental justice principals into programs offices to date, so that when a business is dealing with a permitting issue, for example, it is not dealing with EPA's Office of Environmental Justice, primarily, it's dealing with either a state or a federal permitting office. And if environmental justice is to be effective and clear to the business community, it needs to be translated on to the program level, not to be sort of a special office set aside.

Those are just three of my thoughts, but I guess the overall message that I'm trying to send you is that I don't think a model, if you develop it, even if it's the greatest model in the world, is going to be enough. There needs to be a broader thought of how the business community can be brought into a multi-stakeholder model.

MR. STEINBERG: Ken, I think those are good points. And in terms of how to help industry move toward greater use of successful practices, one of our objectives, and it's not yet clear how we can fully develop this, but one of the objectives was to try to note the benefits to industry from successful examples of EJ problem-solving and to try to capture those benefits, hopefully, to quantify them if possible and, thereby, to be able to say to the business community as a whole, look at some of the good things that happened when you do this the right way. That's the aspiration, at least, and we'll see if the report can do some of that.

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1 MS. SHEPARD: Okay, thank you. Wilma.

2 MS. SUBRA: Thank you all very much for putting it down in
3 black and white. This is what our experience has been showing over
4 the years and, finally, we have a document with it down in black and
5 white. The two things that you said that worked, working closely with
6 the impacted communities and a neutral third-party, there is some
7 controversy whether the neutral third-party works or not. But I can
8 guess which facilities you were talking to.

9 MR. FIELDS: No, you do not have a clue Wilma.
10 (Laughter)

11 MS. SUBRA: Thank you, Tim. But working with the community,
12 we've been pushing on behalf of the community for early meaningful
13 involvement in the permitting process. And when you look at that
14 permit in siting, siting issues need to be addressed way before you
15 decide that you are going to try and permit this. And so I think there
16 is probably two different perspectives on where you are on the siting,
17 versus where you are in permitting in the permitting process.

18 But the community fears that they want the early and meaningful
19 participation in the permitting process, but if they start dealing with the
20 industry, they fear that it's going to be a, yes, we're going to get this
21 facility here and all we're doing is working with the industry to make it
22 better, but there will never be a no decision if we sit down at the table
23 and work with the industry through the permitting process. So please
24 bear that in mind as you go through the process. It's like once you
25 cross over that line, the facility is going to happen, versus when you
26 don't cross over that line, you may have a chance for a permit denial
27 or over turning the permit decision in the courts, and things like that.

28 I know you are not going to tell me the companies, but could you
29 please tell me in which states they are located? Or can you make
30 that much available?

31 MR. FIELDS: We really have not decided yet, Wilma, and we
32 won't until the final report.

33 MS. SUBRA: Okay.

34 MR. FIELDS: We are committed to anonymity of the companies
35 that are being interviewed and the people who have recommended
36 companies have also requested, in some cases, anonymity as well.
37 So we have got to decide now exactly how we will characterize the
38 information in the report as we prepare it, but we've not yet decided
39 how we will. We may just talk about regions of the country, or we

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1 may not be able to even name states, but we have not yet made that
2 decision about exactly how we'll characterize facilities that are part of
3 the study.

4 MS. SUBRA: Okay. And regions would also be good, so you
5 have some idea. And lastly, on page seven at the bottom of the
6 page, if you want a lightening rod, rather than after construction, you
7 really didn't mean that, did you? I mean --

8 MR. FIELDS: Page seven.

9 MS. SUBRA: Participating in the permitting process while
10 construction is going on is really, really bad.

11 MR. FIELDS: Okay.

12 MS. SUBRA: Did you really mean that there is permitting
13 processes --

14 MR. FIELDS: What does the top of the page say that you are
15 reading from? My pages are not numbered.

16 MS. SUBRA: Oh, second to last page.

17 MR. FIELDS: Okay, second to the last page. Okay.

18 MS. SUBRA: Industry practices, what were highlights of
19 innovative approaches.

20 MR. FIELDS: Oh, I see, I got you. Oh, the second bullet?

21 MS. SUBRA: No, the "holding neutral facilitation public
22 participation meetings, prior to seeking permits. This allows the
23 company to save significant resources when it addresses community
24 concerns in the planning stages rather than after construction has
25 begun."

26 MR. FIELDS: No, you're right. You're right. It's really even prior
27 to a permit being applied for.

28 MS. SUBRA: Right. Not after construction.

29 MR. FIELDS: Right. That should be modified. Thank you.

30 MS. SUBRA: Thank you.

31 MR. FIELDS: All right.

32 MS. SHEPARD: All right, Reverend Lee.

33 REVEREND LEE: Yes, all right. I'm trying to keep the faith. A
34 good report in terms of the black and white. But one of the things that
35 this is -- what is this, 20 years after the term was coined somewhere
36 along the way, that it's still not been adequately communicated. So, I
37 think, we all have a responsibility in that -- those who say the word
38 and those who hear the word.

39 So, I think, one of the things that I will take away from this fine

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1 presentation, Larry, Charles, is to go back to the National Council of
2 Churches' ECO Justice Working Group on which I, and a couple
3 colleagues here sit, and maybe encourage my colleagues to come up
4 with a Sullivan type principals to talk about principals of
5 environmental justice with our colleagues from the business world,
6 who sit in our churches, synagogues and mask. And, perhaps, that
7 might be helpful. So that's one thing.

8 The other thing that comes from page five, one of the EJ
9 challenges as noted by industry, I have a question about. And that is
10 the statement that says some industry representatives believe that EJ
11 legal and regulatory requirements have not either been properly
12 communicated or defined. So I'd like to know from Charles, you
13 know, and maybe Peggy even, what has the EPA done over the
14 course of time -- and NEJAC -- to help in the proper definition and
15 communication of what the legal requirements are to industry.

16 MR. LEE: You know, one of the big issues that the NEJAC has
17 wrestled with and EPA has wrestled with since the emergence of the
18 issues is what are the statutory authorities that pertain to
19 environmental justice. And you know that the report from the NEJAC
20 meeting in 1999 asked for a clarification of legal authorities, which in
21 December of 2000 were done by the Office of General Council in
22 EPA. And that's that memorandum that I think all of you are aware of.

23 Subsequent to that, the Office of Environmental Justice gave a
24 cooperative agreement to the Environmental Law Institute to do a
25 report on advancing environmental justice in their assisting
26 environmental statutes. So those are an expansion and a more
27 detailed examination of those legal authorities. So that is some other
28 things that have to do with developing a citizen's guide around that,
29 and the process of developing a training video, as you know, Dora,
30 and things like that, right.

31 I mean, obviously, some of that is clearly meant to help build a
32 capacity understanding within environmental justice communities, but
33 also it's for a broader audience. It's also for better understanding
34 among other stakeholders which are interested, including business
35 and industry.

36 MS. SHEPARD: I would also say, Dora, that I think that's an
37 excellent recommendation that you've made to go back to your
38 organization and work to develop principals and, perhaps, that's a
39 recommendation that could emanate from your report.

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1 REVEREND LEE: Thank you, Larry.

2 MS. SHEPARD: Richard.

3 MR. GRAGG: I would like to thank the two gentlemen for an
4 excellent report too and I'm glad it's in black and white. But I guess,
5 like Ken said, I'll try to be constructive and suggest in terms of the
6 final report. I'm just taken aback that this broad range of industries,
7 with all these resources and stuff is afraid of some community folks in
8 terms of their issues in environmental justice. And I think the solution,
9 at least the broad aspect of the solution, is not really complicated. I
10 think the industry in terms of recommendation needs to be more pro-
11 active and accept as a priority their neighbor's concerns about the
12 impact of their activities on their everyday life.

13 And I think if the industry started from that approach, of being
14 pro-active, seeing environmental justice as a priority in being a good
15 neighbor, in being respectful of their neighbors, that that would go a
16 long way. When the State of Florida had their Environmental Justice
17 Commission and we went around the state, that was my first
18 exposure to the whole issue, the State having public hearings, and I
19 never ran into a community group in the status of their complaints --
20 and they have a lot of complaints -- that was ever interested or was
21 threatening to sue anybody. They were asking for help.

22 And it seems to me that what gets in the way is the company not
23 being a good neighbor and only looking at their best interest from a
24 profit motive as opposed from a, like I said, a good neighbor aspect.
25 So I think the companies are in the best position to help define and
26 understand what environmental justice is because they have the
27 resources to be pro-active and engage the community and really
28 address the problems. So the real question is, is how do they see
29 these people that are bringing these complaints and if they respect
30 those people and are really concerned about getting to the issue.

31 MR. FIELDS: You raise a good issue and I think as we wrestle
32 with the final report, Richard, we are going to have to think about what
33 recommendations we can make to EPA, to others, about how we can
34 cause this issue to be a greater priority on the part of industry.

35 I think that what PG&E is doing, for example, by sending their
36 policy out to other fellow and sister companies is a good step. It
37 shows that some companies are interested in doing something more
38 pro-active, but there might be some things we need to recommend as
39 well as a result of our study as to how we can in other ways make this

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a greater priority on the part of U.S. industry and business. So we'll have to give that some careful thought over the next several weeks in terms of what steps could be taken to make this truly a bigger priority for many companies.

MS. SHEPARD: Harold.

MR. MITCHELL: I just wanted to commend you on this report. Being in a conflict resolution for the past year with a chemical company, there is a lot of assumptions that I would like to make a recommendation on. One, being following up on Veronica and Kenneth as to the parties that need to be at the table. And I think we've, as an assumption in our particular meeting, that from the local government standpoint, where there is not zoning and allowing the actual siting to take place, I think there is a lot of emphasis being excused and looked at regarding what is the true definition of environmental justice. And to have a facility that's, basically, sitting borderline on a community compared to what is considered to be a safe buffer, there is a lot of issues that I think could be addressed from a local perspective and the chambers, such as Veronica stated.

MS. SHEPARD: Okay. Tim, I'm curious, have any of the businesses that you've spoken with had any interest in being part of a meeting with NEJAC?

MR. FIELDS: I think that some of them would be more than willing to have a discussion and be a party, particularly, many of the 10 that have committed to detailed interviews. And they would welcome that type of dialogue between NEJAC and the business community about how to deal with some of these issues. Maybe to address the question that was just posed about have a dialogue about what could make this a greater priority on the part of some of the U.S. business and industries. So that might be one of the things we may recommend as part of this study, in terms of what steps could be taken. And I think that some companies would want to do that.

I do want to point out though, on the other hand, as Michael knows better than me, there are some companies who would probably decline to be a part of that dialogue at the point they're at right now. And they would not want to come to such a meeting. But there are some who would voluntarily be willing to come and participate in such a dialogue and, I think, all you can do is just invite certain people and see who shows up. But I know some companies definitely would be willing to participate and they want to be part of

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such a dialogue. Don't expect a big crowd, but there will be a few.

Michael, do you want to comment?

MS. SHEPARD: And how do you see NEJAC being able to utilize this report?

MR. FIELDS: Well, I think this report sheds, as several members of the NEJAC have stated it, it sheds a new light on the issue. A segment that has not been reviewed in the past. We have captured the views of the Federal Government, State Government, and local government in various reports in the past. So, I think, for the first time we are capturing in a report that will be completed next year -- this is just a preliminary set of observations -- but that report will capture for the first time how American industry and business feels about this issue and what some of their practices are. And so I think that will go a long way to help enlighten other U.S. business and industry.

And our hope is, in the study we're doing, is that some other companies and businesses will adopt, particularly, some of the better practices and innovative approaches that the U.S. industry has done on a small scale and maybe this will cause these techniques to be adopted on a broader scale across U.S. business and industry and, therefore, be of great benefit to communities who live near those facilities in the future. That's what I would hope we get out of the study, causes to happen out there.

MS. SHEPARD: Okay, thank you. Charles.

MR. LEE: I just wanted to finish, make a couple closing comments. First of all, I think we need to recognize Marla Hendricksson from the Office of Environmental Justice. I think Marla is back there. It was, actually, her idea. And I want to make sure that's on the record.

MR. FIELDS: Charles, we were giving you and Barry all the credit. And you guys never --

MS. SHEPARD: Always a woman.

MR. : That would get the blame, and it didn't work.

(Laughter)

MR. LEE: We stood silent and took it, right.

You know, to put this effort in context, there is a very difficult and important area to address in terms of environmental justice, which is the participation and better engagement with, and learning with, industry and business, how to address environmental justice issues,

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both reactively and pro-actively. And, of course, the Office of Environmental Justice has been involved in a set of ongoing activities to promote the idea of environmental justice in working with industry.

And, of course, there are several. One is, of course, making sure that business industry is a meaningful voice on the Environmental Justice Advisory Council. And that, in and of itself, is a very, very important thing and a very difficult thing. Because the same kind of issues that Tim and Michael talked about in terms of hesitancy also applies to their understanding of the NEJAC. And so Ken Warren's comments before are very, very important and insightful.

The second is, you know, we have been promoting through different ways inter-agency and multi-stakeholder collaborative problem-solving. And there are, of course, some very shining examples of industry being involved. One of which is the effort that Harold Mitchell is involved in for which Harold received the Foundation's Leadership for a Changing World Award, the Regenes Project in Spartanburg. And that's involved with that and this is something that the Office of Environmental Justice is promoting in terms of collaborative problem-solving is use of alternative dispute resolutions, which we are developing training for.

You should know that Rodia Chemical Regenes is undergoing a facilitation to resolve a number of issues, the facilitator of which is Tim Fields. And so the third one is business and industry has been involved in development of EJ training and having some instances, actually, conducted. And that is the EJ training basic introductory module that was developed over a year ago and now is pretty widely used.

And to cap this off, I would say there was a session at Brownfield's 2002 Conference in Charlotte in November, in which I moderated a panel in business industry practices in terms of environmental justice. And Sue Briggum from Waste Management, Kay Stanley from Rodia Chemical, and Holly Wells from PG&E, along with Tim Fields, presented. And you should know, I don't know if it came out before, but PG&E does have now an Environmental Justice Policy companywide. And that is, of course, a much more pro-active way of approaching the issue.

I would close by saying that it was unclear to us exactly how that panel will go. And there was a certain amount of consternation on the

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part of the panelists in terms of how they will be received. And what I think came out very clearly, and Tim and Barry who were there can attest to this, was they just gave their stories in terms of how they responded to and what they learned from in terms of their interactions with the communities on very difficult issues.

All of these companies have gone through very, very controversial community environmental justice type situations. And, I think, what they said really stood for themselves. And we want to promote more of that kind of discussion and I don't think you can replace that kind of understanding. It's no different than what you heard from Richard and Larry Starfield about the relationship and the years that it took to build a relationship between communities and government, the EPA.

It's going to take the same kind of thing and I think that all this is part of this concerted attempt that's now being made to make sure that that comes about.

MS. SHEPARD: Okay, thank you. Thank you both.

(Applause)

MS. SHEPARD: Okay, we're going to take a 15 minute break, which means we should all be back by quarter of 12:00. And I would also just like to take the opportunity to welcome our young visitors who I see in the audience. And welcome to the National Environmental Justice Advisory Council and I hope you find our talks and deliberations of interest today. Thank you everyone.

(Whereupon, a brief recess was taken)

MS. SHEPARD: Would everyone begin to take their seats, please.

(Pause)

MS. SHEPARD: If all the NEJAC members would convene, please.

(Pause)

MS. SHEPARD: All right, if you all would take your seats, we are about to begin. Now, many of you have had concerns about our next upcoming meetings. And Charles will be starting out to talk to you about our next meeting and the EPA's fiscal year and how the NEJAC meetings fall into those fiscal years and when the next meeting is. And then he will go into a report on cumulative risk, which will be the theme of our next upcoming meeting.

NEJAC Strategic Plan/Cumulative Risk

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by Charles Lee, DFO

MR. LEE: Hello. Well, the first thing I wanted to do was to explain the calendar year that we're operating under because, you know, the confusions that got created by the fact that within the calendar year 2003, there would not be a meeting. I wanted to explain. And then I want to explain the reasons why the meeting is going to be in the spring of 2004.

In a certain sense, and this is why this chart is up here. You know, we are now in calendar year 2002, but we are actually in fiscal year, according to the way the federal fiscal year works, 2003. Okay, and so that's the December 2002 meeting is in the first quarter in December 2002, of fiscal year 2003. Okay and then that means that when we go to the next meeting, which will be in April 2004, that's in fiscal year 2004. Okay, that's in the second quarter of that fiscal year.

And I mean there were two reasons why it made sense to have this meeting at that point. The first is that there was a desire by many of you that the NEJAC meeting be held in the spring rather than at the end of the year. And so to comply with that, we decided to do it in the first quarter, in the spring of 2004. And also, I think, as you can see that given the kind of intense work that is required to do a really substantive preparation for a good dialogue around some of these public policy issues that we've asked you to address, it is going to take a good amount of time to prepare for an issue as complicated as cumulative risks and cumulative impacts.

So I hope that gives everybody a frame of reference in terms of the calendar. So in the next calendar year, 2003, there will not be a meeting. But it is not that we are going through a year without a meeting, or skipping a meeting, or skipping a year without a meeting. So that's the overall question in terms of clarification on the calendar.

You know, it is also expected that each of the subcommittees are going to be meeting by themselves individually in each program office, and their subcommittees have made plans. Health and Research, I think, is going to meet in April. I know that Waste and Facility Siting has a couple meetings planned. And each of the subcommittees we're promoting through their program offices support, meetings in addition to the NEJAC full Council meeting. And that is part in parcel of the development of the strategic plans for each of the subcommittees which, you know, each goes on their own tracks.

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And so I don't know if there are any questions, I want to address these at this point.

MR. HARRIS: I just have a brief one. My term ends December 2003, what happens to terms that end before April 2004? Do you automatically just go off at that particular time?

MR. LEE: Well, I think that's got to be done on a case-by-case basis and I don't think there is any categorical answer to that. If you are going to go off, you will go off at that time. The appointments are done from January 1st to December 31st, and that won't change at this point.

MR. HARRIS: Okay, so for some of us, this will be our last meeting, even though it ends in 2003. I just wanted to be clear on that.

MR. LEE: Yes, yes.

MR. CHARLES: Will this be your last meeting Robert?

MS. ESPINOSA: So we have to say goodbye to you now?

MR. HARRIS: Yes, you have to say goodbye.

MR. LEE: Well, not necessarily. We don't know that yet. Other questions?

MR. CHARLES: How many months between now and the next meeting?

MR. GOLDTOOTH: Can you repeat that question?

MR. CHARLES: Yes, how many months between now and the next meeting of the Council? The next meeting of NEJAC, the full NEJAC?

MS. SHEPARD: Sixteen.

MR. CHARLES: You know, it would be good if you could study that question about those whose term would have expired if we had had it December 2003. You know, we're talking of only four more months, to see if there is some possibility of extending those whose term would have terminated December 2003 to extend their's four months until April.

MR. LEE: No, we will do that, because that's why I don't think there was a categorical answer to Bob's question. But, you know, one of the reasonings behind, that you suggested in terms of having it in the spring, is that you would be able to orient new members through the spring meeting. So there is that conflict there and, you know, we're hearing all these things and trying to figure out a way to accommodate all those legitimate concerns and trying to figure out

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what makes the most sense for the most people. Veronica?

MS. EADY: I have a worry that there's not going to be a meeting until April 2004. And one of the reasons for that is that I think that the NEJAC has a lot of business that it needs to do in the next 16 months. And in particular, I would like to see the Council talk more about some of the things we talked about this morning, strategic planning and process, and figuring out -- you know, just moving forward at the pace, with the momentum, that we've been moving forward since the facilitated dialogue.

And I find it really difficult -- and I'm going to be perfectly honest here -- you know, while I attend most of the conference calls, I have to be honest that I'm usually multi-tasking during those calls. And it's just hard to talk about these really important issues over the phone. And so what I would just throw out there as a suggestion, maybe you can respond to it, is like maybe the possibility that the NEJAC could meet, even if it's not the subcommittees, and even if it's not something as elaborate as we normally do. But like a one-day meeting in a conference room at EPA or something like that. I think would really be helpful for us to continue conversations that we started having here.

MR. LEE: You know, I hear you and I agree with you. I don't have an answer for that but, certainly, we'll consider it. In terms of background to this, I think those of you who participated in the Executive Council's facilitated dialogue found that to be extraordinarily helpful. And the complicated process of building a consensus building process among various stakeholders is not an easy one. It's not an easy one even if you have four or five meetings, much less the way we're operating under.

I think putting it into the larger perspective is that if we had the time and gave you an overview of all the activities that the Office of Environmental Justice is engaged in right now. Then you can understand why is it that as those increasing activities which are very important are being undertaken, you know, there are choices that have to be made in terms of prioritization. And that is, I think, a most accurate way of explaining the decisions behind the usage of resources. Graciela.

MS. RAMIREZ-TORO: I would like to express what Veronica said, because we have some of the members have -- or at least I have a little questions about procedures. Just to give an example, I

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am one of the members that submit more things in writing, I think, because it's easier for me to write and send my comments. And that's one of the questions that I have, how those type of comments get handled. So I would appreciate as a member if it gets considered that we meet at least once for talking about procedures and to clarify certain things.

MR. LEE: I think it was Judy and then Richard.

MS. ESPINOSA: Thank you. And thank you, Charles. I know it's a difficult position. And just to kind of follow on, maybe it could be a meeting of just the Executive Council, a business meeting, if you will, to take care of a lot of what Veronica is talking about, and Graciela and others, about -- not this meeting with all the subcommittees, as others have said, saving the bigger meeting for April. Because that way the Executive Council could take care of a lot of its business and we can make sure that we have things down and everybody is together and we continue with the momentum, as Veronica says.

And, again, you know I know Richard offered for a regular NEJAC meeting, but I will offer if you come to Albuquerque I would be glad to help host that and work with you. And I've got free facilities that we can use and I just throw that out.

MS. SHEPARD: Richard.

MR. GRAGG: I would like to suggest, again, even though I'm like Veronica when we're on the conference calls, I'm doing a million things and my suggestion will not allow me to put you guys on mute and make you think I'm all there. But my point is, I think one thing that may help, which I think is doable, is that when we have the calls if -- most of us, I think, have computers. Probably everybody doesn't, but if we could do a little camera on our computers and we can at least see each other and talk.

I mean, that may overcome some of the problems of just being on the phone and talking through the phone. And I think that's something that maybe Marva may be able to dig up some resources in that slush fund she has with her to help us do that. And that may just help a little bit on not being able to, actually, physically meet face-to-face because of resources. That may just help out.

MR. LEE: Let me just say this. You know, this is not a perfect situation, but I think that given the impediments that you've worked under over the last couple of years, you've done an incredible job.

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And that it has required creativity and people stepping up to the plate. And I tell you one thing, it is not easy for the staffing office in Environmental Justice to run a process like this. There is much more ideal ways of doing this. And I, certainly, think that it's going to require more creativity and ingenuity as we go along. And I really would appreciate that.

A fact in the matter is that we all know that what we're trying to accomplish is very, very important and that the resources that are there right now available are commensurate with the tasks at hand. That there are choices that have to be made around very important things that need to be done. You know, everything that you heard about has resources attendant to that. And those things are important. We are just as much about implementation as about getting advice. And, in fact, perhaps we are rightfully more about implementation than getting advice, in some ways.

And so I mean I see that's the thing that I kind of conclude with. I hear all of what you are saying and we are going to take all those suggestions very seriously.

Okay, Pam, did you want to?

MS. KINGFISHER: (Nodding head no)

MR. LEE: I did want to say in terms of this issue about the processes and procedures within the NEJAC, you know, an important milestone was reached sometime in November when practically all of the subcommittees completed their -- with the exception of one or two -- their strategic plans. And what that means is that there is an important relationship that we've been trying to promote and nurture is the relationship of the subcommittees to their program offices.

And that's directly related to the amount of resources that goes to help support the work of the NEJAC. And it is very good that a number of the program offices have already stepped forward and said, you know, we are committing the resources to have the extra meetings of these subcommittees independent of a larger council meeting for the purposes of getting the task at hand accomplished. So I want you to not lose sight of the larger picture in terms of a lot of the things happening with respect to this advisory committee; which consists of you, as well as seven subcommittees and a number of workgroups.

Okay, so let me just kind of conclude this part. I wanted to give you a real quick synopsis on the issue that you are going to be

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addressing in the next 16 months, and more. And that's the issue of cumulative risks and cumulative impacts. I wanted to present a little bit of background on the substance of the issues and the kind of work that's gone on in EPA with regard to the issue of cumulative risk. And then conclude by talking about how this interfaces with the work of the NEJAC.

(Slide)

So the first slide here. There is still a conversation on clearly defining the relationship between risks and impacts, which is an ongoing conversation that we're going to have to get a better precision on it. I know a number of you have had that conversation with us on an ad hoc basis and realized that this isn't an easy question. However, at a very basic level, defining risks and impacts is impacts are harms or adverse effects, and risks is a probability of harm and adverse effects.

(Slide)

The EPA has been developing a cumulative risk assessment framework. This framework has a lot of different elements in terms of its development. The first of which, back in 1997, was the writing of a planning and scoping memo. And there is a guidance now on planning and scoping. In 1999, the cumulative risk assessment framework was developed. It has had three external peer involvement meetings in 2001, two consultations with the EPA Science Advisory Committee in 2001, and in June of this year, it underwent external peer review. And there is a plan to publish this framework by the end of this year.

Now, there is a difference between a framework and a guidance. A framework is just exactly what it is, it's an overview setting the parameters of what constitutes this question of cumulative risk. And that's very different than guidelines and procedures as you go about doing cumulative risk assessments.

(Slide)

In terms of future plans, there is going to be case studies developed and issue papers on specific topics; one of which is one I'm going to come back and talk about a little later that the peer review process suggests it should be more work done on is this concept of vulnerability. There is a plan to work with the NEJAC in the spring of 2004 meeting. And sometime in 2003 to 2004, maybe a 10 year process will begin to write the guidelines. And as you can

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see, there has been a lot of work and time that went into the development of the first stage of this, which is developing a framework.

And it is, in fact, I think, -- you know, because there have been questions about why are we doing this when there is already a framework being developed. The framework is not the end of the process and it is really good because it's something tangible, that's concrete, that's been put forward that sets some parameters for there to be interaction with so that your advice becomes much more relevant.

(Slide)

In terms of the cumulative risk assessment framework definitions, cumulative risk is defined as combined risks from aggregate, which is multi-pathway, multi-source, multi-route over time and exposures, multiple agents or stressors. And it's not just a chemical agent, but they are also defined as meaning a whole lot of other things under the rubric of stressors. Cumulative risk assessment is analysis characterization and possible quantification of combined risks of health or the environment for multiple agents and stressors.

(Slide)

And then there are key definitional points, stressors or chemicals, combined risks can be qualitative.

(Slide)

This is an important item to keep in mind in terms of the cumulative risk assessment framework is that that puts forward a three-part, or three-phase, sometimes to run somewhat concurrently, a process in terms of doing a cumulative risk assessment. The first of which is planning, scoping and problem formulation. The second of which is analysis. And the third of which is interpretation of risk characterization.

And you know those arrows are not just one way, but both ways. And it is meant to be understood as an iterative process and there is going to be a different approach because given the complexities of cumulative risks and cumulative impacts, it's going to be somewhat -- not linear, but circular and multi-path, and going back and forth. So, clearly, it's very well understood that some cumulative risk assessment, whatever that may be, has got to be iterative.

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Some of the features are important and it's, of course, multiple chemicals of stressors, includes non-chemical stressors. There is going to be a population focus, there is going to be emphasis on participation for stakeholders. It goes back to the whole idea of planning, scoping, and problem formulation. There is a concept of vulnerability and, you know, Marty Halper is a member of the Cumulative Risk Technical Review Panel, which is chaired by Mike Callahan.

And it's really important and noteworthy that this is now being defined and put forward. Vulnerability includes not only susceptibility, which is something biological in terms, but also social vulnerability. You know, things where people work, income levels, access to healthcare, all those other factors.

And that is clearly defined. And if you note, I said before, the peer review panel that looked at the cumulative risk assessment framework really keyed in on that. And, of course, there were all kinds of -- and they, basically, said this is a very important concept. This is a very important concept that needs to be understood and incorporated at the very beginning of the process of cumulative risk assessment, which is planning, scoping, and problem formulation.

Now, exactly what does that mean and how does that better, both understood and what is the scientific basis for a better understanding, this concept of vulnerability. They said a lot of work needs to be done. And that is, in fact, one of the issue papers that is going to be worked on, as I said before, in the other slide. So then, obviously, it deals with human health and ecology.

(Slide)

And this is just a slide in terms of -- there was another slide that goes with it that looked at an agent and its pathway to a lot of different receptors, but when you're talking about cumulative risks and the way that the assessment is defined, you know, it is population-based. It's a population-based approach, which means that you've got to incorporate all the stressors and chemicals and its impact on a community population. Or a segment of sub-population. Young people, elderly, etcetera.

(Slide)

So these are some of the kind of things that go into the concept of vulnerability. I said susceptibility or sensitivity, differential exposures, the preparedness in terms of being able to absorb

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chemical or the stressors, and ability to recover. And those would, obviously, impact what the risk quantification would end up being.

(Slide)

Okay, now we get -- and this is a quick overview -- I think we have provided copies of the cumulative risk assessment framework to all the NEJAC members. What we need to do immediately after this meeting is make sure you all get a copy again. And I, certainly, hope if you wish that would be great Christmas reading -- holiday reading, I'm sure.

So, for the process that the NEJAC has begun to undertake to address this issue, a number of you, Peggy Shepard, Richard Gragg, and others have been involved in a small ad hoc group over the last year that met a couple of times to talk and scope out what exactly is this issue and what are some of the elements of these issues. What are the key points of intersection for environmental justice that would make the most difference in terms of cumulative risk and impacts and environmental justice.

It is our intention in the spring of 2003 to establish a NEJAC workgroup, such as the Pollution Prevention Workgroup on cumulative risks and impacts. We are in the process of formalizing working relationship with partnering EPA offices and other committees and other relevant agencies.

Let me just say a little bit about that. We believe that there are a number of offices in EPA that have a very clear interest in this issue; one of which is, obviously, the EPA's Office of Research and Development. But also the Office of Solid Waste and Emergency Response, Air and Radiation, and the Office of Prevention of Pesticides and Toxic Substances.

In addition to that, there has been a conversation that I have had with the Children's Health Advisory Committee at EPA who wishes to have a working relationship with the NEJAC. This is the EPA's Advisory Committee on Children's Health. And we suggested that that may take place around this issue. So we are now discussing the possibility of some kind of interaction in coordination with them around this issue. And what that is going to look like, I am not sure.

In addition, the members of the Health and Regional Subcommittee will know that the Agency for Toxic Substances and Disease Registry Council of Scientific Advisors has a Community Tribal Subcommittee. And they have asked that they have some kind

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of relationship with the NEJAC. And we said also not only a relationship, but this might be an issue that could be some kind of joint work on.

The history to that is, you note that in May of 2000, Dr. Henry Falk, who is the Director of ATSDR, was very heavily involved in the discussions around community-based health research. And he suggested at that point that there be a liaison. And this is now what is coming to pass.

And also in the spring of 2003, we are going to take everything that we've thought about over the last year and kind of formulate and transmit to the NEJAC to charge the questions that we want you to address with respect to this issue of cumulative risk and cumulative impacts. And I will go into that in the next slide.

Of course, through the years 2003 and 2004, the workgroup would develop a draft report and consensus proposal to come to the meeting in April 13th to 16th, 2004 in New Orleans on cumulative risks and cumulative impacts. And that is the broad sketch of the process as going forward. You have all of this in writing in this PowerPoint presentation that you have copies of.

(Slide)

Now, the next slide I would like to spend a few minutes on. The question of so, after all this thinking about what is the relationship, where can the NEJAC be most helpful in addressing issues of cumulative risk and cumulative impact assessments. And we kind of boiled it down to four. And this is just very informative and we're putting it forward for you to bounce off of you and for you to, certainly, give us suggestions, your ideas, omissions, whatever. Keep in mind that this has to be very succinct and manageable. You know, a lot of the things that you might want to talk about are important may be answers to these questions, you know, rather than putting everything in a questions.

So, the first item which, I think, is a very broad item, but it occurred to me in the discussions I've participated in, like the peer review of the cumulative framework is there needs to be better understanding of what is the real life context of disproportion impact of community and tribes in terms of the cumulative risk, cumulative assessment. And that that needs to be better grounded in.

You know, the real life context as far as community capacity, the real life context as far as the impacts are there, the real life context

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around the sociopolitical and other kind of question, etcetera, etcetera, etcetera. So that's the first one.

And your suggestions in terms of how that can come about and making sure that there is training for people doing cumulative risk assessments. EJ training would be an example of that.

The second is how to ensure -- and this, I think, I wanted to make sure was a little bit more targeted because that's a point of intersection at the very beginning of the process is to ensure stronger community involvement in the planning, scope and problem formulation phase of the cumulative risk assessment.

The third is ways to ensure a better understanding scientific basis in the corporation of this concept of vulnerability and cumulative risk assessment. And lastly, ways to more effectively utilize information through a cumulative risk assessment.

The last one I want to talk a little bit about, you know, there was a cumulative risk assessment that was done and you heard about it from Tom Voltaggio and other people in Chester, Pennsylvania. And they went in and they looked at a whole lot of things. And some of the risks were quantified, but the thing that they found that lead to the most action was something that did not really require cumulative risk assessment, which is really high levels of lead. And there was this huge response to that, very productive.

If we are going to go about this in terms of cumulative risk assessment, you are really looking at a holistic way of looking at communities. And what this means is that there is going to be a lot of information that comes out of that that can be readily usable and be responded to. And, you know, this whole notion that you talked about in May of 2000 about making sure that when we look at communities in terms of health that we are talking about not just assessments, but also intervention prevention activities in terms of a new different kind of paradigm. And this is what this question is kind of trying to get the point at.

So that's, basically, at this point four possible elements of the charge that's going to come to you. And so with that, I'll stop. Obviously, this is going to be a long conversation and I'm not sure how much we want to get into a detailed conversation, but I think clarification of certain things would be in order. Right Peggy?

MS. SHEPARD: Yes. Okay, Wilma, Graciela and Judith.

MS. SUBRA: On your last slide when you talked about ways in

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which the cumulative risk can be grounded, first I started thinking about every community is different from the multiple exposure because every community has a different set of chemicals that they are exposed to. And then I moved into the multi-stakeholder model that we're going to be doing under P2, and that model, when you go into a community and accumulate all the environmental issues before you start prioritizing them, that would be a way of feeding into this. Because you are going to get the chemicals, you are going to get the other stressors. So, it may be that that leads into a shopping list of the chemicals and the stressors that you then do the cumulative risk or the cumulative impacts.

MR. LEE: See, that's why I wanted to have more point of focus on the second item too, because the process that Wilma is talking about in terms of identification of the most priority concerns, you know, is your planning, scoping and problem formulation. And also the other point to that is, of course, there is a lot of things that the NEJAC is working on that you, actually, build off of for the discussion of this very complex and monumental kind of issue. So, Graciela?

MS. RAMIREZ-TORO: In 1991, around there, in Canada there was an international task force conference because, as you said, these issue of cumulative impacts and cumulative risk was very complicated. And about, I think, over 20 international nations got together, including the U.S., and a report came out on what scientists participating in that conference understood of cumulative risk, cumulative effects, and also they agreed on 11 methods to assess the problem. Eleven ways to assess cumulative risks and cumulative impacts. And most of the methods are like matrix and include many things that will bring environmental justice into the data collection aspects of these methods.

I recommend that that report, and I think there have been some updates, could be accessed. And I have a copy and I can give the reference. So we read that as the basics for them going into the analysis that we have to do, because they spend a long time and they have done upgrades doing that type of exercise that we could benefit from.

For example, one of the good points about the 11 methods that they accept as standards, if we're going to call it something, was social issues and demographics. And they differentiate into impacts that had to do with environment and public health. So I think that's a

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good start.

MR. LEE: I think Judy and Tom.

MS. SHEPARD: Judy, Walter and Tom.

MS. ESPINOSA: Yes, thank you. I appreciate this. I think this is going to be very important for the NEJAC. Having come from a healthcare science research background, I'm very interested in this and I appreciate what Graciela said about the social issues, the environmental and, of course, the vulnerability side is very important. But, I hope in doing the vulnerability assessments and the social side of all of this that this is a good time for us to begin to quantify and to put quantification on some of those social and environmental issues that often times get tossed aside because they are not scientifically based, if you will.

I mean, I know what an unhealthy person is when I was in healthcare, but I didn't always know the science of why they might have been unhealthy or what specifically was bothering them. We know what unhealthy communities are when people come to us and tell us, but we don't always know how to put that in a format that you really actually quantify that. And you quantify the quality of life losses that they have and it's significant social losses that we have resourcewise when a community is unhealthy.

Because when a community is unhealthy, we are all unhealthy and we all feel the economic disproportion of that, not only just in that community, but throughout the system. It's a total social impact. So I hope that this study is going to help us to get to quantifying those issues so that the community's views are actually not just we're sick and we don't feel good, but we can actually put those down in a quantifiable method and, actually, help the scientific communities start to do some of what they haven't been able to do in the past.

MR. LEE: Yes, and so you know what Judy is pointing to, and what we're looking from you, is recommendations around areas of research. And there is a wide gamut, you know, especially in Judy's case, talking about the relationship of social-science research of all this. So, I think, who was it, Walter?

MS. SHEPARD: I think Walter is next. I would just say, Judith, I think it is scientifically accepted that psycho-social stressors do add to health disparities and should, certainly, be something that we're looking at in terms of vulnerability.

MS. ESPINOSA: Right, I agree. And maybe it's a way to

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advance the state-of-the-art and the science in this.

MS. SHEPARD: Okay, so Walter and then Tom.

MR. HARDY: Yes, I'm kind of excited by this also and I wanted to ask, it sounds like the folks that's primarily going to be on health outcomes and not on other possible outcomes, i.e., property value or economic degradation. Is that correct? The framework focus is primarily on adverse health outcomes?

MS. SHEPARD: I think it's still influx.

MR. LEE: I don't know, I don't know, I don't know. I mean, your thoughts about that. Remember, this is a huge area. This is a huge area. You are not going to address everything in this area. Your thoughts about where you can be most effective is really important. And it's probably more important for this than almost anything else you've done thus far because it does you no good to try to cover everything. I mean, if you only did one thing that was truly effective in relationship to this, it would be great.

MR. HARDY: My suggestion then would be that we focus primarily on health outcomes. Secondly, risk communication, I didn't see that as part of our outline. Is that going to be a key element in working with communities? Because to me, as soon as you raise the issue or the question of risk, we've gotten into a societal perspective that no risk is worth taking, if you will, that life should be riskless. And I think to some extent what you get into when you start doing cumulative risk assessment is comparing one risk to another risk. So that I would hope that a part of working with a community, both the indigenous community, the healthcare community, perhaps, universities, would be a communication segment, if you will, that deals with how you talk about risk.

MR. LEE: See, and, actually, Walter, if you would look through this, that's actually within at least three of the four items. You know, risks in terms of understanding and the sociopolitical aspects of the concept of risk in terms of the real life context. You know, this is not being done in a vacuum. It is, certainly, clearly important in terms of how one does assessments and planning and scoping and how you formulate a problem. And, certainly, how you utilize information gotten from any kind of assessment.

So, clearly, that's there and more things like that which are cross-cutting are things we want to hear from you.

MR. HARDY: And I only have one other observation. And that

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is that at some point, obviously, there should be some connection with risk management. That when you identify a risk, it doesn't necessarily mean that you are vulnerable to, susceptible to, in fact, acquiring whatever it is that you are at risk of. That there needs to be, I think, as we talked about in the health committee that often you may have a risk but there may not be a pathway from a lot of people who are receptors to that chemical or that substance.

MR. LEE: Right, absolutely.

MS. SHEPARD: Okay.

MR. LEE: Who is next?

MS. SHEPARD: Tom, Terry, Harold and then Larry.

MR. GOLDTOOTH: Yes, also, I feel that this is a very exciting project and it's something that the indigenous peoples have been bringing up from day one within the NEJAC. In the area, I noticed in one of your slides here, EPA cumulative risk assessment framework, the last bullet is human health and ecology. I would like to support that as one of the scoping areas. And as far as the question about outputs, one of the challenges of those groups that we work with out there, allies, who are just in precautionary principal and risk assessments, is that it's always been centered on health.

And they are waking up now and starting to accommodate the ecological factors and the other issues as well. So I want to emphasize the importance of not just putting this in the box that we have to always struggle with from the communities, where it's just a health focus. That means we limit our discussion to those people that have that experience and expertise, which we need, but the other part is that second bullet, the planning, scoping and problem formation. Is that how do we incorporate this project as part of the movement building of the Environmental Justice movement? How do we incorporate this so that those communities who are addressing the issues are brought into this process?

And there is organizers who are doing excellent work out there that may not have the specific health background, but they're working with the real life issues, like we mentioned, and are able to contribute with the impacted community around this discussion.

So my emphasis is, how do we use this as part of our movement building efforts? And the challenge that we have as indigenous people, and I'm sure other populations, but is in the area of how -- well, first of all, it's very important that we include as stressors

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traditional knowledge. That was brought up by one of our other folks here in the meeting the past couple days. But how do we quantify -- and this has been a challenge -- of quantifying cultural and spiritual values? And that has been an emphasis of indigenous peoples that has to be taken into consideration of the cumulative impacts to industrial activities, not only in chemical, okay, but also if that chemical has had impact to the habitat to the animals, to the fish and birds, what impact has that had on the population who has a relationship that may go into a spiritual kind of deep cultural relationship with that habitat that's effected.

And I think that's where as we start to plan and scope we need to incorporate that into this effort because that is extremely important. Many of our tribes have clan relationships, totem clan relationships. And this is a big issue right outside of our office in Bemidji, Minnesota. The Lynx clan is an endangered species. The Lynx has been effected by mercury contamination and dioxin. There is not enough data, however, for the policy-makers to make a decision to eliminate the production of dioxin and the production of mercury. I mean, we're going forward with reduction, but not elimination. But that effects the Lynx.

The Lynx has no time line that can wait for us to make action. So why I'm saying this is that the elder who is a Lynx clan person says, what's going to happen to me when there is no more Lynx? Then my identification of who I am as an Ojibway man is no more because there is no more Lynx. And his future decedents have none. So the importance of ecological factors, and also with the cultural and spiritual implications, it is very important. Thank you.

MS. SHEPARD: Terry.

MR. WILLIAMS: Thank you. I'll try not to duplicate what Tom said. I appreciate what you provided to the group, Tom. But with the cumulative risks, just looking at health, there are really two types of issues here for tribes and indigenous peoples. One is biological, where as you've discussed, the pollutant impacts as are different subsistence foods absorb these pollutants, whether they are plants, animals, birds, fish, shell fish. And we're pretty familiar with that.

One that you might be a little less familiar with though is the environmental or habitat side. And Tom kind of hit on that, but I wanted to add another perspective. And that is the loss of habitat and subsistence. And what we're finding in our studies with our tribal

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people is that the land use and climate change and other things are changing the species available. Sometimes change of habitats or loss for whatever reason has caused a loss in the diet, or loss in subsistence. And that's having a direct effect on the health in terms of rates of cancer, diabetes, heart disease. Our reservations in Indian country, generally, have twice the rate of diabetes than anywhere else. The same with heart disease and cancer.

So, you know, when we look at the cumulative facts, and I think we're going to want to try to focus on at least those two areas. One is the biological impact and then the other is habitat loss, that we can refer directly to the health issues.

MS. SHEPARD: Okay, thank you, Terry.

MR. MITCHELL: When there are reports that confirm and validate certain chemicals as health hazards to humans and the environment, why does it take so long to be approved for a formal release to the public and why is the industry so involved in that process?

MS. SHEPARD: Could you repeat that, please?

MR. MITCHELL: I'm asking, regarding a lot of the reports that are currently out that are not signed by the administrator, a lot of what we are talking about on cumulative health risk and its impact, a lot of these studies that have been sitting on somebody's shelf or in the corner for years, which can validate a lot of what we are talking about and the concerns -- but, I mean, what is the problem with the administration not signing so that it can be released to the public and be made -- it's kind of like when Tom talked about regarding the dioxin report.

This is something that's been talked about for the last three or four NEJAC meetings. And there are some copies of a potential leak that's out that validates the cancer risks and some of the other problems there, but you're still in dialogues with certain people concerning whether there is and what is the risk there. But it seems like if some of these reports that has been studied for a decade can just get released to where we can start dealing with the issue -- and I just wanted to ask Charles, how could the NEJAC, or what needs to take place in order to address and just get a signature on some of these documents that have been studied?

MR. LEE: I don't think there is one answer for that. I mean, I think you have to be specific, case-by-case. Because the

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circumstances surrounding -- you know, each of the questions you are talking about are probably very, very different. So that's in answer to your question, but I think a perspective on your question would be, you know, that last point about more effectively using information. I mean, putting yourself in the community-based context, there are a lot of information that as Walter was talking about in terms of risk assessment and risk management, that's in the environmental context, right. In a public health context, they're talking about intervention and prevention activities.

So, you know, I think there are a lot of -- I mean, Walter used an example where you see clear effects, but you don't know where a pathway is. But that doesn't mean you can't intervene at that point. You know, or things like that. So the question of your recommendations, advice around ways of more effectively using information that's out there, which are going to be on all different levels of certainty, or specificity, or so on and so forth. So, you know, that becomes a very helpful set of recommendation and advice that you can provide. Because you provide the NEJAC real value -- one of the NEJAC's real value to this discussion, is the real-life context of what happens in those communities.

MS. SHEPARD: Okay, Larry.

MR. CHARLES: Okay. I think this discussion is in line with one of the things that I indicated in my very first comment at this conference regarding setting out goals for real change. I think that if we can be successful in developing from the works that's coming up before us, a real tool of using cumulative effect, or cumulative risk, whatever term you want to use, it can become a very instrumental tool for communities to seek justice locally.

One of the goals that I laid out was that I would be finding every opportunity to advocate for policy and changes that would support moratoriums on placing environmentally risky facilities in over impacted and disproportionately communities. A product of cumulative risk could be an excellent tool to help achieve that goal.

When you look at many of our communities, and you look at the incidence of lead poisoning through various means and other pollutants that surround our community and in isolation if you do the test on an effect of a new permit coming aboard in isolation, and you find that the level of emissions is minimal and within the standards, but yet that level itself could be the last straw to break the camel's

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back to overburden the community from a health impact.

So, to whatever extent that we could pursue cumulative effect as a product that can become a tool for local communities to seek justice, I think it would be a good work for us. So I'm looking at the questions on the board, but what I would look at would be the idea of developing either a law or a policy requiring cumulative effect to be one of the factors and to be considered in granting a permit.

Now, we were able to negotiate with the regional administrator on the issue that we faced in Hartford a letter that simply directed the state to consider cumulative effect unilaterally. The regional administrator required it. And communicated that to the state. And although that was done, and although the factor was so-called considered, and although the State of Connecticut who, I think, is one of the first states to have a policy on environmental justice, the bottom-line is that the weight of a policy statement is not enough to stop the awardance of a permit.

And so what I'm looking for here is that whatever we do with cumulative effect, what I hope that we could come out of this with is something very bold -- because I'm the eternal optimist and I really believe that you'd be surprised what people would say yes to if you just ask them -- and I really think that we should put the question on the table of having as law moving towards encouraging EPA when it develops its own legislative package that we ask EPA to request that cumulative effect by law be one of the factors for granting a permit.

So that's where I'll be going over the next two years in this discussion on cumulative effect.

MS. SHEPARD: I just wanted to say one thing quickly. In New York, for instance, we have a State Environmental Quality Review Act and it does include cumulative impacts. The problem is is that there is no guidance on how to measure them.

MR. LEE: In fact, to piggyback off of that, you know, if you were to read the opportunities to address environmental justice, the ELI, if you were to read the ELI report, I mean, within the existing statutes, there are opportunities to address environmental justice through this issue of cumulative risks and cumulative impacts. So that's not the issue. Where you are going to be helpful on is what Peggy is talking about, how you are going to do this. How are you going to do this in such a way that's going to stand up. So that's one question.

I would like to really, really caution you when you move forward.

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I mean, the first caution is this, you are not going to be able to develop a tool. You are going to provide advice about some things that are going to be really important. And there is no capacity on the part of all the public health agencies at this point, and the scientific community, to develop a tool. It is not going to be possible for the NEJAC to do that with any kind of credibility. So we have to be very focused in terms of what you are trying to do, which is to impact the development of this. Okay, that's one.

The second is this. I have notice that this idea of cumulative risk has emerged to be the answer to everyone's problems. There was a previous situation in which something emerged as the answer to every single environmental justice problem, and that was called Title 6. Right? And that is not going to be helpful, and it is not going to be helpful for everyone to say this is a cumulative risk problem, this is a cumulative risk problem. The questions are very focused ways in which the development of policies, assessments, the science of cumulative risks and assessments incorporates environmental justice.

And it's going to come in all different shapes and forms. Like Wilma said, every single community is going to be different. And how are you going to have something that is really going to make a difference in the infinitely variable set of communities that we're dealing with. So I've really got to ask you to step back and deal with a lot of assumptions. You know, something came up around -- somebody said once, in terms of the Title 6 debate, if you have a hammer, everything becomes a nail. In this case, you don't want this discussion to degenerate to everything becomes a nail.

It is not going to help anybody do anything and the communities you are talking about trying to help are going to be asking the same questions 10 years from now.

MS. SHEPARD: Okay.

MR. CHARLES: I don't know if you heard the part where I said I'm an eternal optimist, Charles. I hear your caution and I've also stated my goal that to whatever extent that I can help find an opportunity to create a tool with cumulative risk, I'll be pursuing that over the next two years. Or 15 months, however you all count years.

MR. LEE: And I'll venture to say, I'm a bigger optimist than you.

MR. CHARLES: That's all right, I understand that. I don't know about that, Charles.

(Laughter)

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MS. SHEPARD: Well, thank you. This has been a very stimulating conversation in which we will be having over the next year.

MR. LEE: One last thing. I would really suggest that all of you who wish to participate, let us know, in terms of this workgroup, in terms of whatever. And in what other capacity as far as knowledge and whatever you have. There is a lot of things going on around cumulative risk. I mean, I know that in the State of Texas there is a cumulative risk policy that is starting to be developed in the State of Texas. So there is a lot of different activity going on in relationship to this.

And, certainly, if you know persons that would be good to serve on a workgroup like this, we want to hear about this as soon as possible because, you know, as I said, in the spring of 2003, that is going to get constituted and we want a really good group of people.

MS. SHEPARD: Well, we are going to break for lunch and when we resume, we will have the recognition of departing members and begin the subcommittee reports. So everyone should be back here at 2:00 p.m.

(Whereupon, a luncheon recess was taken)

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AFTERNOON SESSION

(2:31 P.M.)

MS. SHEPARD: Executive Council members, please take your seats.

(Pause)

MS. SHEPARD: Okay, good afternoon. We are going to resume the agenda starting with recognition with three of our departing members.

MR. LEE: Before we do that, Marva asked me to make a couple of announcements. First is that all Executive Council members who need to have their Federal Express boxes sent must leave them outside the room before 5:00 p.m.

The second is that there is this poster, Environmental Justice For all. The Executive Council members who wish to have them should let OEJ know and we will mail them to you next week.

And then the third is that Carmen Gonzales is to be Tseming Yang's proxy for this afternoon.

(Recognition of Departing Members)

Subcommittee Reports

MS. SHEPARD: So now we are going to begin our Subcommittee Reports and I have let Terry know that he could start. Okay, who is leaving first?

MR. WILLIAMS: She can go first, that's fine.

MS. SUBRA: I'm leaving at 3:20.

MS. SHEPARD: Okay, you are first then. So, Wilma and then Terry.

Air and Water Subcommittee Report by Wilma Subra

MS. SUBRA: Eileen is Chair of the Air and Water Subcommittee and she could not be with us today, so I am presenting the report.

It met yesterday, December the 11th, 2002. Presentations were presented by Rob Brenner, Deputy Assistant Administrator of the U.S. EPA's Office of Air and Radiation. He provided information about OAR's commitment to environmental justice. Mr. Brenner discussed in-door air and radiation protection issues, pilot projects, OAR's pollution prevention plan in the coming years, and current air program issues. He noted that a working draft document entitled, "Environmental Justice Action Plan," currently is awaiting comments from the Office of Environmental Justice.

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The next presentation was done by Mike Shapiro, who is now Assistant Administrator of the EPA's Office of Water, previously in the Office of Solid Waste and Emergency Response. Mr. Shapiro expressed his long commitment to environmental justice and expressed the Office of Water's commitment to support the NEJAC and the Air and Water Subcommittee.

Mr. Bob Kellam of EPA's Region 6, Office of Air Quality Planning and Standards, discussed the evaluation of flexible air permitting pilot projects. He provided an overview of the process, approach and findings of a flexible permit project which he said has the objective of allowing companies to meet increased market pressures. And some of the findings of that report were that flexible permitting contains adequate measures to assure compliance, that flexible permitting are enforceable, that facilities are encouraged and air emission reductions are occurring and, in addition, flexible permitting allows enhanced information sharing and it provides the public with equal or greater information than conventional methods, and that flexible permitting produces net financial benefits to compatible permitting authority.

Then we had a presentation by Mr. Richard Moore. Those of you who were in the room this morning heard a similar type presentation. He's the Executive Director of Southwest Network for Environmental and Economic Justice and he provided an overview of the relationship between his grassroots organization and EPA's Region 6 in Dallas. He discussed various ways to improve the working relationship between regulators and grassroots organizations in implementing environmental justice. He also pointed to the EJ's Listening Session as one example of expanding outreach to communities of color.

Ms. Sunita Singhui of Region 6 then reported on the EPA's Region 6 Listening Session held in November 2002 in Houston. And this is what Larry reported on this morning. She presented goals and objectives, the planning and preparation process, the steering committee composition, issues oriented to the subcommittee ground rules, recommendations that were developed as a part of the listening session, the issues that were raised by the stakeholders, and the lessons learned.

She then had a dialogue with New York EPA Region 2, as they planned their listening session, or sessions, in the United States,

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Puerto Rico and Virgin Islands. And Graciela also participated in that dialogue with Region 2 officials.

Then Mr. William Luthans, who was stuck at the airport but had, finally, made it to Baltimore with EPA Region 6, reported on NOX versus VOC emissions and what you can do to reduce o-zone levels. In the Region 6 area, primarily Louisiana and Texas, NOX reductions are being encouraged, while VOC emissions are being allowed to increase. And the background point is that you can do 30 percent reductions in hydrocarbons and that only equals one-part per million reduction in o-zone. So the EPA's feeling is that you get a lot more if you do NOX reductions, and in order to do NOX reductions, if you put on the control technologies, you get an increase in VOCs.

During the meeting, members of the subcommittee discussed the following issues: The Air and Water Subcommittee will continue work with the Environmental Justices' recommendations on recommended practices on permitting guide. New members will be recruited for this subcommittee in order to expand the diversity of views and have representation of appropriate stakeholder groups.

The next thing was the idea of a best practices guide, which began during the subcommittee's meeting last December in Seattle. The subcommittee felt that it would be useful to develop a guide which identifies and recommends useful practices for incorporating environmental justice concerns into the permitting process at the federal, state and local levels. And we provided to that workgroup the things that came out of the EPA Regional Listening Session in Houston that dealt specifically with public participation and permitting. The first draft of this guide is envisioned to be available in the fall of 2003.

Thank you. This is a summary of what went on at the Air and Water Subcommittee meeting.

MS. SHEPARD: Okay, thank you. Is there any discussion or comments? Graciela?

MS. RAMIREZ-TORO: Just a question. I remember that last year it was brought up that the subcommittee didn't have too many members in the side of water. Was that addressed during the year?

MS. SUBRA: We're still lacking in that area, but when Mike Shapiro came over yesterday and the day before, that issue was brought to his attention. And he is committed to work towards getting more water representation.

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MS. SHEPARD: Okay. All right, Thank you. And there were no action items.

MS. SUBRA: No, other than working on this report, that's it.

MS. SHEPARD: Thank you. Next, Terry, for the Indigenous Subcommittee.

**Indigenous Peoples Subcommittee Report
by Terry Williams**

MR. WILLIAMS: Yes, and I want to thank the Chair too for helping us relieve the stress of thinking about flight schedules.

But the Indigenous People's Section met and discussed mainly about four discussion areas. The first dealt with the recommendations in the draft pollution prevention document that were not covered. We went over numbers six, eight, nine and 10. And I'll just read off some of the comments that were made. The other comments that we're developing we'll be sending in and writing, so you'll have those soon.

But the recommendations, we had discussions on safe transfer of federal facilities. Making sure that when federal facilities were turned over to tribes that they were clean and safe. We talked about promoting model agreements and pollution prevention in Indian lands and with Alaskan native villages. We talked about in-land use, looking at places that hold religious and cultural importance for tribes and Alaskans, Hawaiians, to identify processes for dealing with those.

We also, in discussions over NEPA and transportation, talked about promoting the concept of cooperating agency status under NEPA with DOT -- well, not DOT but Federal Highways, to bring the tribes in a more constructive way, and under NEPA, defining meaningful and early in participation with the tribes as a point of purpose and need. And we have some examples of where that's being done today, one in North Carolina and Washington State. The state transportation offices are working with tribes and trying to perfect their participation by identifying the point of where they are brought in more clearly.

On Indian lands, we also talked about transboundary pollution issues and pollution prevention, as a lot of our watersheds and water passed back and forth across the boundaries. And those are issues that need joint jurisdiction. Indigent People's Section also are going to be seeking additions to the international section. And some of the conversations were based around consultation on technology

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transfer, climate change and even discussions about developing a list of tribal experts who can participate in the different forums that are held with the different federal agencies.

The second area was looking at consistency in language when we are referring to tribes and natives, or indigenous peoples. And there was a suggestion that we reference the tribes by extracting the language out of the Fish Consumption Report that defined who we are and put that into the fourth paragraph of the summary draft. The phrase used was, "Communities of color, low-income communities, tribes and other indigenous peoples." And we thought for consistency, using that language throughout the document would make things a little simpler instead of trying to repeat Alaskan natives and Hawaiians, and the laundry list.

The third area were, actually, the presentations. We had five presentations. And I'm not going to go into them, but just to say that from the presentations, we tried to provide some assistance and direction for the presenters to seek help in resolving some of the issues that they brought before us, as well as thinking about the longer term with the environmental justice or the NEJAC process and policy development. What are the types of issues that they're bringing to us that should be formulated into some longer term institutionalized language.

One of the presentations was also from the NEJAC. The Indigenous People's Section and the Enforcement Section held a joint meeting. And, again, I'm not going to go into detail other than to say that the Enforcement Section brought a presentation to us on the role of criminal enforcement and environmental justice, as well as presenting an option of looking into the future of developing a tribal law enforcement organization that could direct us, focus on environmental justice issues. Which I, personally, believe is an excellent idea.

We also discussed briefly where we are in terms of SEPS and the commitment to the further discussion, as well as further discussion on federal facilities.

The fourth area, the last topic, discussed was an area -- actually, not a single topic -- but we talked about the subcommittee's strategic plan in sorting out how to look at the goals and objectives in proposed activities and time lines and how that's going to carry through with such a change now in the section. The original drafters, most of them

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are leaving, as you know. And so we wanted to see how to carry, not only the concepts, but the intent into the future and started looking at how we will set our work load over the next year, year and a half in development to get that plan underway.

Another part of looking at the plan was discussions on potential listening session in Alaska for Native Alaskan participation. And, again, if you're familiar with Alaska, you know that they have 220 aids, Alaskan native villages, plus a number of communities on top of that. And for Alaskan natives to be able to attend is difficult and costly. So having a listening station, I think, would be very beneficial for those people.

There were also discussions about Native Hawaiians and trying to figure out how to get better participation from the Hawaiian people. And I know myself, personally, I have been working on Native Hawaiian projects through a number of their organizations over the last 20 years and they certainly have the issues there, just not the contact or communication. And we might want to think about that, how we could be of help.

And I think with that, I'll close on the comments. I would like to ask the other committee members if they want to add anything to what I've said. And just one other comment, Danny informed me that we have about five of the guides for Indian Country left here for the new members if you haven't received one, we'd like to have you pick that up before we leave today.

But with that, any of the other committee members wish to add any comments?

(No response)

MR. WILLIAMS: I couldn't have been that good. Okay, thank you.

MS. SHEPARD: Okay, thank you. Next, Carmen will give the International Report.

**International Subcommittee Report
by Carmen Gonzalez**

MS. GONZALEZ: Tseming Yang, who chairs the International Subcommittee, could not be with us today so I'm taking his place.

We began the International Subcommittee meeting with a number of presentations. The first presenter was Ms. Deborah Hall from the Coalition for Environmentally Responsible Economies. She lead a discussion about corporate responsibility. What we were

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looking at specifically was the moral dilemma the U.S.-based multi-national corporations face when they are operating in developing countries. Where they are held to regulatory standards often not enforced far lower than those in the United States. And what we were trying to examine was what kinds of factors encourage those multi-national corporations to adopt the best environmental practices.

We had a number of speakers who helped us focus that discussion. The first speaker was Ed Morgan from DuPont Corporation, who talked about the practices of the chemical industry, in general, but more specifically of his own company in the United States and abroad. And the various factors that had encouraged his company to go above and beyond the local regulations in developing countries and adopt practices that were more environmentally responsible than would otherwise be required.

We then had a discussion with Suzanne Giannini Spohn and Chris Herman from EPA's Office of International Affairs about the same issues. Both have worked with multi-national corporations and have experienced examining the reasons that companies adopt environmentally responsible practices and the reasons that they do not.

After the presentations, the subcommittee had a discussion about what we might do with that information, how we might proceed. And one of the things that we decided to do was to develop a set of principals to serve as a guide to action to multi-national corporations operating abroad that would encourage the development of best practices with respect to environmental protection, but also very specifically with respect to environmental justice.

The meeting then continued with Jerry Clifford, the Deputy Assistant Administrator of EPA's Office of International Affairs, leading a discussion about the priorities of OIA at this particular time and the ways in which the work of the International Subcommittee could feed into and effectively advise OIA in its various projects.

We then heard from Gregg Cooke, from EPA Region 6, and Laura Yoshii and Enrique Masonita from EPA Region 9, talking about the U.S.-Mexican border; specifically, updating us on EPA's draft Border 2012 Program with Mexico. They talked about some of the barriers they encountered in developing the strategic plan for the next decade of cooperation between the U.S. and Mexico on the border, and also the various mechanisms that they had established to

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facilitate public participation and public comment on the strategic plan.

Specifically, in response to recommendations made by the International Subcommittee, they adopted a bottom-up approach, doing a lot of work, pairing sister cities on both sides of the border, doing a significant amount of work getting state governments involved and local governments involved.

We next had a presentation from Angela Bandimere of OIA, who talked to us about the progress on the Stockholm convention on Persistent Organic Pollutants, the POPs Treaty. She reported that the treaty had been signed by the United States and that it was currently under review in Congress for ratification and for modification of the key statutes that will be used to implement the treaty.

This was followed by a presentation from Betsy Marsh of Amazon Alliance, and Kim Stanton from the Washington Office on Latin America on the issue of planned Columbia. As you all know, one of the key activities this last year by the International Subcommittee has been working with EPA on the issue of the ARO eradication of the coca crop in Columbia. As a result of legislation adopted at the beginning of the year 2002, EPA had a formal role in working with the State Department to analyze the human health and environmental consequences of the Aerial Fumigation Program.

Ms. Marsh was very appreciative of the work that the NEJAC had done in facilitating communication with EPA, and also very appreciative of the very detailed report that EPA produced on the Aerial Fumigation Program, which expressed concern about the consequences of that program. She gave us an update on the status of the new appropriation of funds for Plan Columbia, and on what kind of a role the NEJAC International Subcommittee might play in the future with respect to Plan Columbia.

And then, finally, we heard from Ms. Allie Fields and Dr. Arteni Flowers from the EPA Office of Prevention Pesticides and Toxic Substances. They gave us an update on farm worker health and worker protection issues. They described the programs in place for the education of farm workers and healthcare providers and for the prevention and identification of pesticide exposure.

After the conclusion of the presentations, the subcommittee had a discussion of various issues. We talked about the various ways in which we can most effectively provide input to OIA. In addition to

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talking about the corporate responsibility issue and the development of principles to address that question, we talked about the issue of trade and environmental justice. One of the concerns expressed is that EPA had a number of advisory bodies on issues of trade and environment, but not specifically on environmental justice. That that was a piece that was missing in the consideration of the environmental impacts of trade liberalization.

And we discussed ways in which we could effectively communicate our concerns to EPA. Rather than reinventing the wheel and becoming yet another trade advisory group, we decided that what would make the most sense is to provide our input specifically from an environmental justice focus to an existing body, the Trade and Policy Advisory Committee, the TPAC.

The subcommittee also discussed recommendations with respect to EPA's draft Border 2012 Program. One recommendation that was expressed by the committee was a concern about ensuring that there were advisory bodies providing EPA information and expressing concerns specifically on environmental justice issues. The existing advisory bodies have tended to focus on water issues; whereas, there has been a failure to address issues of clean-up of contamination in communities along the border.

Mr. Clifford encouraged the subcommittee to continue to bring these issues to EPA's attention. And then, finally, we concluded the meeting with two specific action items. The first is the creation of a set of principles for U.S.-based multi-national corporations operating in other countries to address environmental and environmental justice issues. And secondly, to have a meeting via conference call to provide recommendations to the Trade and Policy Advisory Committee on environmental justice issues and international trade. Thank you.

MS. SHEPARD: Thanks. Larry, did you have something to add?

MR. CHARLES: Yes. I'd say, I think, by the report you all see that we all had a wonderful time as a committee handling some very interesting issues. And we acknowledge the interaction between the Office of International Activity and the committee. At one point, there was some concern about that relationship and how we were dealing with it, but I'm saying now that it was an excellent dialogue between the two bodies.

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We also got an opportunity to raise and issue -- not an issue, but a recommendation, directly to Gerry Clifford, in that the idea of diversifying OIA and its delegations as it goes out to foreign countries could be one of the strongest moves that we could make in dealing with advancing environmental justice.

There is one more action item that wasn't necessarily included in the report, or in our committee, but there is a November 18th report out of the committee's final Border Roundtable Report. We've asked all the Council members to review that report and be prepared to act on it.

In addition to, I guess, moving the acceptance of the report, which includes the two action items indicated, I would also like to add that the third action item would be that we put on the agenda of the next Council meeting the ratification of the Border Roundtable Report, which is a final document from the committee, as already been distributed to the Council, but not through a 30-day period. So we wanted to review the Border Roundtable Report from the subcommittee and then in the next meeting of the Council, we'd like to ask that we have comments back in and we be prepared to vote.

There are only six recommendations and we think they are non-controversial. Read the report, if you disagree, please get your comments in. So we'd like to ask that those three action items be there. Thank you. That's part of the motion to accept the report.

MS. SHEPARD: Okay.

MR. LEE: Can I offer a suggestion. I think you all have gotten the Border Justice Roundtable Report and, I guess, there is a certain amount of circumstance or background that you should know about this. The report emanates from a roundtable that was held in August of 1999. And for a host of reasons, this has been just been in the works. You know, and subsequent to that, there has been a whole host of activities that's gone on in response to the Border Justice Roundtable.

And so I just want to make sure you keep that in mind. And I suggested to Wendy Graham, the International Subcommittee DFO and to ---, that they ask the Council to look at the recommendations so that what you are going to be recommending at this point will be prospective looking, using the Border Justice Roundtable Report and a lot of other kind of items as background information. Because the problem is, is that the confusion that is caused by something in which

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a lot of the recommendations or proposals have already been implemented. And, in fact, is a very, very fast moving target. And it doesn't do much good either from the point-of-view of advice to EPA, nor in terms of the general public's understanding of the situation on the border, which is moving towards something called a Plan 2012 for the border.

So that's the background I want you to make sure you have on it, and that to urge the subcommittee to put forward something that is prospective looking.

MR. CHARLES: Yes, well, you know the document has been distributed already and we'd like to ask everybody to review it. And the good point too is that not only have some of the recommendations been implemented, but they've been extremely impactful in improving the activities between the two countries around the border. And we're very proud of what has been accomplished already, and not so proud of the fact that after three years, we still don't have a final action on the recommendations. So we're just trying to clear the record, get the report adopted formally, and submit it to EPA. And whatever language changes that you all may have to recommend, to place it in a prospective forward thinking type document. We would appreciate those comments back to the subcommittee prior to the next meeting of the Council.

MR. LEE: No, it won't be -- I mean, I think that this thing should get acted upon in the next month or two.

MR. CHARLES: Well, we were thinking about moving it today, Charles, but we thought that might not be a great idea because folks haven't had --

MR. LEE: Yes, it won't be. But I think that in the early part of 2003, it just needs to be moved forward.

MS. SHEPARD: Okay. All right, Tom.

MR. GOLDTOOTH: I believe that the issues around international activities is going to continue to be a very important issue, especially, with a lot of global activities that do involve the United States around trade and globalization. I would like to suggest that, perhaps, that be an important agenda item at the next NEJAC meeting in 2004, as follow-up activities from such activities as the World Summit on Sustainable Development. There is a lot of United Nations and other international meetings that are very critical for discussion from this body as we send messages, advisements, to the

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administrator's office because EPA and various departments -- whether it's the Air Office, the Water Office. I mean, they are participants within the State Department delegation at international arena, making suggestions, negotiating on behalf of the United States and its citizenship, including our people of color communities, on some critical issues that are not just global, but have impact on our local communities.

Some of those are like the United Nation's Framework Convention on Climate Change, the recent conference of the parties at the Basil Convention on the Transboundary Transportation of Toxic Waste that was in Geneva, the Convention on Biological Diversity, the conference of the parties as a follow-up to the Stockholm Convention on the POPs, that's still a big issue here to our people of color communities.

There appears to be -- I'm sure you talked about that -- of the Senate back peddling ratification of the Stockholm Convention. And then, you know, there is many other locally, bilaterally -- there is the International Joint Commission between Canada-U.S. and water quality of the Great Lakes. Persistent Organic Pollutant, again, has been a big issue up there. And, of course, out of NAFTA the commission cooperation. I mean, on their agenda of these meetings is some issues that this body needs to be cognizant of and participate in as much as it can, but also clarifying what is the role of this advisory committee to make recommendations to the administrator on pushing forward the environmental justice agenda within an International Activities Office, as well as the State Department. Thank you.

MR. CHARLES: Many of the things that we talked about we did get a chance to discuss with Jerry Clifford right there in the room. We were able to clarify more precisely the role that the subcommittee would play in a lot of those arenas. And all of the things you mentioned we didn't bring up, but quite a few of them we did.

MS. SHEPARD: Okay, thank you. Next will be Veronica, the Waste Committee.

Waste and Facility Siting Subcommittee Report **by Veronica Eady**

MS. EADY: Great. That's a surprise, I thought we were going in alphabetical order of subcommittees and I was going to be last.

We had a really a really productive meeting yesterday. I just

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want to commend the subcommittee. We have, I think, the largest subcommittee, or one of the largest of the NEJAC, and we had nearly perfect attendance. Mary Nelson, we excused her because she is serving on the transition team for the new Governor in Illinois, so she actually had to fly out for a day to go to a meeting. But we had excellent attendance.

During the morning we also had in attendance the new assistant administrator for OSWER. She's not so new anymore, Maryanne Lamont Horinko, who was able to not just sit through and listen to our conversations, but also engage the subcommittee and answer some of our questions. And we were able to sort of respond to her and give her some comments.

The other person I want to mention, and we had a number of people who came in and shared with us and gave presentations, but the other person I want to mention is Barry Breen, who is the new Deputy Assistant Administrator for OSWER. Barry Breen stepped into the very large shoes of Mike Shapiro, who has moved over to Water. Mike Shapiro has just this wealth of institutional memory of the subcommittee for assistant administrator through assistant administrator, including through Tim Fields, who retired two years ago. So Barry has very large shoes to fill, but we were really happy that he was able to spend the afternoon with us. He braved the ice storm and got up here from Washington and is really anxious to get to know the subcommittee and to get to know our work. So we're really pleased about that.

We had a couple of things that we spent a lot of time working on doing real work, not just hearing presentations. And one was the Federal Facilities Working Group. During the public comment night on Tuesday night, you heard a number of people, including Doris Bradshaw, give public testimony about federal facilities that are near their homes. And Doris Bradshaw, actually, is a member of the Federal Facilities Working Group. But it was incredibly timely to have the working group meet and get back up and running doing some really important work.

I do want to give a little bit of specificity to the report on the Federal Facilities Working Group since we did get so much testimony the other night about federal facilities and an exchange about the stall of the Federal Facilities Working Group; which, originally, was a working group of the Executive Council. And then a year ago in

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Seattle, we adopted that working group under Waste and Facility Siting.

It was unfortunate that during the last year that working group didn't have an opportunity to do much work. And that was in part due to the agency and the DFO at the time who, ultimately, ended up leaving the agency. And over the last six months, that working group hasn't had a DFO. We are really pleased with the commitment with the Office of Federal Facilities and we had expected Jim Wolford, who is the head of that office, to come and share with us and engage and try to be there to answer questions and support the subcommittee and the working group. He, actually, wasn't able to brave the ice storm and make it because they were on the first thing in the morning.

But we did have Trina Martinowitz, who is the new DFO on that subcommittee. And Trina has really hit the ground running and has already developed a wonderful working relationship with Dr. Mildred McClain, who is the Chair of the Federal Facilities Working Group. We're very encouraged.

The subcommittee met a month ago in North Carolina at a face-to-face meeting. At that meeting -- and it was, actually, exactly a month ago -- at that meeting, Dr. Mildred McClain was at such a point of exasperation that we weren't sure what was going to happen with the working group. It's amazing the change that a month can make because she and Trina Martinowitz had the most amazing report about how they had contacted all of the members of the working group, reassessed the commitment of those members to move forward with the work group. They are looking to expand the work group with two other slots that don't have representation yet, and that's academia and local government.

They had a couple of conference calls and engaged the work group on the conference calls. They are working on a schedule of conference calls and two face-to-face meetings in the next year. They are working on methodology for the case studies that they are going to be doing. And another important item that they are going to be working on is just recreating some of the linkages that existed a year ago, and two years ago, when the Federal Facilities Working Group was first getting started. In particular, in December, I think, of 2000, there was an MOU that was signed by the Department of Defense and the Department of Energy and EPA OSWER to get this project moving. And that was a huge victory for the working group.

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One of the things that the working group needs to do now is to re-engage DOD and DOE, particularly, since the change of administration and really revitalize that MOU and start moving forward. Right now, the working group is looking for candidate sites to study in their case study that they are going to be doing. And I should mention that the deadline for the examples that they are looking for is January 2nd. So if anybody has sites in mind that they think the working group should consider and think about including in their work, they should definitely let me or Ken Benjamin, who is the DFO for the Waste and Facilities Siting, or Trina Martinowitz, who is the DFO for the Federal Facilities Working Group, or -- there's got to be one more person -- Dr. Mildred McClain. We would be happy to entertain that and we'll see that the information gets to the right people.

One of the activities that we outlined in our strategic plan was to strengthen the partnership that the subcommittee has with its sponsoring department, the Office of Solid Waste and Emergency Response. We have a strong relationship with them and we have for years since Charles was the Chair of the Waste and Facilities Siting. But, you know, we do have a new assistant administrator and we're interested in creating linkages and strengthening linkages with her and with her priorities.

When we met her, I guess it was back in April, at our first face-to-face meeting this year, she outlined six priorities that she had that she was going to be working on. And so what we decided to do was that in addition to the other activities that we had identified to work on in our strategic plan, that it made good sense to sort of work directly and informally with OSWER, not giving direct advisor recommendations without going through the Executive Council, but to sort of be an informal resource and to build relationships directly with OSWER staff. And so a number of people on the subcommittee agreed to undertake one of Maryanne Horinko's six priorities and to create those contacts and report back to the subcommittees on our monthly call.

One of the six priorities was energy recovery, recycling and waste minimization, which is one of the things that Maryanne Horinko is working on that I think is directly related to pollution prevention. What we decided to do was to ask OSWER to come and to do a presentation on some of the work that they were doing under that

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priority. So we heard a presentation from Janette Peterson on the resource conservation challenge and environmental justice.

And as part of that initiative, one of the goals is to increase the national recycling rate by 35 percent by the year 2005. And then the other one that is particularly interesting is to cut the presence of 30 priority chemicals and hazardous waste by 50 percent by the year 2005. So, you know, there are really clear and direct linkages between OSWER and pollution prevention. So we had just a wonderful linkage to the theme for this NEJAC meeting.

The other thing that I wanted to mention is that they do have a number of projects that they are working on within this initiative that deal directly with communities of color and tribal communities. They are working on outreach to Latino communities, better outreach also to African American communities, particularly, in urban centers. And they are using some really creative approaches, including one of Maryanne Horinko's priorities is a retail initiative that uses retail products and consumerism to engage the young urban youth who might be more interested in hearing about environmental messages, maybe through things like music and DVDs and video games and things like that.

But one of the things that I thought was really interesting is an initiative that they are working with tribes to reduce waste and protect the environment. And I'll just read a little bit from one of the slides. They have a joint venture with the Department of Housing and Urban Development, HUD, and Region 5.

They are developing a five-day course on sustainable development in rural areas, they are working with the Fon du Lac band of Chippewa Tribe to provide pollution prevention training in Region 5 in areas such as healthcare facilities, schools, casino and hotel operations, construction and demolition projects, and also working with the Oneida Tribe in Wisconsin to create a pollution prevention ordinance, ensuring waste reduction, energy, water and resource efficiency. So some interesting things going on there.

The other, going back to sort of the business part of our meeting, the other presentation that we got from one of the teams in the subcommittee is a report on the unintended impacts work that we're doing. The subcommittee is going to be publishing a report on unintended impacts from revitalization projects, such as Brownfield's redevelopment, SuperFund remediation, relocation, and things of that

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sort. So we heard a presentation on where that group is going.

They are also doing case studies and selecting communities where there have been unintended impacts, such as health impacts, such as gentrification, and they are sort of looking at how these unintended impacts took place. Are there things that EPA can do to avoid unintended impacts that might be bad impacts.

We are already in the phase of outlining the final report. We have developed a template for the case studies. One of the action items that the subcommittee was able to do was sort of give the workgroup the green light to move forward on the communities that they selected. So, we're really pleased with the progress that we're making with unintended impacts. And one thing that I'll say is that although we don't have any action items today for the Executive Council, certainly, at the next NEJAC meeting in April of 2004, we will have action items. And those action items will be the ratification of the Federal Facilities Working Group report and also a ratification of the unintended impacts report that we're going to be working on over the next year.

Finally, I just wanted to mention we had presentations from -- I mentioned this morning, Sunita Singhui from EPA Region 6 did a presentation with us on the Region 6 listening session. I mentioned already that we heard from Janette Peterson at the Office of Solid Waste. We also got a presentation from Vern Meyers, also at OSW, on e-permitting and RCRA.

And then one of the long-time friends of the subcommittee, Sharon Beards from NIEHS, she came and did a really interesting presentation. We usually hear from Sharon about the Brownfield's minority worker training, which NIEHS funds along with EPA. This year, Sharon was able to give us a presentation on a couple of different things. P2 training which, again, linked really nicely with the theme here of the NEJAC meeting. And the other thing was training that NIEHS funded to respond to some of the activities that have happened on and since September 11th, including training. And a lot of the training went to people of color to respond to disasters such as the World Trade Center, and also developing and implementing training to respond to the Anthrax attacks on the Brentwood facility and the Hart Senate Office Building.

Oh, well, I was going to ask Bob Harris if he wanted to add anything, but he's not there. So, thank you.

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MS. SHEPARD: Okay. Any comments?

(No response)

MS. SHEPARD: Okay, we'll move on to Health and Research.

MR. CHARLES: Madam Chair.

MS. SHEPARD: Yes.

MR. CHARLES: I am going to be leaving in a second, but there was one statement I wanted to make, if you don't mind, just for one second.

MS. SHEPARD: Okay.

MR. CHARLES: With the permission of the Council and the Chair. The bylaws of NEJAC require that we organize recommendations to the administrator for chair, vice chair, subcommittee chairs, subcommittee vice chair. The fact that we have not done that, basically, leaves it to EPA to make these selections. And I would just hope that as a council that we would be aware in the future of that role that we have to play and that we provide some leadership in that area in the future. I just wanted to say that.

MS. SHEPARD: Well, certainly, on the next conference call, the protocol, you should take that issue up.

MR. CHARLES: Okay, thank you.

MS. SHEPARD: Thank you, Larry. Have a good trip. Pam.

Health and Research Subcommittee Report **by Pam Kingfisher**

MS. KINGFISHER: The Health and Research Subcommittee met yesterday. And, I guess, to start it off we should note that there were three returning subcommittee members and nine new members. And so it was a challenging day with the subcommittee. We began with introductions and updates from our agency partners. And then we heard from four of the P2 workgroup members. Ms. Sharon Austin, who was the DFO; Ms. Connie Tucker, from Southern Organizing Committee for Economic and Social Justice; Mr. Tom Goldtooth, Indigenous Environmental Network; and Mr. Dean Suagee, from Vermont Law School.

We had not really the same presentation, but their ideas and feelings after the two days of discussion and where to move forward. We had two requests to the subcommittee, one from Ms. Tucker to please review and provide comments to her on Chapter 3, which was the stakeholder pieces in the back of P2. And the same request from Mr. Goldtooth for our subcommittee to review the chapter on tribal

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perspectives. And we committed to do that.

I'm sorry, we also heard from Ms. Samara Swanston, from the Watch Person Project, who was the consultant in working and pulling together and writing the P2 report. We did not come out of that with recommendations and we put the charge to the subcommittee members to really review the P2 and try to submit written comments by January 31st.

We then heard from Mr. Christopher Jimenez, the On-site Coordinator at EPA Region 2. And he discussed EPA's response to the World Trade Center attack on September 11th, 2001. It was a fascinating presentation with a lot of photos and a very personal outlook on the whole year of clean-up at the site. He was on-site coordinator, he was down in the midst of it.

He stated that EPA's response activities focused on addressing contamination and exposures to asbestos, chemicals, jet and gasoline fuel. We saw and heard just the massive amount of contaminants that were there. But the good news about not that much contamination that went out, except through the fire fighters and, especially, when they don't wear their masks. But it was really a nice understanding for us to see the role of EPA in national disasters like that and the heroes that were out there in the field, out of the EPA. And we really appreciated him and his work.

We also heard from Mr. James Tullios, Health Partnership Specialist in the Division of Health Education and Promotion at the Agency for Toxic Substances and Disease Registry, ATSDR. He is the DFO for the four subcommittees and workgroups that they have developed there. And he felt that those groups were very available to provide assistance to the Health and Research Subcommittee. We had a lot of dialogue about the ATSDR subcommittees and the work they are doing and how we could partner, especially, around the cumulative risk assessment.

We then took up our strategic plan, which is one of the strategic plans that has been -- I don't know if it's been submitted in draft, or is not quite finalized yet, so because we had such a new subcommittee, we really wanted to work on that some more face-to-face. And it just brought up so many issues and questions that we backed up and just felt like we needed to keep our plan very simple. We had had a very, I don't know, big dream about what we were going to do. So we took a reality check and backed up to three goals.

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1 And the first one would be to very quickly provide some input on
2 the contaminated sediments science plan by January the 11th, I
3 believe. So that's a very short time period. We had one
4 subcommittee member, Mark Mitchell, step up to take that on for the
5 committee, so we appreciate that.

6 The second piece would be to provide comments to EPA
7 through the Executive Council on the framework for cumulative risk
8 assessment by July 15th, 2002. This is in response to a request from
9 that advisory committee working on it, for us to review that. And we're
10 very excited because we feel like this will help us really be able to link
11 in the environmental stressors and health disparities and begin this
12 work early on before the workgroup is even formed so that our
13 subcommittee can really step up and participate in this fully.

14 We also talked about just the whole process of reports. There
15 were many, many questions because we are a very new
16 subcommittee with so many new people. And we enjoy the presence
17 of Mr. Charles Lee and Marva King throughout the day, off and on a
18 lot of people stepped in to help us. And that really was very helpful
19 and so we appreciate that and acknowledge the time that they spent
20 with our subcommittee.

21 Some of these questions will be flushed out. We may try to
22 make recommendations about if there could be time frames and flow-
23 charts. We understand there is a general flow-chart, but some more
24 specific things to each report as it's coming out just for more clear
25 understanding. Charles provided a lot of information about how this
26 will be developed and answered a lot of our questions as we spoke,
27 so that was very good.

28 As far as our action items, we first have asked Ms. Dorothy
29 Powell to draft a White Paper and help develop some of our language
30 that will be used in the goals outlined in our strategic plan, especially,
31 around the environmental stressors and health disparities. And this
32 will get our subcommittee some talking points so that we can move
33 forward on conference calls right away on this.

34 I guess I should back up. The third goal overall for us was to
35 prepare and to really research and try to submit really good advice on
36 the EPA's programmatic agenda and how to continually integrate the
37 environmental stressors and health disparities. And we feel like that's
38 a real charge of our committee and we very seriously want to take
39 that on and follow through with that.

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1 One of our recommendations would be for our subcommittee to
2 develop a cumulative risk assessment task force, that will begin
3 looking at this document right away. We have been requested by the
4 EPA Cumulative Risk Assessment Panel and we have been asked to
5 provide this information by July 15th, 2003. So we would like to go
6 ahead and establish this task force within our own subcommittee to
7 begin this work internally.

8 The next pieces of our meeting really turned into just the
9 business section and the real details of NEJAC, of the
10 subcommittees. And out of that, we have a couple different -- I don't
11 know if I can term them as recommendations yet, but we had a
12 couple general categories that we felt like really needs some work
13 over the next couple years at NEJAC. And one of those large ones is
14 communications. We would like to recommend that the Executive
15 Council begin to develop a communications plan to ensure that we
16 adequately communicate appropriately to the NEJAC subcommittees,
17 the enviro

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1 +*al justice communities, and the general public on environmental
2 justice issues. So there is a lot of different audiences out there.

3 This plan could also include dissemination of agency's bi-annual
4 reports. We just heard that there are bi-annual reports and I think that
5 could be very helpful for us. Or we feel that that could be very helpful
6 for us.

7 Development of a NEJAC annual report to share the history,
8 lessons learned, and next steps. There were also requests that as
9 we come in as new subcommittee people, there is not really any
10 computer program compatibility discussions before we receive
11 documents that people can't open. There was a lot of requests for
12 things to be sent in Word, or to at least have the chance to discuss
13 that before they receive things they can't open or read. There was
14 discussions about mail lists from the public comments. Just a whole
15 series of communication pieces that we feel could be tightened up
16 and just focused on and done a little better so that new members
17 coming in would really have an understanding. And that the public,
18 when they come to give public comment, understand what's
19 happening, who they are speaking to, and what won't happen so that
20 we can limit the expectations that fuel the unhappiness in the
21 grassroots folks who come. Because we really do value their input
22 and think it's important.

23 The other piece of this would be orientation of all new members
24 of NEJAC relating to the FACA process, roles and responsibilities of
25 NEJAC executive committees, subcommittees, DFOs, the EPA
26 internal processes, transparent definitions of NEJAC appointment
27 processes, nominations of officers. Many of the things that you've
28 heard this morning. I was thinking Peggy had gotten a hold of my
29 notes, so much of it was very similar.

30 Also, that during the NEJAC meetings that we be introduced to
31 EPA officials who are at the table or in the room. It seems that we've
32 kind of loosened up on some of the formalities and there are still
33 many new people, and new grassroots folks coming in, EJ community
34 people, and we feel that that's very important. And that the process
35 be explained and at the beginning of the meetings that we hear where
36 we are, where we're going, what we're expecting to accomplish at the
37 meeting. And, again, this was from nine very new subcommittee
38 people, but I think it's important that we be mindful of these issues.

39 The next section was really regarding business and operations.

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1 And one of the first things we looked at was the agenda for today and
2 that there is no business meeting of this Executive Council. And we
3 feel that's just a terrible oversight. We would like to recommend the
4 annual business meeting of the Executive Committee. If that is not
5 financially, fiscally possible, that either a half-day or one full day could
6 be added to the agenda at the national meeting. Something has to
7 happen so that we can conduct business. Things like bylaw revisions
8 and clarifications. There is information in there, but once you get
9 down to the real nitty-gritty, the information is not in the bylaws. How
10 do we do our national meeting agenda development and planning.
11 The calendar year for appointments runs opposite to the fiscal year of
12 the budget and how EPA runs. So there's just a lot of cleaning up
13 those sorts of issues.

14 And I'm sure there is a lot more. We have a bit of a laundry list
15 and we're willing to bring that forward in a better way out of the
16 subcommittee as we move forward. We would like to recognize and
17 thank our outgoing DFO, Aretha Brockett, and wish her very good
18 luck in her new EPA work. And we will be having a new DFO
19 throughout the next year.

20 So, I believe that's it. We will be having an April face-to-face
21 meeting. And I'm just very excited about this subcommittee, they
22 came in with energy and ideas and questions. And they really want to
23 become engaged. It was a very hard day, we learned a lot. I think we
24 got to know each other and we're ready to go. Thank you.

25 MS. SHEPARD: Great, thank you. Ken for Enforcement.

26 MR. WARREN: I think Shirley Pate is prepared to do that.

27 MS. SHEPARD: Oh, okay.

28 MR. WARREN: We don't have a chair of our committee, which
29 I'm sure Shirley will mention in the course of her comments.

Enforcement Subcommittee Report by Shirley Pate

30 MS. PATE: Hi, my name is Shirley Pate. And in keeping with
31 Peggy's remarks earlier, I am the DFO of the subcommittee and I am
32 here to report to you that the Enforcement Subcommittee had a very
33 good meeting yesterday. We were first joined by Phyllis Harris, who
34 is the Principal Deputy Assistant Administrator for the Office of
35 Enforcement and Compliance Assurance. And Phyllis directly
36 addressed the issue of the, I guess for lack of better words, the
37 estrangement between OECA and the Enforcement Subcommittee
38
39

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and the fact that there had been a lack of activity on the subcommittee.

And she delivered a firm commitment to work closely with the subcommittee and asked for their general assistance in helping OECA properly target its resources concerning environmental justice. And these were, obviously, very welcomed words for the subcommittee, and also for myself.

After that, Liz Evans from our Region 8 Office, she's the EJ Coordinator. She gave a presentation on several projects and initiatives that they are doing in Region 8. And the first one was called the Northeast Denver Environmental Initiative. And there are a host of problems in this area, all the way from SuperFund sites to major diesel emissions. And it is a massive coordination process that EPA Region 8 is leading. And they are working with the State of Colorado, they are working with county health agencies, and other local agencies as well. But anyway, it was a very interesting presentation that she provided us.

She also gave us some information about they are trying to do some more outreach regarding the enforcement of worker protection standards. And another interesting project that they are just starting, and they admitted upfront it has been quite a challenge, and that is looking into the issue of drinking water in migrant farm worker camps. And so they are working with many different people, first of all, to try to identify where these camps are even located, and then, obviously, the difficulty in trying to get into the camp to see if there would be agreement by the camp manager to even allow sampling. So there are a lot of challenges there, but they seem very determined and we look forward to hearing more from them in the future.

Then from OECA's Office of Compliance, we had a presentation from Betsy Smittinger. And Betsy made a presentation on the Enforcement and Compliance History on-line. And this is a website that has just debuted on November the 20th. And the thrust of this site is to provide the public and businesses -- anyway, a wide variety of people to gain ready access to compliance history on particular facilities. And, as I said, it just debuted November the 20th.

Initially, they were going to have a 60-day public comment period. Given that part of the public comment period falls over the holidays here, there was agreement in the subcommittee yesterday that they will extend the deadline. The subcommittee, though, is still

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going to formally request that just to make sure that it happens. But we want to make sure that they do extend it to allow as many people to provide comment as possible. And what I will also do, I'll provide this information to the other DFOs so they make sure that other members of the NEJAC have an opportunity to check-out the site and also to provide comments as well.

Then we were joined by Rosemarie Kelly from the Office of Regulatory Enforcement. And she gave us a general overview of the Supplemental Environmental Project Program and the associated community guidance. She also told us about a very interesting SEP that is taking place right here in Baltimore. And there is a company that, as part of their penalty, there was an agreement to do a SEP.

And what they did is they -- it's a breath mobile, is what it is. And with the high level of asthma in children in various parts of Baltimore, they agreed to purchase the breath mobile and to train health professionals from the University of Maryland to run the health mobile. And it seems to be a great success and when this period is initially over with the health mobile will be given as a gift to the University of Maryland for them to continue to run.

We also had a presentation from our Office of Criminal Enforcement, Nick Swanstrom. And the Office of Criminal Enforcement has done a lot regarding targeting for EJ in its criminal enforcement cases. They are also doing a fair amount of outreach to organizations, such as the National Organization of Black Law Enforcement Officials, also to a Hispanic enforcement officials organization. And there was some discussion -- in fact, we had a joint session on this presentation with the Indigenous Subcommittee. And there was also some discussion about our Office of Criminal Enforcement talking further with the Indigenous Subcommittee regarding tribal enforcement officer issues.

And then our final presentation of the day was regarding compliance assistance tools. The Enforcement Subcommittee has a Compliance Assistance Tools Workgroup. And back in May, they were asked by our office to provide input to us regarding the design and delivery of compliance assistance tools. And it happened to be an issue, at least the way we posed the question to the subcommittee -- it was an issue that was difficult for people to get their arms around and understand, in particular, what it was we wanted from them.

When Phyllis Harris joined us yesterday, she told the

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Enforcement Subcommittee that she would really like to broaden the request in this area. And she specifically wants input from the subcommittee regarding specific sectors in which the subcommittee think that compliance assistance would be the most helpful. And also if the people are aware of particular sites or areas that compliance assistance tools should be specifically targeting.

So, in general, that is what took place. We are going to be talking further with Phyllis, and also with the subcommittee, regarding expanding our stakeholder representation. Currently, we only have industry and academia represented on the Enforcement Subcommittee. And, hopefully, we will be getting our community member soon. We hope to also identify a second community person but, obviously, there are other stakeholder groups that we need to make sure that we get a representative from. That's it.

MS. SHEPARD: Okay, thank you. And Graciela, did you want to make some comments?

Puerto Rico Subcommittee Report **by Graciela Ramirez-Toro**

MS. RAMIREZ-TORO: Thank you. Well, this year I have a little bit more to report. Our members were, finally, appointed last October and since we got all the members appointed last October, we have been working very hard to see if we can catch up with the national agenda.

We had a first meeting last November, in which we trained, or discussed, all the procedural aspects of the NEJAC, the strategic plan of the NEJAC, and also our draft strategy plan that had been submitted by the few members that we had appointed before October, in agreement with the region and the Caribbean field office. And that first meeting was really revealing in terms of all the things that we needed to do in order to have some contribution to the council.

We talked about environmental justice and we decided that we needed to have another meeting just to discuss the different points of views of the members on what environmental justice is and discuss that in the light of what is environmental justice in the United States. Because Puerto Rico has a different demographic and a different racial distribution. And also that we should sort of like split that meeting of November to leave some of the agenda items to be discussed in an early January meeting because the members wanted to have a contribution towards the current report that we were working

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on, the pollution prevention. But they didn't want to send recommendations without having the perspective of what was going to be discussed here. The meeting was before the draft Pollution Prevention Report was sent to us, so we could not do that at the meeting that we had.

So it was agreed that I was going to come and listen and, probably, that's why you noticed that I was not as talkative as in the former one in Seattle. Because what I was doing was catching very well what was brought up here so I could transmit it to the other members of our council. And what we expect is that we can send during the period of comments, some written comments to incorporate the Puerto Rico perspective, including some comments on the government chapter or proposal.

And the other area that we want to have some input is in the capacity development issues, which are very different in Puerto Rico in the way they were presented in here. And for that, I will ask the council that when we send our written comments, they can take them into consideration. Last year, we submitted a couple of written comments and we're not sure that they were incorporated.

We talked in our meeting about the need for reappointment of two new members. And it was decided that those two new members should be members of the local government, with functions that are related to EJ. That was also decided in agreement with Region 2 and the Caribbean field office of EPA. And we are going to join Region 2 in the development of the strategy for the listening sessions. And, as a matter of fact, you have heard a couple of times that we are ready to do it and, probably, they will get done around March.

Also, the other aspect -- and that's the reason why all my comments were directed to our process -- the subcommittee had a lot of questions about what was the best way to send recommendations to the council from the subcommittee since we don't meet here and we meet in Puerto Rico. So that would be a question that we will bring up in that business meeting if we have it.

So, I think, in the month and a half that we've been operational, we have moved and everybody is very excited in the subcommittee. So, probably next year we'll have a big report.

MS. SHEPARD: Well, thank you. Are there any other comments before we adjourn?

(No response)

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1 MS. SHEPARD: Well, hearing none, it's been great to see you
2 all and I guess you'll all be communicating by telephone in the future.
3 So, have a good, safe trip back.

4 MR. LEE: Happy holidays.

5 MS. SHEPARD: Happy holidays, yes.

6 (Applause)

7 MS. SHEPARD: The meeting is adjourned.

8 (Whereupon, at 4:03 p.m. the meeting was adjourned)
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