

**NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL**  
**Thursday, December 6, 2001**

**Members Present:**

Peggy Shepard (Chair)  
 Daisy Carter  
 Larry Charles  
 Anna Frazier  
 Eileen Gauna  
 Ann Goode  
 Richard Gragg, III  
 Savi Horne  
 Annabelle Jaramillo  
 Mary Nelson  
 Catherine O'Neill  
 Graciela Ramirez-Toro  
 Jane Stahl  
 Dean Suagee  
 Wilma Subra  
 Jana L. Walker  
 Kenneth J. Warren

**Also Present:**

Don Aragon  
 Rosemary Antuanguaruk

**EPA Representatives:**

Brandon Carter (DFO)  
 Marty Halper  
 Barry E. Hill  
 Charles Lee (DFO)

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**MORNING SESSION**

(9:04 a.m.)

MS. SHEPARD: Good morning. Hi, we are going to get started. Welcome. This is our final day and our agenda is going to focus on the policy discussion summation action items, and then implementation of the strategic plan. So, I am going to turn it over to Charles Lee to go to the agenda, and then we will hear from Annabelle Jaramillo.

MR. LEE: Hi, good morning. I hope everyone got rested last night. There is on the table a piece of paper in red that has today's agenda or detailed agenda. And, as you noticed, that agenda says that we were supposed to have began at 8:30. But, somehow, it did not match up to the other agenda that everyone had which had the start time at 9:00 o'clock.

So, given the fact that there is a lot of business to be accomplished today, we had for the discussion of the fish consumption report and a summation and action items in an hour period. So I was hoping that we could get this done in half an hour, therefore we can get back on time, or close to an half an hour, and really begin the other business at 9:30, if that's okay with everyone.

So, Annabelle is going to chair that session.

**FISH CONSUMPTION POLICY DISCUSSION SUMMATION****AND ACTION ITEMS****Annabelle Jaramillo, Chair**

MS. JARAMILLO: Thank you, Charles. Good morning. We are going to try and accomplish this in 30 minutes, and I will try to keep us on task. We might go over a little bit, but hopefully we can stay focused.

What I would like to do to begin is have a ten minute summary from Catherine on the issues that came up during our discussions on Tuesday,

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I guess it was. It seems like light years ago. And then we will have some general comments and refine the report for the subcommittee; and then we will spend about five or ten minutes talking about next steps. So, Catherine.

MS. O'NEILL: Good morning. Is this on? Is this working?

MS. SHEPARD: Before Catherine starts, you are being handed out a listing, a compilation of all of the action items -- I am sorry -- of the recommendations.

MS. O'NEILL: So, I would like to begin by thanking this group for the thoughtful and productive deliberation on, not only the recommendations, but the report in general, and to welcome your continue comments, if you want to send them along, e-mail them, whatever, on both the report and the over action recommendations, as some folks, Graciela and others, have passed these along already. I thank you for that.

In addition, the work group will be looking to formulate some more specific or focused recommendations over the next several months. So, again, on behalf of the work group, I would like to welcome you to continue to send your thoughts and suggestions, with respect to these recommendations.

I realize that the subcommittees are going to come with additional recommendations and refinements as well. These will be gratefully received by the work group.

The handout that we have all received types up specifically, not only revisions to the particularized recommendations, but also suggestions for additional recommendations for each chapter. Rather than trying to go through these one-by-one, particularly in light of the time, I will just try and highlight a few examples.

We received recommendations from the group at several different levels. I think this was very helpful. In the first place, there were several

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suggestions for additional recommendations for each chapter; secondly, there were suggestions for more substantive revisions to the existing recommendations; thirdly, there were language clarification throughout, and these were very helpful; and then, finally, some sort of generalized recommendations.

And so, in those four, proceeding along the lines of those four categories, I will just give a few examples:

With respect to the additional recommendations, in Chapter 1, for example, there was the request that a recommendation be formulated that EPA coordinate with state health departments and other state agencies that may conduct testing of the aquatic organisms to integrate efforts and ongoing monitoring, and also to advise of funding connections.

Another example included that EPA, a request that EPA consider the negative effects of fish contamination on cultural practices or traditions in its risk assessment policies and provide related guidance and tools including pursuing more fundamental changes to risk assessment methods. For example, the Harris Harper model for conducting eco cultural risk assessments.

There was an additional recommendation suggested requesting EPA to require states to consider cultural identities and traditional practices in their total maximum daily load planning efforts.

And then, finally, with respect to Chapter 1, there was a request that some kind of additional recommendation be formulated that asks EPA to address what we were calling "peak exposures" or "acute exposures," or particular windows of consumption that correlate with seasonal plenty, and so forth.

To highlight a few of these additional recommendations for Chapter 2, there is a request that EPA implement a diversity program to increase the extent to which personnel are available to consider environmental

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justice issues in the decision making process, and specifically to address diversity in recruitment, retention in upward mobility, and to develop ways to encourage those in affected groups to pursue careers in the environmental professions.

There was a request that EPA, in conjunction with states and tribes, ensure that cultural uses are taken into account in the prioritization, development, and implementation of TMDLs when sensitive populations such as subsistence fishers are involved.

And then there was request that EPA consider the cultural and historical significance of particular sites in their decision making processes. For example, invoking powers under the National Historic Preservation Act, which was a statute that was not mentioned among the legal authorities relevant to Chapter 2.

There was a suggestion of an additional recommendation, or perhaps a couple additional recommendations emphasizing the real importance of prevention. For example, through registering chemicals -- excuse me -- not registering chemicals for use in the first place, through implementation of the precautionary principle, and through nondegradation policies for those waters that are healthy or pristine.

And then, finally, I believe this belongs to Chapter 2. There was a recommendation. There was a request that some kind of a recommendation be formulated indicating that cost benefit analysis may be inappropriate where cultural and other values are at stake because anything that is not easily monetizable, framed in terms of money, dollars, won't get counted or adequately counted in cost benefit analysis.

With respect to Chapter 3, there is a request that an additional recommendation be formulated that EPA recognize that the Fish Consumption Report recommendations can also serve to unify local groups and be a resource to assist communities in gathering information

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for presentation to EPA, and request that EPA use monies generated through fines to fund research and formulate creative solutions.

As highlighted in a few of the additional recommendations for Chapter 4, there was a request that a recommendation be added specific to Alaskan natives given their different histories, the different legal contacts, and the inapplicability of the term "reservation," and other differences that call for different solutions from EPA.

There was also the request that EPA make available a list of EPA studies and available data under "Right to Know" legislation that may be relevant to tribal issues in order to increase the knowledge and augment the capabilities of tribes and communities.

In addition to these suggestions that the fish consumption work group craft new recommendations, there were several very thoughtful substantive revisions and these are highlighted here in the handout. Again, I will highlight just a few of these for each chapter to provide a sense of the nature of the revisions.

With respect to Chapter 1, there was a revision suggested to recommendation 1-4 to include a request that EPA provide funding to incorporate evidence into risk assessment, risk management, and risk communication.

With respect to recommendation 1-7, there is a request that EPA -- or that the recommendation be revised to read, "NEJAC recommends further research and to the extent to which susceptibilities and co-risk factors are clustered in certain subpopulations." The additional language including the assessment of body burden and health disparities among different subpopulations.

To highlight a few of the substantive revisions to the text in Chapter 2, there was a request that recommendation 2-2 be revised to read, "Address all significant sources of mercury, regardless of the initial

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receiving medium, in a manner that will prevent disproportionate impacts," and thereby addressing the possibility that cap and trade or other kinds of programs merely reduce mercury levels overall, but do not provide for the potential disproportionate impacts of that.

Similarly, there was revisions to recommendation 2-3, and the revision suggest that the recommendation also state that EPA should ensure that related federal environmental laws are enforced equitably and effectively.

A revision to recommendation 2-7 would include the definition of acceptable cancer risk, and clarify what acceptable risk levels mean. And note that acceptable risk may require a move towards zero risk, i.e., the idea that except that there are no additional acceptable cancers.

To highlight one of the recommendation revisions in Chapter 3, there was the suggestion that recommendation 3-1 be revised to read that, "NEJAC urges EPA to work in conjunction with the affected groups to be proactive in identifying and implementing alternatives."

And then, finally, to highlight a recommendation from Chapter 4 of this nature, it was suggested that recommendation 4-2 be revised to read, "In order to facilitate the efforts of nonprofit tribal organizations to address contaminated and depleted aquatic eco systems here," getting at the sense that it was not only tribes and tribes' effort at environmental protection, tribes in their governmental capacities that needed funding, but also nonprofit organizations working on reservations and in Alaska.

Of course, the remaining revisions are captured at length in the handout here. To give a sense of the third kind of suggest that we heard yesterday, there were several thoughtful clarifications requested with respect to the language that applied throughout the overarching recommendations document.

It was suggested that we clarified the recommendations that the

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recommendations apply not only to surface water, but also to sediments, ground water, and air; that we clarified that the recommendations aim not only to reduce the levels of contaminants of concern, but to do so in a manner that will prevent disproportionate impacts; that we clarify that the recommendations address additional contaminants of concern including those that arise from inadequate sewage disposal in urban and rural areas, for uranium mines, and other defense-related activities, and from siltation; that we clarify that the recommendations include native Hawaiians, indigenous peoples, and other affected groups from Guam and other islands; that we clarify that the recommendations include shellfish and marine invertebrates, where we talk about fish; and that we clarify what the recommendations mean by such terms as "co-risk factors, cumulative risk, and bioaccumulation."

Finally, there were a set of general recommendations that, for example, the overarching recommendations include some kinds of either cross-references to other chapters's recommendations, or repeat phrases judiciously to ensure that each chapter's recommendations are understandable and complete in their own right for those who might be reading a single chapter's recommendations.

There is a general recommendation that throughout we avoid, or at least explain jargon, whether it is risk jargon, or environmental justice jargon; throughout that EPA be asked to lead and coordinate efforts with other federal agencies including the CDC, the NIEHS, NPDES, Department of Defense, Department of Energy, Bureau of Indian Affairs, the Forest Service, et cetera.

And then, finally, that in general the recommendations be sensitive to, or explicitly recognize cultural conflicts. For example, in the case of eliminating all use of mercury, given that mercury is used by some groups in religious practices.

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That is just a sort of, I suppose, a sense or a flavor of the recommendations more than a complete summary given the time. If people have any additional questions I have taken notes, in addition to the notes that we have here. So, hopefully, if you do not see your concerns capture, you are welcome to come talk to me, and I will make sure that we have gotten it down. Thank you.

MS. JARAMILLO: Thank you, Catherine. And thank you for that very complete -- complete summary, basically. It was very good. I will take at this time comments and -- Mary?

MS. NELSON: Thank you. It was wonderful. I just want to commend Catherine again for her capacity to take in all of the different things and make semblance, some order out of them. I just want to make sure that in every instance humanly possible and in every recommendation that we strive for prevention and remediation and not simply capping the risks, so that I would like to see that language loud and clear in every instance humanly possible.

And, secondly, that this whole precautionary principle, I would hope that it seems to me both in the statement that was given and some further citations that I have been referred to that is enough of a principle that, in a sense, counteracts risk assessment, that we want to have at least a paragraph maybe on that notion of the precautionary principle as an alternative way of dealing with it.

And then, just finally, that the additional recommendation on Chapter 3, that EPA's money is generated through fines to fund research and firms like Creative Solutions, my suggestion was not just that EPA use that money, but that that money be made available to the affected community groups to be able to deal with alternative solutions. So, I want that money to be available to the communities involved.

MS. JARAMILLO: Thank you, Mary. Other comments?

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(No response)

MS. JARAMILLO: Before you go, Jane, I just want to also give you an opportunity that if anything came up in the subcommittees related to this report. We will deal with the other substantive issues in subcommittee reports later, but anything related to this report, Jane?

MS. STAHL: That was actually going to be my question was whether you wanted the subcommittees recommendations on the report now or later?

MS. JARAMILLO: Now.

MS. STAHL: So, now I feel that many of these will end up being redundant. But for the purpose of being true to my subcommittee members and to the wonderful conversation and discussion that we had yesterday, let me list off seven things, both general and specific, that we wanted. I do have these, Catherine, so you do not have to take notes. We are very organized here.

We actually had the benefit of having Patrick West, Tala -- I am going to forget her last name -- Tala Henry, Ward Hendrickson, and Jim -- not Jim -- I am sorry -- Jeff Morris worked with us in part yesterday in our subcommittee.

They provided a great deal of illumination on some of the more technical issues and detail on some of the issues that we were concerned about in the arena of fish consumption. So, let me just read off some of what we boiled this conversation down to in terms of additional recommendations.

The first was to recommend that the work group consider the needs of groups not previously recognized and/or covered in the draft Fish Consumption Report and the example was in fact Hawaiians and people from the Virgin Islands. I think that really is comparable to the notion of expanding on what terms we are using for Caribbean Americans and the

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like.

Second, a recommendation that cultural and spiritual factors be built into risk assessment models that are then used.

Third, that we recommend additional research on other subsistence foods. And that basically arrived similarly to the term "fish" was not only enhanced by the terms "shellfish," and then "marine mammals," when that was the -- but other wildlife and vegetation that is subject to the same forms of contamination, and has an impact on subsistence populations.

Fourth, and we saw this as a, perhaps, an adjunct to recommendation 1-11 with regard to funding and technical assistance being provided. What we wanted to make clear there was that the research be conducted as a coalition between experts and community groups.

What we wanted to make clear there was that this is not something to be done for communities necessarily, but with community groups. I think it also melts nicely with the notion of augmenting community expertise so that we in fact make the experts available to the communities and that research be done in a collaborative fashion.

Fifth, and this is a notion that I think is going -- has already been mentioned this morning and bears repeating throughout the chapters of the report. That would be to make explicit the need to couple continued prevention with remediation so that we are not cleaning something up only to have it recontaminated and that we are keeping our priorities straight in terms of continually reducing the inflow of new contaminants not just cleaning up historic areas.

The sixth gets somewhat more detailed. This is in part because we did have a discussion of TSCA, the toxic controlled substances act, which is the non-food, non-pesticide, non-drug chemical authority. What we would recommend would be for the Office of Prevention, Pesticides, and Toxic Substances to flag to the water program HPV chemicals.

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HPV chemicals are high production value chemicals, which are entering into a voluntary study on voluntary data information gathering and submission to OPPTS, but that OPPTS and the work with the water program to flag those chemicals that show up as potentially toxic and can get into the aquatic environment, and further that the water office work with OPPTS to identify higher level testing of those HPV chemicals that may end up in fish. Where a pathway is found to exist, additional testing and rule making should be expedited.

And, as I said, I will get this to you, Catherine, for further work, but the notion is that there is an authority out there that might help us capture information on chemicals making their way into fish and other aquatic organisms.

And, finally, but I think very importantly, we would ask for a collaboration between and among federal agencies in sharing the data regarding fish and aquatic resource contaminant levels, and question whether this is an issue for the interagency work group on environmental justice.

What we heard was that there may well be data out there being collected by other federal agencies, and if we could find a way, and, as I said, perhaps through the interagency work group or other collaborative efforts with other federal agencies to get that data available, not just to this group so that we could work with their information, but out to communities as well, that would be very useful.

MS. JARAMILLO: Thank you, Jane.

MR. LEE: Can I just say on that last point, and I chair the Interagency Working Group on Environmental Justice. One of the things that has been of some discussion is a greater emphasis on health and research and data collection issues, so there is a real practical linkage here.

I want to make sure that you realize that there are a number of people

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who are here from the IWG. That is Dr. Reuben Warren, and Reuben is back there, he is with ATSDR; and Dr. Charles Well, who is not here in the room, but he is with NIEHS; and Kim Lambert, who is with the Fish and Wildlife Service. Kim, are you back there somewhere?

(No response)

MR. LEE: I just wanted to make sure you all knew that. And, in terms of the framing of a lot of these, you know, certainly the point had been made about the roles that other agencies play. And so, I just wanted to make sure you knew that that was all part of an ongoing discussion here.

MS. STAHL: And, in fact, one of the reasons that we came to this recommendation and wanted to make it formally in front of the group as a whole is because we were very fortunate to have several of these folks with us in our subcommittee yesterday.

The awareness of the data that is being collected by other groups is something that in fact is useful to us all. If we could make that data not only better known through our vehicles for communication, but then better used by our sister agencies that would be ideal.

MR. LEE: I am sorry. One last person I forgot is Clifford Mahooty from the Bureau of Indian Affairs is here as well.

MS. JARAMILLO: Thank you, Jane. Eileen.

MS. EADY: Hi, Catherine, good morning. Our permitting work group had some pretty extensive discussions yesterday about, I know you mentioned a bit back about our revisions to one of the recommendations, one of the more general recommendations that any kind of mercury reductions should be done in a way that does not cause disparate impacts.

We were particularly concerned because of the fast and furious conversations that are occurring both in the agency and in legislative arena on mercury, you know, possible mercury redemption program. We thought that it would be timely in this report to convey a general sense,

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although certainly there are no concrete proposals on the table as of yet to be able to analyze or look at.

But at least, at this point, I think it may be important to mention these efforts, specifically with the idea that while, you know, we are excited about the potential for mercury reductions primarily through fuel switching and reduction technologies and the idea of a trading regime for mercury is problematic if there are not sufficient protections to reduce more localized impacts just because of the way -- just because of the deposition patterns, and so forth. And so, what we would like is a recommendation that specifically addresses our concern with the potential mercury trading machine.

MS. JARAMILLO: Thank you, Eileen. Dean.

#### **INDIGENOUS PEOPLE SUBCOMMITTEE**

by Dean Suagee

MR. SUAGEE: Thank you. From the Indigenous People Subcommittee, we came up with language for suggested additions to five of the overarching recommendations, and we have got these types, which I can give you. They are basically the points that we talked about.

Some of these are the points we talked about in the session on Tuesday. We had talked, one of the ideas that came up on Tuesday was that we ought to have a specific recommendation dealing with Alaska natives in Chapter 4. We had several people from Alaska at our subcommittee meeting yesterday. So, we listened to them and talked with them for awhile.

Anyway, what we came up with, and this will just be real briefly in recommendation in 1-10, we would add a parenthetical expression, a parenthetical in the first -- after the first clause of the first sentence. I mean, there is only one sentence there, but a parenthetical after the word

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"tribes." It says including, in parentheses, "Including nongovernmental organizations based within reservations and organizations serving Alaska natives."

And then adding a new sentence to the end of that, and the new sentence reads, "NEJAC urges EPA to publicize and expand ways to provide financial and technical assistance to community-based organizations and tribes to be directly involved and conduct their research on these issues."

So, partly in response to the points that Anna raised Tuesday afternoon in the presentations, and in Chapter 2 we had suggested language for three of the recommendations. One is 2-1, a new sentence to be added at the end that says, "NEJAC further recommends that radioactive materials and climate change also be added in the priority list."

And 2-6, after the word "Alaska natives," we would add, "Pacific Islanders and other people located within the jurisdiction of the United States." And then a new sentence that says, "NEJAC further recommends as a forefront to all pollutant relief standards that the precautionary principle be used as an alternative to the risk assessment model."

And then, in Chapter 4 -- actually, also in Chapter 2, we have suggested in addition to recommendation 2-8, and this also, we discussed this in some -- this is in response to some of the comments raised in our meeting yesterday.

It may be that there is more detail than we wanted overarching recommendations and that this is one that ought to find its way in the focus recommendations, but the basic concept is to add two new sentences at the end. "NEJAC urges EPA to make the development and adoption of water quality standards for Indian country a high priority including support for tribal water quality standards in accordance with EPA's Indian policy, and the promulgation of federal core water quality standards for

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reservation and other Indian country waters for which tribal water quality standards are not in effect."

And then, another new sentence, this is the Alaska specifically. "In the context of Alaskan native lands that are not Indian country, NEJAC urges EPA to engage in consultation of Alaskan native tribes and the state of Alaska on the possible revision of water quality standards to better protect subsistence traditions such as the adoption of designated uses for subsistence harvesting of fish and wildlife."

And then, in Chapter 4, in recommendation 4-1, we would add a new sentence at the end of that recommendation that says, "In the context of Alaskan natives, federal agencies must respond and resolve these threats and environmental health impacts in ways that preserve for Alaskan natives the ability to carry on the traditional practices of providing for their subsistence needs from the lands and waters that they have historically used."

MS. JARAMILLO: Thank you, Dean. And you will provide those written -- yes, you are. Thank you. One more comments, and that is from Larry.

#### **INTERNATIONAL SUBCOMMITTEE**

by Larry Charles

MR. CHARLES: Good morning. The International Subcommittee had an outstanding presentation by a panel of experts who gave us a lot more technical information and a better understanding of some of the issues that the report addresses, and from that we came out with two recommendations to the fish consumption work group.

One, in that it is an outstanding document that captures and defines clearly the issue and includes some outstanding recommendations for EPA and others, we felt that from the perspective of the international committee

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that the final document, we recommend that the final document be circulated to countries where OIA is involved in order that they too might benefit from the observations made on the good work done by the group.

In addition to that, we ask that we add some language to the report in the background section that acknowledges the international connectiveness of polluting activities that occur in other countries.

(Fire alarm went off)

MR. CHARLES: Oh, boy. I think we are going to wait for the announcement, right?

MR. : You know, everybody else can move, but the council members have to sit tight.

MR. CHARLES: I told you it was a hot recommendation.

MR. LEE: Okay. Well, why don't we keep on going.

MS. : Larry.

MR. : We are short for time.

MS. : Do we know what that was?

MR. : They are checking it.

MR. CHARLES: We were asking the committee to in the report acknowledge the international connectiveness of polluting activities that occur in other countries. And, as a result of air and ocean currents, impact communities here in the United States, and therefore of course any country along this route.

The third thing we want to ask the committee to consider adding to the report, as one of the recommendations, the Stockholm POPs Convention and Treaty, you know, have been completed and the treaty signed. The U.S. now has the task of developing an implementation plan.

We have asked that one of the recommendations that are included in the report be that the NEJAC members, and, in addition, other stakeholders be invited to consider contributing to the developing the

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implementation plan for the U.S. So, those are the three things we wanted to ask you to add language to it in the report. Thank you.

MS. JARAMILLO: Thank you all for those comments. I would just like to briefly add a little bit. When we are talking about the prevention piece of it that environmental restoration is also a very important component of that, and I think it needs to be added. So, okay, thank you.

Charles, what are our next steps?

MR. LEE: Okay. I'm going to lay out for you what at this point are the planned steps. I am going to the completion of the report, the recommendations, action by the council, and then transmittal of the recommendations to the EPA administrators.

After this meeting, as you could see, this meeting was really just part of a process that includes with the completion and report recommendations and transmittal. So, after this meeting we are going to take the comments.

This is really the work of the work group to really compile them and look at them, and actually do kind of three kind of things:

One, which is, you know, those areas of the report that can be augmented or changed or given more focus to based upon the input that came at this meeting. You should note in the report the very first section in Chapter 1 is actually a placeholder that is being held for stories of the conditions of impact to communities that and tribes that were going to be kind put there. So, you know, this was planned that way.

The second is, you know, to fine tune the overarching recommendations. I think it is the consensus of the group that these are with additions, the ones that the work group propose are ones they can work with and to try to finalize.

And then a third area is really developing some specific, what the work group calls focus recommendations. But the nature of those has to

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be actionable because I think making the link between, you know, the overarching kind of recommendations and that which is actionable is going to be very important.

So, these are the three things. The second three areas, the second major item here has to do with comments from the public. We have put forward that we will take comments to the report up to January 31st. There are a number of tribes and other groups that said that they would like to get an extension of that.

I think we are very open to that. We would just like those who are really going to make that kind of input and need that extension to let us know, because there are some real planning issues here. I realize that, you know, the exercise of really sharing this with groups that they feel needs to really look at it and having the time to review it does take time, but I would like everybody to realize that.

There is also another time constraint which is this: It is our expectation and intention that this report be finished by March 15th, which means that Catherine is going to need to start writing the final draft by February 15th. And so, inasmuch as we -- you know, so that we can plan around getting that input it will be helpful.

I think that certainly anything that is not too us shortly after February 15th, is not going to be possible to really incorporate. Therefore, it is our intention that by the end of March that this be ready for action review by the council. I will plan two conference calls devoted to this, and that is to consider the recommendations, to report the recommendations, and a letter of transmittal.

So, therefore, some time at the end of March, early April, this should be ready to be transmitted to the administrator. There is an additional item in here that we have not yet made a full determination as to whether or not this will be done, having to do with a desire on the part of many people in

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contact with the fish consumption work group to have a continued input.

And so, we wanted to arrange for a conference with impacted communities and tribes and other stakeholders, different ones, if there is an interest to take comments or input based upon that. That is going to be dependent upon the level of interest that has been expressed to us meaning not the fact that we should do this, but the fact that you have concrete names of people, you know, with information as to how to contact them, and so on, and so forth. Because minus that, this is not a workable, you know, workable step to undertake.

So, that pretty much outlines the major steps having to do with the completion action by the council and transmittal to the administrator.

MS. JARAMILLO: Just a minute. There was a question here from Veronica that -- this is a process thing, Charles, if we can take it real quickly. Go ahead.

MS. EADY: Yes, Charles, I just had a question about where do written comments go?

MR. LEE: To the Office of Environmental Justice.

MS. JARAMILLO: Okay. Written comments should go to the Office of Environmental Justice.

MR. LEE: And they should be made attention of Marva King.

MS. JARAMILLO: Okay. Mary, quickly.

MS. NELSON: What can we do within the limits of our advisory capacity to follow up once it has been transmitted to the EPA administrator, in terms of what things -- couldn't we get either like progress reports twice a year or something, in terms of what things might be implemented, or where things are at?

And, secondly, is there any prohibition once it has been transmitted to the administrator between sharing this report on a wider basis to say our congresspersons, or whatever else it might be.

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MR. LEE: Let me address those in reverse order. In terms of sharing this report, this is pretty much a transparent public process. Like I said before, you know, this draft is now being shared as widely as any of you wish to share it.

I had said when I sent it to all of you, and we sent a PDF copy to everyone, especially for the express purpose so that it is more easily shareable. So, therefore, there are no restrictions about that.

And, certainly, you know, what one does with it, I think Dr. Gardner said yesterday, in terms of with the audience, the purpose of this report is really to be a way to articulate the concerns that many of you may have. And so, certainly, that is the case.

Now, in terms of a second question, I think that if we looked at a vice development model that is in your strategic plan is yet to be finalized. There is that section called Phase 4, right, which is implementation by EPA, which has to do with response from the agency, and in terms of follow-up reports to you.

That is not to same thing as oversight. We all understand that, right? That is not oversight, nor is it implementation. What it is is response back to the NEJAC, in terms of in your role as an advisory role. As it stands, what we envision happening is that once the report and recommendations are transmitted to the administrators office, that a process be established.

This is a comprehensive complicated report that calls on many, many different offices; that there be a sufficient amount of time be given to the various offices, and the EPA being able to craft a response to you. That response should include the commitments that the agency will make in response to your recommendations.

There is nothing that says if the agency, for whatever reason, is going to respond affirmatively to anything because this is advice. But I do expect that a lot of these things will be turned into very concrete commitments.

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MS. NELSON: And can you share it with your interagency working group, so each one of those other departments also gets some of this?

MR. LEE: Absolutely. And I think that one of the actionable recommendations will be something along those lines. I mean, what you should do is basically make recommendations that call upon EPA to, in various capacities, you know, link it to different other agencies.

Of course, you know, this is an issue that addresses issues on a very comprehensive level, you know, health and otherwise related. So, it is a much bigger question than the interagency working group on environmental justice.

So, with that, I think that should pretty much do it. Any more questions?

(No response)

MS. JARAMILLO: Thank you, Charles. I want to thank everybody for all of the input and the good work that went around getting this report together and the feedback that has come to you.

MR. LEE: So, at this point, I want to take a moment of privilege, because this is the point at which the -- your interaction with the fish consumption work group ends. And so, I really want you recognize -- I mean for now, you know? At this meeting.

I mean, I think we need to really recognize Annabelle's leadership in terms of moderating this discussion, and the really deliberative process that was able to engage you in.

Secondly, certainly the work group members, which I would like all of you to stand -- and Catherine O'Neill, for your efforts.

(Applause)

MR. LEE: I also want to recognize the many EPA staff persons that participated. If you look at the back of the report, there is a long list of EPA staff people.

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Three, I want you to really recognize the designated federal officials for this work group, and the NEJAC program manager, who has played an instrumental role in making sure that the fish consumption work group completed its report. And that is Alice Walker, Danny Gogal, and Marva King.

(Applause)

MS. JARAMILLO: Peggy.

### **NEJAC STRATEGIC PLAN IMPLEMENTATION**

#### **Peggy Shepard, Facilitator**

MS. SHEPARD: Great work, thank you. We are now going to move on the agenda to a discussion of the implementation of the strategy plan.

Now, NEJAC is going to initiate an action plan with a timetable to achieve the defined goals and objectives. From now until September, we will be developing and implementing a collaborative process upon which we are going to make our informal and formal advice to the administrator.

We will also be defining the consensus process establishing an ad hoc scoping work group that is going to identify future public policy advice issues for agency consideration. Charles is going to begin talking about the action items and laying out the schedule for the upcoming year.

MR. LEE: Thank you, Peggy. Before we start this, I just wanted to ask Mary Nelson to talk about -- to just share with you some news about her family and something that happened with her family.

The reason why I wanted to kind of do this not only because it is, I think, important to share, but also because the NEJAC, in terms of trying to really develop a deliberative process, around issues which I think are very difficult for American society to address, that we really need to seek to understand and operate at a level that is a lot deeper than perhaps us coming here representative of different interests.

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But we also come here as individuals with values, and visions, and aspirations that actually make for common vision that we all are aspiring to. I guess, you know, there was an expression of that during the facilitated dialogue when Jane started us off in terms of her letter to her children. And so, I just wanted to take this moment to ask Mary to say a few words.

MS. NELSON: Thank you. My brother, who has been a partner in ministry over these last 35 years on the west side of Chicago, died recently, and the memorial service was on Saturday.

He had always in his life fought for justice, even in seminary had been on the Selma to Montgomery march, and through all of our years was in one of the boats in front of the Trident nuclear submarine out here in the Puget Sound protesting that weapon of destruction, and most recently in Chicago in all of our efforts for justice there. But he also was a man who loved people, and as a pastor he shared that love and God's love in many wonderful ways.

So, for nine days we sat in the hospital at his bedside was in a sense a moving testimony. So, young people came in whose lives he had touched and said, "If it hadn't been for you sharing God's hand in my life, I would have been on the streets or I would have been dead."

They are now doctors, and lawyers, and people who are really giving back to society; or the drug addicts who came and prayed at this bedside and thanked God that he had not given up on them that there was more for life. And the young, some who tried to take their own lives, and who said that he had held out God's vision of the possibilities for their lives and now we are trying to be nurses, or doctors, or whatever.

And so, it was a wonderful moment of celebrating life and even celebrating his homegoing on Saturday. And it was that sense of the ongoingness of life, and his commitment to people and to justice and to all

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of life that gave me the courage to, even in the face of this loss, to come here and to celebrate with you our efforts together to be about justice and improving the human community.

(Applause)

### **FRAMEWORK/SCHEDULE FOR 2002**

#### **by Charles Lee**

MR. LEE: You know Mary is the executive director of a community development corporation in the West Garfield section of Chicago named Bethel New Life Corporation. That was begun in terms of the church that her brother pastored, which was named Bethel New Life, and so there is a long history here.

And so, let's now refocus ourselves in terms of the strategic plan and the steps that the council, that NEJAC has to take in terms of making it actionable. I would ask you to turn to the page 12 of your strategic plan. In many ways, this page 12 is the one that kind of takes all of the thinking and puts it together into a number of action items.

It is not, of course, a detailed schedule, but it does put forward the milestones that needs to be accomplished between now and 2002 -- December of 2002. And so, I think that in terms of just understanding what we are going to be discussing, that would be a useful guide.

And so, if we start from the top, I think it would be easy to say that you know the NEJAC working under great duress, I did submit on time, as was with a little bit of an extension, your strategic plan.

In November, the EPA approved it, and that is this document here. In December, right now, is the meeting on the fish consumption work group, on the fish consumption policy issue.

And then, I think, it is also I think this is the moment that really marks the beginning in a systematic way of the implementation of this strategic

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1 plan.

2 And so, I think my intent here is not so much to kind of give the  
3 background and how this all came together. You can all read this. But it  
4 is to really turn this into something operational. And so, I think what is easy  
5 to do then is just follow this along.

6 The first thing, as you know, is that the policy issue that the Office of  
7 Environmental Justice asked NEJAC to address is this issue of pollution  
8 prevention and environmental justice, and that is the meeting of December  
9 2002 in Baltimore is going to focus around.

10 And so, there has been a lot of preparatory work, and you are going  
11 to hear about that later. But that it is our intention that this be done in the  
12 same way that the fish consumption issue is being addressed through a  
13 work group and other kinds of things.

14 And so, by the end of January 2002, we expect to establish a  
15 convenient pollution and prevention work group. There is different  
16 subcommittees and different individuals that there has been discussions  
17 with in terms of the makeup of this work group. But, you know, that is all  
18 still influx.

19 At this point, I think we can say that what has been established are  
20 the co-chairs of this work group. They are: Ken Warren and Wilma Subra.  
21 I would like to hear, not right now from you, any interests on any of your  
22 parts in participating.

23 We have been discussing with a number of subcommittees some  
24 role, and then we will get more into that later in the agenda when we talk  
25 about the pollution prevention work group. So, that's the first thing.

26 The second thing we just talked about before are the steps leading to  
27 your action on the fish consumption work group report and  
28 recommendations. As it says in your schedule, that is to be concluded some  
29 time in March or April. I think that if everything goes well according to the

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1 plan that I laid out before that this should meet that deadline.

2 The next thing, in terms of action, is something which has yet to be  
3 fully completed and is actually undergoing a lot of work. Eileen Gauna and  
4 Pat Wood are co-chair of the work group that is producing the report and  
5 recommendations around interagency implementation of environmental  
6 justice.

7 This is based upon the meeting of December 2000. This is actually  
8 not going according to the schedule that we had originally planned for a  
9 number of reasons, but we do expect this to reach a completion. There is  
10 going to be a report by Eileen later this afternoon, but we do expect that  
11 this can move to this point.

12 At this point, just in terms of the operationalizing of this work group,  
13 we had originally when this work group was established had a number of  
14 members. I think we need to because of a lot of changes reconstitute this  
15 work group.

16 I actually have not had a chance to really talk to different people about  
17 this, as I have some of these other items. But it is my thought, you know,  
18 we are taking people who wish to volunteer. But it is my sense that the  
19 following people, we would like you to ask you to participate on this  
20 because of the nature and subject matter, and because of what you can  
21 contribute.

22 This is not the universe of the people that we may reach beyond  
23 there. But they are Harold Mitchell, Mary Nelson, Tseming Yang, Jane  
24 Stahl, Bob Harris. And so, you can tell me later whether or not this is  
25 something you want to do, but the work is going to include probably two  
26 conference calls to review a draft that you are going to receive later this  
27 afternoon. So, that is the second thing.

28 The third item in terms of operationalizing this strategic plan now gets  
29 into. If you would look on your schedule there it says, "In April 2002, OEJ

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1 is to provide uniform procedures for the operation of subcommittees." This  
2 now begins to get into this issue of subcommittees.

3 This is actually part of a larger, a several part discussion here. This  
4 does not really, I think, in terms of this, the schedule actually kind of give  
5 full justice to it. So, I want to talk a little bit about that.

6 What it says here is that OEJ will provide uniform procedures for the  
7 operation of subcommittees. This, of course, in a better iteration it should  
8 probably say, "OEJ in consultation with the NEJAC." Because it is not  
9 going to be possible to provide those uniform procedures without some  
10 kind of real understanding and buy in from those of you who are going to  
11 actually implement it.

12 And so, but basically on the point of view of the Office of  
13 Environmental Justice, from our management perspective, you know,  
14 because you might serve on this, but we have to manage and account for  
15 this; that we have to undergo a process in which all of the subcommittees  
16 have to be -- there is a way of really understanding, evaluating, or  
17 assessing, and figuring out ways of bettering the operation of  
18 subcommittees.

19 And, as you know, every subcommittee operates in different ways, at  
20 different levels, if you will, with different issues. And so, what we are going  
21 to do is develop a set of uniform procedures, in terms of standardized way  
22 of developing strategic goals and plans, reporting, reports, so on, and so  
23 forth.

24 They are going to be based upon those five elements that you  
25 identified which is leadership, membership, DFOs, program office linkage  
26 and support, and strategic goals and planned action. And so, we are going  
27 to use some of the lessons learned from some of the more successful  
28 subcommittees and take those and really try to share that and make that  
29 -- apply to all of the subcommittees.

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1 You should note that when the strategic plan work group requested  
2 reports from you on all of the subcommittees, only two subcommittees  
3 responded. So, there is varied levels of operation here, and it really is not  
4 productive nor is it fair to begin an evaluation process without setting some  
5 kind of real baseline.

6 And so, and that's on that, and that obviously has to be done in  
7 conjunction with the -- in consultation and conjunction with the NEJAC.  
8 Now, in the strategic plan there is another item that says that NEJAC in  
9 consultation with OEJ and the program offices are going to do it as  
10 process of evaluation.

11 And so, in discussing this with Peggy, one of the items that we  
12 decided should be set in place is a work group that consists of Peggy, as  
13 a chair, with the chairs of each of the subcommittees, to really kind of look  
14 at and develop a process for this kind of evaluation that you all are going  
15 to do.

16 Obviously, there are changes in terms of different people, you know,  
17 in terms of the rotation of membership, as well as the question of the  
18 relationship exists to the protocol committee, which I do not want to get into  
19 right now, nor I think it is not totally sorted out.

20 This in fact may be the protocol committee. But I think clearly one of  
21 the tasks that all of you have to set forth for yourself is this process of really  
22 trying to get the subcommittees to operate at the most effective level.

23 And so, in conjunction with that, and we recognize that there is going  
24 to be rotations of memberships and things like that that subcommittees  
25 strategic plans if you will go to the item of September 2002, will be due in  
26 terms of from the strategic plans.

27 So, I mean, there is basically, there is an evaluative, and then a  
28 formulative kind of process that you all have to go through. And, basically,  
29 we are setting aside a nine months window to do that, which is not long,

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but I think accounted for the kind of time that different subcommittees may need.

And then, quickly, since we are on the same subject, you know that you had said that you wanted I think 30 days before each of the NEJAC meetings to have reports from the subcommittees, and so that would be due October 2002. Okay? So, that has a number of these things.

Now, there are particular items that come forward in terms of the strategic plan that require some work. I had talked to a number of you about some assignments regarding this. I just wanted to put those on the table.

The first is that later this morning there is going to be a discussion that is -- let me back track. In the strategic plan there is a discussion of this ad hoc scoping work group.

I think the intent of that is to really do some brainstorming with you and get your thoughts about questions in terms of what are the issues that you think are important to have EPA charge you with in terms of the major kind of issues for the NEJAC, council, it's whole question is in terms of if there are certain issues or certain kind of questions, how best would one address them from the point of view of environmental justice?

And, thirdly, and very important, what are your views about your capacity to best address them? And all of those have to be factored in, in terms of how we formulate and plan. And so, that is why this morning there is going to be one focus around not exclusive of others, but focused around an issue that surfaced around which there is some real thinking, both in inside of the EPA and among you in terms of the issue of cumulative risk, which there is a possibility that that gets projected to be the issue for the 2003 meeting.

Peggy said that she wants to head up that work group, and we have gotten the commitment of Richard Gragg, who is not here, to serve on that.

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I think there are other people that should, But, you know, certainly I do not think it needs to be a real big group, you know, three or four people, very manageable, and so, you know, taking your thoughts. Okay. So, that is where we are with that.

The next item has to do with, if you look in the back of your strategic plan, there is this NEJAC policy advice development model that was beginning to be discussed as a facilitated dialogue that you have not had a chance to finalize. This is very important because I think that a lot of issues that one has in terms of. "So what exactly is the process that you are engaged in?"

The question that Mary raised before is, you know, very much related to this. So, and I think over the past several years what we have been able to do is begin to create a paradigm, if you will, you know, in terms of how this process may work, based upon the many things that have gone on and taking the lessons of that.

And so, we are trying to encapsulize that in terms of some model. It really is important that this be put forward as something that future NEJACs, NEJACs and future members can operate out of. This is going to be very important when we talk about orientation of new members. We need to get from the level of orientation being just the legal requirements and responsibilities of faculty members to the operational kind of issues.

So I would like, and I have not asked either of you, and I think only a couple of people need to work on this. And I think because of their experience with chairing and working in work groups, Janet Walker and Eileen Gauna to kind of work on finalizing this for the group, and at the point that you are ready to bring it to the council to kind of discuss. Because I do not think this needs to be a real complicated thing. But so, you can tell me later whether or not you want to agree.

The next item has to do with our finalization of this other model that

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is in here that has to do with the incorporating impact of community concerns and issues into the NEJAC process. I think that at the facilitated dialogue I said that we really have to really look at this.

To me this is a very important strategic tasks, an overarching strategic task as you move into the implementation process of the strategic plan, because you know Richard Moore made a couple of comments, raised a couple of issues the other night in the public comment period.

One of those had to deal with the fact that the public and the communities at large were not able to comment into the strategic plan. And he, in fact, was right, and that is in fact a weakness, a shortcoming, in this process. Okay? And that I think was because you all were working under a 45-day time frame, and if these things did not come through and get finalized this meeting would have been -- the value of this meeting would have been really minimized.

This is something that I think has to be part of the kind of fabric of the NEJAC as it moves forward into the future. And so, I place a lot of importance in something like this. I would like two people, Larry Charles and Veronica Eady, to kind of do some work, and kind of finalize this.

Give your best thinking into this, and then bring it to the council, and so that the council can kind of finalize this. And, you know, these are two of the big items that were not finished yet in terms of the facilitated dialogue.

And then, lastly, in your strategic plan you talk about the deliberatively process not being just a collaborate framework between you and EPA, but also among the members of the NEJAC because the NEJAC is in fact representatives of multi-stakeholder groups coming with different interests.

To establish a model which is, in fact, a consensus in nature, and consensus building in nature, we have to have a working definition of what

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that is. And, heretofore, there has not be something like that. So, I ask Graciela Ramirez-Toro if she would just take a crack at that.

There is, in fact, a really good definition of this coming out of the indigenous people subcommittee, and I asked Danny Gogal to work with you on that. So, with that, Peggy, I think that concludes all of the actions items, and now we can begin if there are any more questions.

MS. SHEPARD: Okay, Jane, and then Mary.

MS. NELSON: Just a question. This actually, the strategic plan has been approved by EPA. We, in essence, have approved it and these other things, these tasks you have given out to refine, or clarify, or whatever all, is there a timetable?

Are they going to then get approved in the December meeting next year, or what is our timetable for sort of just wrapping this up?

MR. LEE: I am not sure I understand the nature of the question.

MS. NELSON: Well, you made some assignments here to clarify or to do some pieces of the strategic plan. My understanding is that the plan itself has already been approved by EPA, and, in essence, by us, but this would be clarifications or additions to it. Is there a timetable for those to get so that these little work groups have some sense of when they are supposed to complete it?

MR. LEE: In terms of the completion of this is in the calendar by June of 2002.

MS. NELSON: Okay. And those will be shared with us by e-mail or something, and then a conference call?

MR. LEE: Absolutely.

MS. NELSON: Okay.

MR. LEE: But I think that there actually should be two steps into this you know. Because, like Annabelle keeps saying, this is a -- I mean, this is a document.

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MS. NELSON: Right, I know.

MR. LEE: But the process is a living dynamic process, right. And we want to make that more robust and more -- and so, I really think that we want to kind of finalize all of this, but have a time for real discussion face-to-face about all of this at the December 2002 meeting so that it is not just words, but it becomes really something that gets part of the process.

MS. SHEPARD: Okay. Jane.

MS. STAHL: Communication plan, another item that had been identified in the strategic plan, and I think will be key to the implementation of everything else that we have talked about. I am wondering if you have given any thought to how we are going to proceed with that.

MR. LEE: In fact, you know, the Office of Environmental Justice have really taken that to heart, right. We have to really understand this for what it is, right. The issue of communication to the NEJAC is one aspect of the issue of communications overall to a lot of different groups, right.

And so, clearly, we recognize that there has not been the kind of communications that is reckless for the kind of issues, and the work, and things like that, right. So, you know, we plan to really start to address that by dedicating staff to it, you know, that is devoted to this whole issue of communications outreach, and things like that, and part of the offshoot of that then will be communications to the NEJAC.

And so, I think it would be more productive to look at it in a broader sense of which the NEJAC is but one aspect of it. I mean, the NEJAC is one of 12 priorities for the Office of Environmental Justice for fiscal year 2002. And so, there needs to be communications for all of that. And, in fact, they are all interrelated in many different ways. So, as to what that looks like and when we can share more concrete things we are thinking about that, I am not totally sure.

MS. NELSON: If you look on page 11, it says the Executive Council

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will develop a communications plan. So, maybe you need a little subgroup to work on that.

MR. LEE: If you want to do that. But the question that you need to address, right, and when you start doing this, right, the question that you need to address, right, the NEJAC is an advisory body. There are communications needs relative to an advisory body.

The NEJAC is not an implementation body. You are all volunteers. So the question of whether or not the needs or communications should be addressed, but you know I mean you have a lot of work, and you need to do a lot of things in terms of providing advice and recommendations. Now, having said that, you know, I think that needs to be considered as you are looking into that.

MS. NELSON: Exactly. And in order to provide that advice, we are going to need some further communications and briefings. And, certainly, some of that can happen through the subcommittees. But we are probably going to have to be more intentional than that, as well as the communication to external community-based organizations and other stakeholders around the country.

MR. LEE: And then, there is a third element of this which is this. You, as members of the NEJAC, in your individual capacities, communicate all of the time. And that just should be intentional in terms of that, because you know rather than -- I mean, I do agree you should have something in terms of aspects that Peggy is talking about. But then you should have a recognition that trying to over formalize it may create some issues as well. So, it would not achieve the kind of things you are trying to achieve.

MS. NELSON: But it seemed to me that the whole tenor of our new strategic plan was that we needed to work more collaboratively with EPA. And in order for us to even understand so that there needs to be some regular mechanism for us to get briefings on what are the critical issues

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that EPA is working on, even as we bring the critical issues from the listening posts and from our networks of groups so that there is some synergism there that might happen.

So, I think we do need to spend a little time, or a little effort on just ensuring that there are appropriate mechanisms for keeping the dialogue going.

MS. SHEPARD: Mary, if you have an interest perhaps the two of us could work on putting it in.

MS. NELSON: I am happy to work with you.

MS. SHEPARD: Great. Jane you finished.

MS. STAHL: We will never really finish, Peggy.

MS. SHEPARD: I know. Wilma Subra.

MS. SUBRA: On the scoping work group trials, the strategic plan has that it is the chair in the protocol committee. But when you got to that point, you did not say whether it was going to be limited to those people or not.

MR. LEE: My suggestion is we do not make it overly complicated. There has to be some communication with anyone, and anyone who wants to be part of that process should be part of that process.

MS. SUBRA: But they have a lot of work to do between now and summer.

MR. LEE: That is why I do not think that you should be as -- you know we should not try to over complicate it.

MS. SHEPARD: Are you finished, Wilma, or -- okay. Anna, Anna Frazier.

MS. FRAZIER: Yesterday, in our subcommittee meeting, indigenous subcommittee meeting, like Dean mentioned that we met with -- had a kind of lengthy conversation with or discussion with the Alaskan natives. Out of that there was the suggestion that maybe we could get a representative from that area from the Alaskan natives to serve on the NEJAC council,

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and because about 42 percent of the natives in Alaska are federally recognized tribes, and understand by way of -- I mean words that there is a question about cost because of the distance that they have to travel or whatever.

I mean, I think that regardless of that, you know, we need to put somebody from there to serve on this committee because there is a lot of issues that we recognized yesterday in our discussion that do not seem to be addressed and we are not really well aware of those differences in the lower 48. So, that is one of my recommendations. This is in conjunction with the indigenous peoples.

MS. SHEPARD: Okay. So, you are asking that I request the Office of EJ to consider an Alaskan tribal member to be a member of the council?

MS. FRAZIER: To serve on the National Council, as well as the subcommittee of the indigenous subcommittee, and then other committees that Charles is recommending that work on different issues related to pollution or whatever, you know, environmental issues that we are going to keep working on. Thank you.

MS. SHEPARD: Do we have any other comments, questions, considerations? Then I think we are --

MR. LEE: Just one last comment. I mean, the reason why I went about and did this in the way I did is to try to make things a little bit more clear and focused in terms of, you know, action steps and work. It is my hope that in the year 2002 we really start to make this process a lot more efficient, because I do want to be mindful of the fact that you almost serve in a voluntary capacity, and that you are giving a lot of your time.

And so, it behooves us to try to make these things more efficient, you know, more directed, more focused, like Graciela is worrying about conference calls, things like that. And so, I try to strike a balance between, you know, getting work done, and the kind of consultative communication

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types of processes, and buy in, and stuff like that that you all need to have.

But any suggestions that you might have in terms of making this more focused and more efficient, it would be really helpful. And you should know that we are really trying to be intent about making this process a lot more efficient.

Of course, you know getting public input and working with groups as democracy like Governor Whitman said, "It is never efficient." Right? But, having said that, we should really try to make it efficient. I want you to know that this is not an issue just for you. This is an issue for Marva and other people that work in EPA within NEJAC, because a tremendous amount of work goes on behind the scenes that nobody sees, you know, that is related to this.

MS. SHEPARD: Okay. We will adjourn for a break. It is what 10:35? Till about 10:50, and we will resume. Thanks.

(Whereupon, a short recess was taken.)

MS. SHEPARD: We are going to pick up with final comments on the implementation of the plan before we go into a number of the reports. So, are there any additional comments or discussion around implementation? Okay, Savi, Savi Horne.

MS. HORNE: Okay. Thank you, Peggy. I just want to raise that as we develop processes and procedures to implement the strategic plan that where there are ambiguities in the language as found presently in the strategic plan that there be a way in which to amend that, and to really make this document a live in document, and to me it must be subject to some kind of amendment processes.

I am not specifically targeting any phrase, or words, or attempting to wordsmith, but I cannot help but feel that there are not areas in that document currently that could benefit from clearer language. Thank you.

MS. SHEPARD: I am not sure. We will be developing reports from

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the work groups around implementation. How does that get appended to the current document, Charles? And, perhaps, you could address Savi's comment.

MR. LEE: I do not know how much thinking has gone on around some of the specifics, and hearing your input would be helpful. My sense, in terms of Peggy's point about these work group reports, these reports and things like that, I mean I do not think that it necessarily is part of the strategic plan itself, you know, because as a document.

But as, you know, further documents of the council, I do think that there are issues. I know that Richard Moore had raised some issues related to, you know, a sentence in the introduction, you know, which I think those require some looking at.

I mean, I think that personally on my view is that I think Richard is right. I think it was an over simplification of a very complex process. I do not think it was intended to be anything but to be disrespectful or anything like that. However, you know, I think that there are issues like that here.

MS. SHEPARD: Although, Charles, that issue is very different because it is a thematic issue for the introduction, and it is not part of the operational and functionality that we have consensus around. So, I would see the significant issue that he has raised as being quite doable and very different.

MR. LEE: Right. So, I think that those are like that. I mean, I think that my general sense is that it will probably be good. The relationship I think between the point I made about a strategic goal of the next year is really the robust public input. It is to really have a chance to look again and visit the different -- the ambiguities, if you will, of the strategic plan.

I mean, I would just propose this, a look at this again in December 2002, you know, with very specific recommendations for change, and that go through a formal process, and then get something that is for revision.

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I mean, to tell you the honest truth, I have not thought about this yet, but I think that may be one way to do it.

I think the primary thing is that, you know, where there are ambiguities that get brought to life -- light and really have some full discussion of. So, we understand why they are ambiguities and things like that.

MS. SHEPARD: And then I would just expect that the reports from the work groups around the implementation certainly become sort of a permanent appendix to our workbook.

Okay. Are there additional comments, questions? Okay, Richard Gragg.

MR. GRAGG: First, I apologize for being late. But I had a question as far as the strategic plan in relationship to the public testimony or public comment. It is also tied into our report, our fish consumption report, because two of the citizens mentioned federal facilities.

What that got me thinking if we are doing this fish consumption report and we are advising EPA, both of them made the same point that they had difficulty in getting information on federal facilities.

So, my question is, as it relates to our strategic plan, in our focus on fish consumption, what role does EPA have over federal facilities or regulating contaminants? Because if we talk about fish consumption, contaminants, and we have got to look at everything, and from the public comment, it seems that there are difficulties with the federal facilities. So, I am just sort of trying to get some clarification.

MS. JARAMILLO: Richard, let me see if I can address that. Getting to your first question on the strategic plan, there has been a work group set up to look at the chart that kind of illustrates how a community concerns process can be incorporated in a policy dialogue.

I think that might get at the first part of your question, in terms of how

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community concerns come forward, and then what happens with those. You don't recall that was the little ellipse with the two circles going up into it?

MR. GRAGG: Yes, yes.

MS. JARAMILLO: The second piece having to do with the Fish Consumption Report, if you look in the background of the report, there is a section A that just has a parenthetical notation where some of the concerns and comments that came forward in the public comment period, that is where those can be incorporated and maybe some recommendations developed around those. Does that --

MR. GRAGG: In part. Does the NEJAC -- do any of our groups or subcommittees focus on federal facilities?

MS. : Or work group.

MR. LEE: Yes, there is a work group that you will get a report on it this afternoon.

MR. GRAGG: Oh, we are going to get it this afternoon? Okay, good. Thank you.

MS. SHEPARD: Okay. Any other concerns, questions, comments?

MS. JARAMILLO: I have one comment, Peggy. And, in terms of the strategic plan, I think that perhaps one thing we did not do is kind of focus on the appendices that we added to it that are illustrative, that will be useful in communicating some of the pathways, if you will, of how NEJAC will do its business.

One of them obviously was this piece that Larry and Veronica are going to work on, and then the other one is the decision making process. And, even though those are mentioned briefly, maybe it is helpful to point that out when we are talking about it because those are the refinement pieces that are going to be worked out.

MS. SHEPARD: Yes, in the back of your strategic plan document you

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will find a policy advice model which is basically a flow chart of how we see providing input in a collaborative way to OEJ and OECA and the agency. It certainly would be important to review that, and we certainly would be happy to hear from you around that model.

MR. LEE: You know, the other item in the back of the -- in the appendices is this distinguishing polarized debate from dialogue. That was developed by Don Edwards and Justice Sustainability Associates, who was your facilitator. I think that is very important. That was put there as a basis for Graciela's work, in terms of developing his working definition of consensus.

MS. SHEPARD: Okay. I see no further comments at this point.

MS. HORNE: Is that just limited to the strategic plan or open forum?

MS. SHEPARD: I think right now it is limited to the strategic plan. When we come back the subcommittee reports on action items, there will be an opportunity to bring up further issues. So, we are going to go now to the report on the regional listening sessions.

#### **REPORT ON THE REGIONAL LISTENING SESSIONS**

**by Charles Lee**

MR. LEE: Let me just kind of give some background to this. I think that this has been shared with you actually on the conference calls. And, that is to say, that there has been initiated this process with the deputy regional administrators in terms of the conducting of regional listening sessions.

This was actually to have been on the agenda for the meeting of the regional administrators I think back in October. That meeting ended up being cancelled because of everything, you know, the events of September 11th. So, it is going to get re-put back on.

Now, so in terms of something that is being developed in a

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systematic way coming back to you yet, that is not here yet, you know. I think that, you know, you should realize that being on the agenda of a meeting like that is not a small deal. I mean, it is a very significant thing.

And so, having said that, there is also the beginnings of really trying to think through what are the issues related to having doing something like this. Because, like I said before, this is not going to be an easy thing. You do not want to create another forum that could produce us undue expectations and frustrations.

There are a lot of issues having to deal with. So, how do you do this in such a way that it covers huge areas, geographic areas? You know, how many then are you supposed to do, you know?

How do you do this in a way that is able to be integrated into the plans of the different regions, you know, the ongoing work of the different regions?

What is the explicit purpose of these? What are they? How should you do them in a way that is going to produce, that it is going to be in a more problem solving mode than just a session to present issues?

And, I mean, who do we need to have there? Jane was talking about the need to have states and local government as partners of the federal agencies, things like that. So, all of these things are, you know, are out there having been thought about.

I think that it is fair to say that by just a discussion I am presenting with you shows the seriousness in which this is being taken. I think it is very wise to do this in a very thoughtful, systematic way. If that is not done, then it becomes very difficult to put into operation, and we all end up a couple of years from now being totally frustrated. So, then that is not anything that any of you want.

Now, I think the way that the relationship of the NEJAC is several. I mean I think once we have that framework in place, I think a good

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discussion with you, and some kind of process to get feedback and advice would be really helpful.

But I think without that framework, you know, it is very hard. You know, when we talk about that collaborative framework, it is very hard to operate in that way without some parameters being set. So, that is what we need to do now.

The other thing, of course, is that I mean I think all of you see yourself playing a role when these things get started. I think that that is something that we hope to encourage all of you to do, and you should do these as individual, in your capacities as individuals in a lot of different ways.

I mean, I think that, you know, any conversation that any of you have with your Environmental Justice coordinators about your ideas for this at this point will be very helpful. You know, any insights you can present to them in terms of the particular sensitivities, issues, suggestions about what makes sense in different regions.

I know Graciela is shaking her head because you know Jean Fox, the former regional administrator for region 2, I think twice a year held public meetings in Puerto Rico, you know. But Puerto Rico is very different than EPA Region 6, which has -- I don't know, you know, so on, and so forth, right? So, that is where we are at with that.

MS. SHEPARD: Okay. Any comments on that?

MS. STAHL: I am sorry, Peggy.

MS. SHEPARD: Jane Stahl, Jane Stahl.

MS. STAHL: Do we want to end the conversation there, or do we want to engage in dialogue here and pass that on to our regions? We captured a notion in August that -- and it goes back to what the NEJAC was and how its past procedures to some extent raised false expectations.

And, in fact, I will apologize to Richard Moore up front for using language that was not appropriately tailored in the report, but it in fact

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diminished our capacity to get work done, not necessarily detract from our goal, but set us off on various paths that did not account for the productive work that the council could do in terms of advising EPA on timely, relevant, cogent matters.

The regional listening sessions were identified as a mechanism to, in part, replace what the public comment period at the NEJAC had become. I think we are well served to not allow them to fall prey to the same problems that we had raising expectations, and creating a confrontational atmosphere, and the like.

I guess my question is, how do we express to the regions as they decide how to engage in regional listening sessions and what the purpose is the lessons that we learned over time?

Is that something that we offer up as a council to either meet with or engage in conversation with various regional administrators whether it be on a divvy us up and send us off one at a time or small groups?

Or if, in fact, the regional administrators meet as a group is there an opportunity for us to address them recognizing again that it is a tremendous step forward for them to have this item on their agenda at all and not wanting to overstay our welcome, if you will?

But it might be an opportunity to, in one fell swoop, share with them some of the lessons that we have learned. So, I do not want to drop this notion because I think it will be a very important way for us to continue to engage the communities and the bureaucracies that service environmental justice causes.

MS. SHEPARD: I understand your sentiments. I would simply say that I think past public comment and participation has not been a distraction but an added responsibility that we really had no authority to respond to; and that these regional listening sessions we hope will be a way to more appropriately address these site specific and regional

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1 concerns.

2 I think clearly the council has said that they intend to make  
3 recommendations now of informal advice, and how formal that advice may  
4 be able to be structured is something we will have to collaborate on.

5 But, clearly, I think as we are meeting around a variety of work  
6 groups, we certainly can work to develop some recommendations based  
7 on our experiences over the last six or seven years around this issue and  
8 really be able to offer cogent advice. Richard.

9 MR. GRAGG: Well, I have a couple of thoughts on Jane's question.  
10 One, my opinion is that we note this experience, what is our experience,  
11 and we need to share that with the regions. From what all I have heard is  
12 that, you know, there was the experience of setting up or creating the  
13 notion of certain expectations.

14 I guess what I am saying is I do not think that we should -- what I hear  
15 when we say "share our experiences," that all of this was bad thing, and  
16 you need to be careful, and we are going to put you down this path, blah,  
17 blah, blah.

18 MS. SHEPARD: No, that is not what I mean at all.

19 MR. GRAGG: Well, okay, good. I am glad to hear that.

20 MS. SHEPARD: No.

21 MR. GRAGG: But also, in terms of the purpose, or support, or ideas  
22 for the listening sessions, one, it facilitates our work because that is a way  
23 we can get more public input up through to NEJAC. But it also, you know,  
24 facilitates the region's work or these areas, because they are supposed to  
25 be interacting with the public anyway.

26 So, I don't know. I guess I think it is a positive thing. And I think also  
27 that one of the sources of information is to talk with someone who has  
28 already done it. Charles was saying that Puerto has done some form of  
29 listening sessions. I do not think NEJAC has to be the sole source of how

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1 to do this or where the experience lies.

2 And I also feel that in terms of expectations that we should be, make  
3 sure that the public, especially the public, and citizens, and stakeholders  
4 in those regions have equal or more input than NEJAC. I think we would  
5 want to be careful in not putting ourselves in the way of what the people  
6 want to do in those specific regions.

7 MS. SHEPARD: Well, I would certainly hope that we could be a  
8 resource for all of the regional environmental justice coordinators, many of  
9 whom are here. And, again, that is a form of informal advice. But I do  
10 think that this is an issue that we can continue to discuss in our protocol  
11 meeting calls. Veronica Eady.

12 MS. EADY: Peggy, I do think that the listening sessions are positive.  
13 I think that it is a good addition to EPA's strategy around public  
14 participation in environmental justice. But I have to say that I have some  
15 skepticism about them and here is why.

16 I have seen people come to these NEJAC meetings and give  
17 testimony about their site-specific issues. They have done that in large  
18 part because the regions have not been responsive to them. I have seen  
19 them come here and give their testimony, and then go back to the regions,  
20 and the regions have snapped into action because people have made a  
21 pilgrimage to go to the NEJAC and do testimony.

22 And so, I think that the public comment periods have been, while  
23 maybe the NEJAC body has not itself been able to respond, I think that the  
24 fact of the public comment periods themselves have been useful in large  
25 part in getting the regions to act.

26 (Applause)

27 MS. EADY: So, my one issue or comment that I want to go on record  
28 as saying is that I have some skepticisms or questions about whether or  
29 not the public listening sessions are actually going to result in action. And

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1 then, you know, I wasn't at the public dialogues this summer, so I do not  
2 really know what the context of the conversation was.

3 But my other question is, if these listening sessions are going on in  
4 ten regions, how do we, as a NEJAC, know what those issues are, and  
5 whether or not the regions are actually doing anything about them?

6 I mean, in a way, we cannot really intervene, or monitor, or anything  
7 as a body because there are ten separate regions hearing these issues.

8 MS. SHEPARD: Well, these listening sessions are in addition. The  
9 public comment period for our meetings has not changed, so these are  
10 additional sessions. But what I think we do have to work out is, yes, we do  
11 not monitor, but we do have to work out the feedback from these sessions  
12 and see if somehow they can be structured into our meetings having that  
13 feedback and brief it.

14 I think those are issues that we should be discussing in these  
15 upcoming calls. So, thank you. We all understand about regionalization,  
16 but we are hoping that that affords a larger population of people who  
17 cannot travel here some opportunity.

18 But, again, it is an additional opportunity not the singular one. Mary,  
19 and then Graciela. I am sorry. Anna first, and then Mary.

20 MS. FRAZIER: I just wanted to add on to what Veronica said, which  
21 is really good. I guess my concern is that we do not want to lose our focus,  
22 you know, in at least assisting or listening to the local grassroots  
23 organizations.

24 And so, to do that I think that we need to continue to listen to here, you  
25 know, because of there are a lot of new groups that are, new people that  
26 are popping up that, I mean, with new issues, or not new issues, but these  
27 are issues that is new to them.

28 And to listen, I mean, to bring their concerns here gives them a hope  
29 that somebody is listening, and although I am not from Washington, D.C.,

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1 but, you know, you all are. So, that is the federals. And so, that gives  
2 them some hope that they are being listened to.

3 And just like Veronica said, you know, that is -- we have to hear them  
4 in order for us to stay focused on the original intent of environmental  
5 justice. That is the way I feel. And I think that we need to continuously be  
6 reminded of that. And I think the only one way of doing, at least by  
7 listening, you know, to local groups.

8 Although, you know, it might take a lot of our time, but that is our -- to  
9 me, I think that is a part of our responsibility, you know, as being on this  
10 council. Thank you.

11 MS. SHEPARD: And I would simply restate it that it is not a  
12 distraction. It is an added responsibility. It is at the foundation of why we  
13 are here, and one of the key foundations of our meetings. Mary.

14 MR. NELSON: Yes, I think we are talking about both, and we are  
15 talking about adding an additional opportunity for input from the  
16 community. I would like to just cite, in our subcommittee we had a report  
17 back on Mossville.

18 I remember the Atlanta meeting when the Mossville community so  
19 frustrated came and shared their concerns, and their plights, and the fact  
20 that nobody was listening, and nobody was doing anything, and both their  
21 concerns about the company and the regional administration of EPA.

22 When we got the report back at our meeting there was a clear sense  
23 of major progress having been made that there were now regular  
24 communication systems set up between the regional office and the group  
25 in Mossville. They could not even find Mossville on the map originally.

26 And, secondly, they learned that their measures of community impact  
27 had only looked at one factor at a time, as opposed to the cumulative  
28 factors. So, there clearly was the fact that they came and made that  
29 presentation, and that the regional administrator was there and heard that.

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Because we asked, "Well, what was it that changed, that helped to make some progress happen in Mossville?" And it was that the regional administrator had heard their complaints at one of these NEJAC meetings. So, again, just to reaffirm how important that is.

But, secondly, it seems to me we are adding on this regional approach. And at these sessions I have heard a couple of clear suggestions of what we would like to see happen at those regional listening posts; that we would like to have NEJAC members there, as part of the listening, who could be also sending back a report to the whole NEJAC about what the issues were so that we continue to have that additional feedback on what the issues are.

Secondly, that we are suggesting that the states involved in that region be at those regional listening sessions as well, because part of the implementation, and part of their awareness consciousness raising is going to happen and we need them at those sessions as well.

So, I think we want to have that input, in terms of how these regional sessions are held, and that they are inconclusive and open to the community in a way that helps us get more feedback, but helps the region be able to better respond to those concerns.

MS. SHEPARD: You know, I would hope that these would be an added opportunity for community mobilization around these meetings, in a way that has not been able to happen because our meetings are often so far. Graciela.

MS. RAMIREZ-TORO: Yes, I am pretty much echoing what Mary just said. I think that we have to really base it on what would be the role of the NEJAC members that live in the regions, in these sections. But I also wanted to share some of experience with the Puerto Rico subcommittee.

One important factor that I saw that work in terms of the communication of the people through the NEJAC, through the Puerto Rico

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subcommittee with the people that came to the listening sessions, or the public hearing part of our meeting was that portion of the members of the Puerto Rico subcommittee are representative of the privacy agencies, EPA programs that are run by Puerto Rico local government.

Many times people see these groups that this is my last chance to get some action. However, sometimes it is that they really do not have the proper channels to get through the right program to help them.

So, by having in that group some representative, state representative of the EPA programs, those representatives felt compelled to answer immediately to the different requests that the people were bringing in, and also make them aware that they have to improve their channels of communications with the different communities.

So, when we are ready to make recommendations, one of those things that we could propose is that EPA make a condition to the different privacy agencies, to the different programs to have representatives in sections as part of the agreement that establish the privacy.

MS. SHEPARD: Okay. Thank you, Graciela. Jana.

MS. WALKER: I just wanted to also agree with Mary and also you that this would be an additional opportunity to have the regional listening sessions. And I think it is very important because, as I understand it, it would be before the regional director and program office heads, who actually have authority to act on some of these problems rather than just this body which is an advisory group.

Also, I guess I would ask that these regional listening opportunities actually be conducted or provided up on Alaska so that Alaska native villages and people would not have to expend precious resources trying to come down to Seattle, for example, to participate. And also, this would apply to other areas of Indian country in the lower 48 as well.

MS. SHEPARD: Okay. Thank you, Jana. Oh, I am sorry, Larry

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Charles.

MR. CHARLES: I am going to try to be very brief. I did say try, right?

First of all, just taking everything at first value, just these are some things that I think are very important to me. Number one, we have an administrator who has made a decision that environmental justice is an essential part of the strategy set for the administration of this agency.

Secondly, that decision has been communicated to all regional administrators. I would think that the regional administrators would not want to test this administrator, at least, with respect to that particular decision.

The third thing is that I think we all agree that we do not want to require every organization in the country, or community in the country who has an EJ issue to have to come to a national body to bring that issue, and that we are talking about expanding methods for those communities to bring their issues into the process.

I would think that the idea of the regional listening sessions is a good start towards doing that, and maybe as time goes by we may be talking about the regions then facilitating state listening sessions and rolling up through to them.

But this is an evolving process. This is our first step in it. I think it is a good first step, and I think there is a role for us in the first year or two of the implementation of this idea.

And, therefore, as we have NEJAC members who are in the region or in the city where the listening session is occurring that we may want to attend those sessions and observe the process, not so much of getting involved in the individual and specific issues that are brought with respect to assuring that correct actions occur and taking responsibility for seeing to it that the action occur, but that the greater role that we can play is to make sure that we observe the process as to whether or not the agency is

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carrying out its responsibilities under our role of evaluating EPA's performance, as one of the charges of NEJAC.

So, if we could make the system work rather than make us work, we can do so much more to help so many more communities on important issues that are out there.

MS. SHEPARD: Okay. Our last comment before we move on from Savi.

MS. HORNE: Yes, and I'll be very brief. I just want to ditto everything everyone is saying, but also to say that -- and Jane brought it up yesterday and I, too, that the need for this feedback is very important. But I think Eileen sound a very cautionary note that it cannot appear that NEJAC is doing any kind of oversight. That is not our role. So, I just want to underscore those two points. Thank you.

MR. LEE: One last comment, Peggy. I want to at least introduce Willard Chin from Region 9. And let me tell you. The reason why is that the lead region for environmental justice in EPA is Region 9. And one of their functions is to coordinate, you know, among the different regions, you know, in terms of the issue.

Besides from the fact that Willard has done an outstanding job in terms of making sure that there is some real communications and coordinations, I think clearly he is going to play an instrumental role in getting the thinking of the EJ coordinators in this.

Now, you have got to understand this is a complicated issue. Now, if the regional administrators say this is a good thing to do, it still remains the issue is having to have you do it still remains, right. And so, it is going to be I think that as this process unfolds it is going to be those who are really dealing with the issue on a day-to-day basis that provides the concrete thinking.

The reason I ask, I thought, and I think this discussion is really good.

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And part of the process of your really -- this being a really productive process is continuance thinking and discussion. And so, among yourselves, you know, with members of communities, and with certain key people. And that's why I mentioned the EJ coordinators.

Because, you know, I mean when it comes down to it, you all know that there is people that is going to have to do the work and you are imparting your thinking. So, I would say this. If you have thoughts about any of this, jot them down and send them to me. I will send them over to Willard to share. We can let this kind of really ferment for awhile while the parameters are being set, and then it becomes more formalized.

MS. SHEPARD: Okay, thank you. Very good discussion, which we will continue. We are going to move to the policy issue scoping session. And, Charles, you are going to introduce the topic.

MR. LEE: Yes. Marty, are you here? Yes.

### **POLICY ISSUE SCOPING**

**Charles Lee, Facilitator**

#### **Presentation by Marty Halper, EPA**

MR. LEE: I think this was put on the agenda because I want to give you an opportunity to really do some brainstorming together, you know, about potential issues that the NEJAC should be addressing. And I'm talking about not the many, many issues that you're addressing, but the kind of overarching policy issues that have concentrated attention of the whole council.

And, like I said before, you know, your discussion need not be exclusive of this -- I mean, inclusive, or anything else, and limited only to this. But it does seem to me that, you know, given the discussion at the facilitated dialogue around at least the idea that addressing cumulative risk would be of a great importance, that we have some time to really talk

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about, give you some background, and to do some brainstorming about this.

And, you know, I think the question is not so much whether or not the issue of cumulative risk is an important issue. The questions are more like, you know, how should you focus on this issue, or how should we focus on this issue in such a way it really makes a big difference for EJ communities?

And then the other question being what are the kind of resources and capacity that you bring to this issue. So, I asked Marty Halper, who is in the Office of Environmental Justice, and is a member of the Cumulative Risk Framework Task Force. Right?

MR. HALPER: Panel.

MR. LEE: At the E --

MR. HALPER: Panel.

MR. LEE: Panel, at EPA. And there is a report on that -- is going to be distributed that gives the framework -- you know, a copy of the cumulative risk framework that I think we have prepared for you and for you to have.

MR. HALPER: Basically, you have two things. You have got a copy of the draft, the current draft of the framework. Even though it says September 28th, and there is a gip or a goal reason for that date. It is actually new as of last Thursday. So, it is like the November 28th version. It is version 15 or 16, at this point.

And let me say you also have a piece that I will be speaking from. If you want to follow along, this is a very small portion of the slides that are used. Mike Callahan, who chairs the group, and briefing a number of groups, and I have made some additions to it, this is probably the fourth update that NEJAC has gotten over the two-and-a-half years that the panel has been in existence.

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Go to the first page, that is the working definition currently as of again literally this past week that has been through quite a bit of review of what the accumulative assessment, risk assessment is as intended by this document. And I am not going to go through it at this point. I will try to make it as quick as possible.

Very important to understand, and we found a fairly difficult concept when we bring people in to brief them or to look at the document is what a framework is. Part of the difficulty is this is only the second time the agency has developed a framework prior to developing guidance. The first one was the mixtures guidance dealing with mixtures of chemicals and toxicity and how you deal with that.

The reason for doing a framework first is we are talking about such an expansive and complex topic that we have had a senior science panel that has worked very -- you know a lot of time, a lot of time put in or two-and-a-half years to get to the point that we are scoping what will cumulative risk guidance look like, what's included, what's not included, what are the scientific issues, what are the policy issues, and basically team those up including a lot of it is things that should be included in the cumulative risk assessment that we do not currently have the science to do.

So, it also raises and hopefully raises priority for research needs to eventually develop the guidance. And so, again, this is the framework not the guidance at this point. It will be useable and already is useable for somebody who is looking to do this kind of assessment can get some touchstones in terms of what might be included within a cumulative assessment.

Very important, in the document is the fact that not every cumulative assessment or every type of assessment that might be called a cumulative risk assessment will do every single thing that's in this document. This is

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the most inclusive for the most complex, most significant assessments, and that was the idea.

There is a quick organization of the report. Next page what I have done is pulled out two slides in terms of probably the most significant issues from the NEJAC and environmental justice standpoint. Both of them are very different from anything the agency has done before especially with this degree of formality.

One is there is a formal chapter talking about what's called planting and scoping and problem formulation. The major piece of this -- and it's actually drawn from a separate report that the agency has been working on several years that's about to be finalized which says, at the earliest conception when you first see the need for cumulative risk assessments, that's the point you break in the broad stakeholder input.

So you bring the community in. You bring in the other stakeholders, not when you have already gone down the road in terms of any real planning at all, but when you first identify the need that you are going to be doing this type of assessment.

That is the point you bring people in, and that the stakeholders are involved in determining the scope, nature, complexity, data sources, every factor that would go into the assessment at the very earliest step of the process. This is being formalized in this document. And, again, it is something that is quite new and very significant.

The second piece is, and again very important for the EJ communities, is the inclusion and the process of inclusion of the whole concept of vulnerability and susceptibility. It goes through here, you know, some of the differences in sensitivity, differential exposures, differential preparedness.

This might be things like communities with no health insurance, their ability to absorb an environmental insult may be very, very different than

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an community that has a lot of resources. And how is that to be included? And, again, you get into a lot of quantitative or quantifiable versus qualitative components of that.

You start getting into policy issues of which ones become actual parts of a quantitative risk assessment versus other factors that would be used by the decision maker. And that is one of the things that this is raising is the possibly the formalization of something outside of the quantitative risk assessment that becomes significant in the decision making process, to look at these qualitative factors, and it might be religious practices.

But, you know, all of those types of socioeconomic factors have been adopted and agreed to by the panel, and be pushed to be part of a quantitative risk assessment. It is very significant.

The next two slides are basically progress and (tape error) the initial consultation with things like a science advisory board. The Science Advisory Board very much liked the idea of doing it. They loved bringing in the concept of vulnerability. We have a lot of support from the SAB which is again very critical and very important for that concept.

These are new to you. We had a large two day meeting inviting a very, very broad group. I think we had 43 senior science people from throughout the federal government to basically make them aware of the fact that this was going on because this potentially is going to impact not just EPA, but much, much, much more broadly in terms of how the entire federal government operates.

To I think our surprise, the fact that we were doing it was universally applauded. Everybody loved the idea. Everybody loved the idea the agency was taking it on and recognized the need for it.

And, interestingly, probably more than EPA, because these are all people who normally implement NEPA, and this document almost looks like it is a NEPA (National Environmental Policy Act), implementation

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document, which includes the much more broader consideration of not just purely quantitative environmental factors, but other impacts.

We then had later in the month a meeting with about 50 state representatives from all over country, and we had a dichotomous reaction. The quantitative risk people hated it. And these are the people who crunched the Superfund risk assessments, and they thought it was impossible. And they thought it was going to create too much additional work for them, and it's unfunded mandate, and where are we going to get the resources for it.

We then had some community interaction folks and more senior managers at the state level, and they liked it, and they liked the idea. And they liked the idea that if the feds did this, this would give them a mechanism to go within their state to get the additional resources to do what they believe was a proper assessment.

So, we had some very, very interesting reactions. In August we had what is called a peer consultation workshop. You probably never heard the term before. This is a less formal meeting and consultation with a peer review group that basically we don't select. We have a contractor who goes out with certain criteria and selects the group.

We actually gave the names of some of the people on NEJAC who suggests like one of the panelists was actually suggested by Carlos Porras, who is on the Research and Health Subcommittee, and one of the better people that we had from University of San Diego.

They basically gave us a lot of feedback. As people looking at it for the first time, the biggest difficulty with them is they kept saying there should be more. The differentiation between what is a framework and what is a guidance, they want the guidance. This was one of the things we kept running into not unexpectedly.

They will be some time probably next fall, there will be a full peer

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review process. And there will be an inclusion again of the Science Advisory Board somehow in that process, and how that work is being set up. We are looking for a final framework early in 2002.

We started meeting on the policy side. There was a briefing of the agency's Science Policy Council, and this is the highest level senior management looking at science policy issues. They actually created a subcommittee, a cumulative risk subcommittee, which we met with on November 29th. Mike Shapiro, who a lot of you know, will be chairing that subcommittee.

We already got into a lot of the policy of the quantitative versus qualitative aspect, the vulnerability, and those types of issues we already discussed in that session for about two hours.

The next step is development of and tying into some existing studies that we can use as case studies. There is nothing going on that is inclusive of these factors, but there are various things that may be going on, or that we are going to start that do pieces of this.

We are going to be testing some of the concepts in the cumulative risk assessment in those case studies. That is going to probably be about a two year process. Some time during that process the development, the formal development of the guidance will begin, probably some time in 2002.

That is sort of where we are. You can definitely give any comments you want, and any comments that you have on the document get to me. E-mail is halper.marty@epa.gov, and I will get them to the person who does the coordination for us on that.

It is a pretty complex document for obvious reasons. But you can certainly get a feel, and there is some language in there in terms of scoping that will probably help you get a better understanding.

MS. SHEPARD: This is real exciting, and I commend you. This is a

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great report, and look forward to reading it. Is it available as a handout for --

MR. HALPER: Yes, what extra copies I had, we put out already.

MS. SHEPARD: Okay. Has this also been commented on by stakeholders like state government and people like that?

MR. HALPER: At various points, it has been available. I mean early versions were given to like NEJAC last year when Mike Callahan briefed you was available at that point. So, it's been at various stages along the way available. This is a late enough work complete draft that still are some things missing, but it will give you a much better feel to be able to comment on it at this point, and where it is really going.

MS. SHEPARD: Okay. We will take a comment from Eileen.

MS. GAUNA: Well, more a couple of questions than a comment. But, first, I will give the comment. I am not well versed in risk assessment. So, if my questions reflect a fundamental ignorance, just let me know where I am off base here.

But, one, I look forward to see how the qualitative and quantitative -- you know, how qualitative factors are going to be factored into in an inherently quantitative process. And that is a real thorny issue. I understand the problems involved in that.

But I have a couple of more specific questions. And that is, if through the process you looked at, you know, the idea that there are periods of peak exposures. And when you do an averaging process that somehow those peak periods of exposures get lost or get masked.

And then the other question is, number one, how you dealt with that problem, which seems to be a real problem. And the other question I had had to do with scale. Was there an optimal scale from which to do these cumulative risk assessments?

Because it seems like the larger the scale, the more you have to

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weed out little tiny sources as potential contributors. So, if the scale is very small so you can include those multiple little sources of exposures, if you could address those two quickly in terms of your recommendations.

MR. HALPER: The recognition of the fact that the term you are looking at is does lifetime average daily dose most risk assessment?

You know, whether you are dosed in one day that lifetime dose, or you get it over your entire lifetime is treated exactly the same, which when you get into what's called pharmacokinetics, how the body reacts to exposure, makes absolutely no sense whatsoever.

That has been recognized by the more sophisticated assessments, I would say, since the last '70s. This points out even more of that as factors. In other words, what it does not do is it does not give the answers yet or exactly how to do it, because that's the guidance.

But what it says is that you have to deal with time nature of exposure. You have to deal with, you know, a lot of those factors that go in and could impact on the toxicity and other factors and other effects. So, yes, it is very much a component of the framework, and ultimately one of the things that has to be done in a lot of detail in the guidance to show people this is exactly how you do it, and what is significant.

Now, the other factor fits in perfectly to the up front piece, and that is bringing in the affected parties in deciding what the scope of the assessment is, and what things are in, and what things are out.

The expectation on the larger assessments is you are probably talking six months or more of discussions and up front scoping before you actually start collecting data and doing an actual assessment, that that up front stage is a very significant portion of the -- I mean, and possibly the most important part of doing a cumulative risk assessment. That really works on setting the scope and figuring out and getting agreement on what should be in and what's out.

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MS. GAUNA: Do you see any kind of a recommendation emerging as to geographic scale, in terms of optimal geographic scale?

MR. HALPER: There probably will be some guidance about how you might go about determining that, and also that it is a factor.

MS. SHEPARD: I would just ask council members to try to frame questions around, you know, what are key aspects of this important to environmental justice. And also, we have run out of copies of the document on the back table. So, if you will give your business card to Marty Halper, and he will have a copy mailed to you.

MR. NELSON: We have got copies.

MS. SHEPARD: I mean for other public members. Okay. Dean Suagee -- oh, there are a couple of extras here. Okay. Dean, then Richard.

MR. SUAGEE: Thank you, Peggy. I was just taking a quick look at this, at the notice at the front, and then the preface, and it talks about extensive peer involvement, and parenthetically including other federal, state, and public involvement, and there is not any reference to tribes.

I did not see any reference to tribes in the preface, or in the list of peoples, what seems like if there has been extensive peer involvement already, that seems like a pretty serious admission. So, are you going to do something to rectify that?

MR. HALPER: Yes, it is possible even that the version as we see it now probably is edited. There are places that discussion of tribal issues have I think been put in. I will make sure that it is gone over.

MR. SUAGEE: Yes, but it is more than discussion of tribal issues. It is pure involvement of people who work for tribes.

MR. HALPER: Yes, recognize this, and has been.

MS. SHEPARD: Okay. Richard Gragg.

MR. GRAGG: Two questions. Does this document, or this idea, or

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framework mention or deal with this notion of precautionary principle, or will it have any impact on that? And also, is this the outcomes of the guidance, or people implementing the guidance, is there any notion that this can help us identify overburdened communities?

MR. HALPER: Okay. The simple answer to the first question is no. This is not a document where risk management principles, which would be precautionary principle would be included. It is just not what it is covering. It is not designed to cover the universe of all of risk management issues.

As I say, it is going to have to get into the components of a risk management decision because of the policy versus technical, or quantitative versus qualitative. But it would not, by design, not go as far as talking about something like precautionary principle, which is a risk management issue. It is just not what it covers.

The second is, I would say, that we did earlier briefings on it, the reason this document exists at this point is the recognition on the part of the agency that we are changing from a chemical-by-chemical type of assessment nationally to localized community-based multimedia assessments.

The whole reason for doing this document is that the whole way the agency is beginning to operate now, and certainly will be operating in the future and to a much greater degree, will be those sort of comparative assessments and localized area type assessments. And that is why this document is being done. So, you have the whole purpose of the document is basically doing community-based, community type assessments.

MS. SHEPARD: And what are the implications for state permitting? Because, clearly, the environmental justice community has been asking states to take into account cumulative impact, certainly, a disproportionate amount of facilities in certain communities.

Would it be necessary for state environmental quality review acts, or

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legislations, or policies to specifically name cumulative impact as one of the considerations, or would this have a broader application?

MR. HALPER: Okay. You are asking now a much broader policy issue.

MS. SHEPARD: I am not asking the question but --

MR. HALPER: I can give you the sense. I can give you a sense. The sense I think, because part of the discussion, obviously, over the two-and-a-half years of the panel, and we have folks on the panel from the regions and from every program office, and typically some of the most senior people on the panel.

Needless to say, implementation and what impact this is going to have has been spoken to, as well as the meetings with the other feds in the states. The sense is that there will probably or certainly be a driving impact, not necessarily conscious, but the fact that the framework and the guidance is there is going to be much more of an impetus to have a requirement for some type of broader assessment of a more cumulative type of assessment, the fact that the document exists on how to do it.

One of the possible excuses now is what are we supposed to be doing. So, there is no question I think that there is a belief that this will have a driving force. No, it is not going to be tomorrow. This is going to be something that is going to be slowly occurring over the next years.

MR. GRAGG: I did have one other question.

MS. SHEPARD: Go ahead, Richard.

MR. GRAGG: It is similar to the -- and this I have not looked at all of the lists, but I guess I have the same question. What were some of the community or impacted groups, citizens, EJ community folks that were involved in this process and put in this framework together?

MR. HALPER: Well, as I say, this is the third or fourth briefing to NEJAC. It is the third or fourth time they have been given a draft to look

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at. It has gotten fairly, you know, distribution through that. We have been looking and one of the things we will probably be looking at possibly for the spring is having a wider meeting. That was actually intended in the fall, and postponed because of September 11th.

We are actually looking back from last spring at having a meeting similar to the meeting with the state and the feds with a much broader public audience that did not occur because of, you know, the last few months. We are looking at that right now in terms of the planning process and fitting it in.

MS. SHEPARD: And so, that anticipated meeting would include community participation?

MR. LEE: I guess we should actually be beginning to bring this to some kind of closure. But, you know, the intent of this was obviously to put this issue on the table and have some discussion of it, so begin the process of doing some brainstorming.

And, obviously, this now goes to this ad hoc scoping work group. And I would assume that there is no disagreement with the exploration of this as a potential important issue for the NEJAC to address. But I think that, you know, what I hope and I think that as a conversation evolves that we begin to get to some insights into the question of, you know, the cumulative risk issue is a huge issue.

I mean, what are the points of intervention for the NEJAC -- from the point of view of how this issue is significant for environmental justice communities? I mean, what is the way that you can best address it? Because, you know, to try to address this in total is just going to be just impossible and not that production you know.

I would just want to put a thought on the table for you to think about. There is a thing called the Longitudinal Cohort Study on environmental impact on children's health and development. This is probably going to be

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the largest prospective epidemiological study maybe ever.

I mean, potentially, it is going to look at 100,000 pairs of children and mothers tracked over 21 years. Okay. And this is gearing up. And this is something that was called for by the public health bill, something, something, of 2000. And I will work with them.

We have discussed with them issues on environmental justice. As a result, they established an environmental justice health disparities work group. In that discussion, they have come up with a number of hypotheses and these are all interim.

So, you have to understand these are not anything set in stone, but these are hypotheses that the work group has kind of begun to formulate to try to incorporate into the overall study design. Okay. And one of those hypotheses is that low income people and/or people of color have greater incidents and severity of adverse health effects -- no, I am sorry -- is that, oh, than do other groups when equally exposed.

That addresses the question of vulnerability and susceptibility. That would ask you to consider, really think about. How does that given the fact that, you know, in the cumulative risk framework panel discussion that there is a real -- there has been some very significant discussion and unacceptance of the concepts of susceptibility and vulnerability.

Vulnerability is defined as larger than just biological susceptibility. That is very significant. So, I just want to put that out for you to think about. And as you start to really kind of work, this little work group begins to really work and think about this, you know, this is a -- the question that will be your recommendations and insights would be really most helpful about how we focus this so that it can really make some kind of significant impact.

The other question, like I said before, I would like for you to kind of give us some response to is what is the capacity of the NEJAC to address

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this question, you know, so that we can begin to think about how to go about this in such a way that really makes the best use of the capacities, and experiences, and expertise, and relationships, and all of those other things to address this very difficult issue.

I mean, you know, it is going to have to have insights from, you know, many of the groups communities to the scientific, to the states, so on, and so forth, you know, tribes, indigenous people. I mean, the capacities that the NEJAC brings to this discussion we need to make become more explicitly have an explicit understanding of so that the design of the process for you addressing this issue becomes a lot better and makes use of that.

So, those are the two big questions we would like this ad hoc scoping group to really come back to us with some insights about.

MS. SHEPARD: Okay. And also, we would like council members, if possible, to put some of their questions and concerns in writing and forward them. That would be a helpful start. Thank you very much. Thank you.

Now, we are going to change the agenda just a bit. And before we break for lunch, we are going to have a recognition of departing council members.

#### **RECOGNITION OF DEPARTING COUNCIL MEMBERS**

**by Peggy Shepard**

MR. LEE: Well, we are going to do this in two stages, because this is not the greatest set up in the world. So we want everyone to stand, and then after we present to everyone for all of us, all of you to move over, so we can take some pictures. Okay. So, this is a two step process here.

And so, this is something that we do every year to express the EPA's appreciation for those members who have given service and are now

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going to rotate off of the NEJAC. And so, I guess we can start with -- Peggy, why don't you do this?

MS. SHEPARD: Okay. Our first recognition is to Annabelle Jaramillo. And, Annabelle, thank you so much. She has chaired our Strategic Plan Working Group. She has been on the Fish Consumption Work Group, and done a great job moderating these last couple of days. I know I am going to miss you, and I know all of the council members will too. We thank you so much for your service.

MS. JARAMILLO: I am going to be very brief, because I know this can take a long time. But I do want to say that this has been one of the most fulfilling experiences in my life, in terms of meeting some very, very dedicated people, and focused on making this a better planet for everybody to live, and ensuring that those that do not have the power to speak out can in fact have advocates that do that for them.

And, you know, even though an advocate may be not a formal role for the NEJAC, I think that that is really what it ends up being when we send forward recommendations that will eventually and hopefully make for better policy around environmental protection. Thank you.

MS. SHEPARD: And our next recognition is to Savi Horne. And, Savi, we are sorry to see you go. Not too far away I hope. Savi has been our chair of the Enforcement Subcommittee, which will be reporting out this afternoon. So, Savi, thank you very, very much for your service and stay close.

MS. HORNE: Thank you, Peggy. Thanks to the council and Charles. This has been a very interesting experience for me. I have enjoyed working with members on the council. I will stay true to the cause and continue to agitate from North Carolina, and continue to be the CAFO person that I am.

I just wish to thank the agency and DOJ for the big score on the

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premium standards farm. It goes a long way to recognize the impact on air and water that communities face dealing with concentrated animal feed lot facility. Thank you all very much.

(Applause)

MS. SHEPARD: And Daisy Carter. Where is Daisy?

(Applause)

MS. SHEPARD: You know, I have not had much of an opportunity to interact with Ms. Carter, but I felt like such a soulmate when I heard your comments yesterday. They were just wonderful. So, we are really going to miss you, and thank you so much for your service.

MR. LEE: You know, Ms. Carter has done a lot for the NEJAC. And one of the things that those who are on the fish consumption work group knows she is the wise one on the -- every time there is an issue, she is the one that comes up with the right way to look at it, to address it. And in her own inimical way she gets everybody else to understand. And so, it has been a real pleasure, and thank you, Ms. Carter.

MS. CARTER: Thank you. First, I would like to give thanks to God for allowing me to pass this way, because when I first got started I was very ill. But I do think by working on this committee, you all energize me and help me to continue pull through.

I would like to thank Charles Lee, Alice Walker, and Will Wilson, Leonard Johnson, and Annabelle, and all of the members that worked on the committee with me. It gave me an opportunity to share. It energized me to still make a commitment to the people that I serve and work for.

I am so appreciative for this opportunity. I should like to share with you my motto: "I expect to pass this way of this life but once. I, therefore, if there be any kindness I can show, or any good thing that I can do to help any fellow being let me do it, as I shall not pass this way again." William Penn. Thank you.

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MS. SHEPARD: Thank you, Daisy.

MR. LEE: Shall I do this?

MS. SHEPARD: Yes.

MR. LEE: Okay. The next one is Leonard Robinson. And Leonard is the one that spearheaded in the very beginning all the work around fish consumption. And Leonard used to always say that we asked that group to start some work and he said, "Well, what do you want us to?" We said, "Go ahead and do whatever you think is right." And before we realized that he had everything all figured out.

MR. ROBINSON: I just want to thank Peggy, and Charles, and Annabelle with the Air and Water Subcommittee, Alice Walker, the DFO for water, Will Wilson in tolerating me, again, representing industry. I am proud to say I am an environmental manager for a still mill and I have been enlightened quite a bit.

I often used to focus on what was legal. But sometimes what is legal and what is in compliance is not always right, so I have another aspect. The best way to reduce risk is eliminate risk. In my job, I write permits and I go after, so I go zero discharge is my goal.

You cannot impact if you do not put it out there, but I appreciate the leadership here. I appreciate the environmental stewardship. I appreciate the fellowship. But I realize regardless of the ship, environmentally we are in the same boat today.

(Applause)

MR. LEE: The last one is Marianne Yamaguchi. Is Marianne here? And, you know, I had to tell you a story about Marianne. She has been around for a long time. But when she was getting to present to you on Tuesday, she was so nervous about what she was going to do and doing the right job, as we all know, she did a superb job. She has been a real backbone of all of the work that you saw getting completed and being

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presented to you.

And, Marianne, I want to thank you. We want to thank you for all of your years of work and dedication and service to the NEJAC.

MS. YAMAGUCHI: As Charles said, I do not really like to get up in front of a group and speak, but I just wanted to say thank you to Charles, especially, for your leadership on behalf of the Fish Consumption Work Group; to Annabelle for your leadership as the chair of the Air and Water Subcommittee; and to all of you that I have met as a result of this process.

I think it has been really quite an enriching process for me. I have learned a lot. And I hope to carry the message of environmental justice to all of the work that I do in Los Angeles. And I want to just thank you for the opportunity to have served on this committee. Thank you.

(Applause)

MS. SHEPARD: Thank you. If you all come over to the side, we are going to take a photograph. Yes. And, again, thank you all. And we are going to adjourn for lunch. We will be back at 1:30. So, please be back promptly at 1:30 and let's go take our photo.

(Whereupon, the meeting was adjourned for lunch.)

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**AFTERNOON SESSION**

(1:43 p.m.)

MS. SHEPARD: Would everybody take their seats please? Okay. We are reconvening. And the first item on the agenda is Work Group Reports and Feedback. And Charles is going to lead that discussion.

MR. LEE: Okay. Thanks, Peggy. I guess, good afternoon. Not everybody is back yet, but there was a couple of items I wanted to take care of that we forgot to deal with this morning before we get into this. And the first one was this issue of the Executive Council Vice Chair, and the Subcommittee Vice Chairs.

I do not think that we intended for this to have any real conclusion. But I just want to -- in terms of a resolution, but I just want to make sure that everyone knew, and for the record that it is an issue that we need to address.

Peggy and I talked about it and we, as far as Executive Council, and we will ask that you kind of empower us to figure out how to go about and address this issue. As you know, that the council has pretty much operated for the past year without a vice chair, and this is a situation we do not want to have continue.

Now, on the other hand, those of you who are members of subcommittees, or all of you who actually are members of subcommittees need to make sure that the issue of both the chairs and the vice chairs are being addressed. So, I would just point that out to the DFO's and to the subcommittee chairs. Okay. So, that is the item we forgot actually to deal with this morning.

The other thing I wanted to do, and maybe I should do this a little bit later.

MS. SHEPARD: Yes, maybe we should bring that up when the subcommittees, just before subcommittee reports.

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MR. LEE: Yes, yes. So, well, no, I actually wanted to do this before everybody left. But I wanted to acknowledge someone that -- and I did not want to leave this to the end, in terms of when we do all of the acknowledgments, because I wanted to have just be stand out.

The person that all of you deal with on a constant basis in terms of setting up the conference calls, and the Protocol Committee calls, and the Fish Consumption Group calls, and taking the notes, and the minutes, and so on, and so forth, is an intern at the Office of Environmental Justice, and her name is Jamie Song. I wanted to make sure that we recognized her efforts. So, Jamie, can you stand up?

(Applause)

MR. LEE: And if you allow me, I am going to do this again when there is more people in the room.

**WORK GROUP REPORTS AND FEEDBACK**

**by Charles Lee, Facilitator**

MR. LEE: So, okay, now if you look on your agendas, this is the part of the agenda that deals with the -- it is entitled, "Work Group Reports and Feedback." And, of course, this is the beginning to report back to you and give you progress on the various work groups of the Executive Council and progress.

And, certainly, a real big item in that, as far as, you know, things that you have mentioned is when what happens to recommendations that you make, and what happens in terms of their implementation. And, of course, that is an ongoing process.

And so, the first item, as you know, in 1999, the meeting that dealt with environmental justice factors and permitting led to a number of pretty significant recommendations. I am going to turn it over to Barry Hill to do a presentation on the ongoing implementations of the recommendations

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of that report. I will leave it to you, Barry, to introduce Ann.

**PERMITTING REPORT IMPLEMENTATION: NAPA & ELI REPORTS**

**by Barry Hill, Facilitator**

**Presentation by Ann Goode**

MR. HILL: Sure. Good afternoon, everyone.

PARTICIPANTS: Good afternoon.

MR. HILL: All right, okay. Let the church say amen. All right.

MS. JARAMILLO: You woke us up, Barry. Thank you.

MR. HILL: Huh?

MS. JARAMILLO: You woke us up.

MR. HILL: All right. What I would like to do is to introduce the ELI Report and the NAPA Report, and to try to put those two reports in its proper context, and to show how they are directly related to the work of the NEJAC. But I think that what is important is to understand and appreciate history, as Richard was talking about the other day, to go back 500 years -- no, maybe 200, or something like that.

But what I would like to do is to go back 200 years to show you how all of this is incredibly important. I am going to go back to a statement that was made by one of the framers of the Constitution, and he said that this is a government of laws and not of men. This is a government of laws and not of men.

Basically, what he was saying, in order to bring it to the present, is that it is the law, stupid. Everything is based on the law. If you do not have law, you do not have rights, you do not have authority. If you do not have laws that have been enacted, you cannot have regulations. So, it is the law, stupid.

When you look in terms of the environmental justice issue, there is no law. John Lewis, Congressman John Lewis, has been introducing an

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Environmental Justice Act going back to 1992. So, you have the Environmental Justice Acts of '92, '93, '94, '95, '96, '97, '98, '99.

It was not introduced in 2000, and it has not been introduced in 2001. So, what do we do, as a practical matter, when you have communities that have been suffering and continue to suffer on a daily basis?

So, since there is no law that has been introduced and enacted on the federal level, how can you use existing laws?

Now, what we are going to talk about is not anything new. The person or persons who really thought about it 21 years ago, 22 years ago, was Bob Bullard and his wife in the case of Bean vs. Southwest Waste Management Company.

Let me give you a little bit of information about that case. This is in Houston, and Waste Management was seeking to put landfills in various communities. And it just so happened that all of the communities appeared to be minority, low income communities.

Now, this particular community in Houston, they thought that it was going to be a mall that was going to be constructed. They were not told that it was going to be a landfill. When they found out that it was going to be a landfill, they organized.

Now, this was kind of late in the game. So, what had happened was that they filed for a temporary injunction. An injunction is an order that is issued by the court to stop somebody from doing something; to stop someone from moving ahead replacing this landfill in that particular community in Houston.

So, the judge in that case said, and these are his words, "It's illogical, it's insensitive, but I can't give you the restraining order based upon the law. You do not have enough information. You do not have the facts. You do not have the law on your side. Now, if it was up to me, I would not place this landfill in this community right next to a high school of all African-

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American kids where there is no air conditioning."

And you know how hot Houston can be? So, the windows would be open. They would smell this stuff on a daily basis, and who knows what happened. So, the law was not on their side. And now this was the first environmental justice case back in 1979, Bob Bullard and his wife, who happened to be seven months pregnant when she brought this case.

So, let's come to the present, because they were looking at the issue. How can we use existing law to address the problems of the community?

Demonstrations are not going to do it, so we need law. Since we do not have an environmental justice statute, a standalone statute, what we had to do was to look at the existing laws and implementing regulations to see whether and how environmental justice is in fact embedded in those laws to make the argument.

Because the first question that people at EPA, state regulatory agencies, industries, and others, what is your legal authority to do this? Where are you coming from with this environmental justice stuff? It sounds good. We want to do it, but where can we hang our hats? How can we do this based upon what law?

So now the second question is assuming that you have the legal authority, how could this be done from an administrative point of view?

So, this is, but we have these five points, if you will, in order to move this idea through the regulatory process, as far as the agency is concerned. It is not only the Environmental Protection Agency. It is state governments, because many of EPA's programs are delegated to the states to run and to manage.

We start with advice and recommendations. This is where the NEJAC was incredibly helpful with this issue. It started with the Enforcement Subcommittee. Deohn Ferris asking Professor Richard Lazarous, who was on the Enforcement Subcommittee, "Well, what about

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this issue? Is it in fact embedded in existing law? How can we improve upon what Linda Bullard did in 1979?"

So, the NEJAC issued its report as a result of the 1999 meeting, focusing on permitting authorities in the RCRA Clean Air Act and Clean Water Act Program. Remember, we had the meeting and the NEJAC issued its report to the agency in July of 2000. One of the recommendations was to say, let's examine, asking EPA to examine all of its statutes that it administers to see whether or not it is embedded into those programs.

So, it went from NEJAC in number one to analysis. Second box, as you can see, there is a legal, and then there is an administrative box. The legal was Gary Guzzi's memo in December of 2000, stating that -- and this is from the general counsel of EPA, the number one legal authority saying you do have the authority. It is embedded in existing laws and implementing regulations.

So, therefore, there is no need for a standalone statute. You do have the authority. Now, this was a watershed event, because this was the first time that the general counsel, the chief legal officer of the EPA said that this does in fact exist.

The next part of the analysis was, again, assuming that you have the legal authority, how could this be done from an administrative point of view? And that's where NAPA came in, the National Academy of Public Administrators. And Ann is going to talk about that report and the recommendations that were made in that report.

The third circle is training. The training collaborative which is made up of EPA headquarters, regions, industry, community groups, et cetera, develop a basic course in environmental justice, so that people could know exactly what it is when we refer to this particular term. Otherwise, it is up to everyone's interpretation of what that might mean.

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We are also getting ready to develop modules, beginning the work to develop modules for the Clean Air Act, Clean Water Act, and the Clean Air Act, so that people permit riders not only on the federal level, but on the state level can integrate environmental justice in what they do on a daily basis before the agency's issue those permits.

The next is implementation, working with the senior managers of EPA, the Environmental Justice Steering Committee to say, look, this must be implemented. It is consistent with the administrator's August 9th memorandum which says specifically that you can integrate, you can incorporate environmental justice in your daily work based upon the laws that we have right now.

And, finally, there is evaluation. The Inspector General will be asked to review all of those programs to see whether or not they have successfully integrated environmental law. So, that is the NAPA report. That is the NEJAC recommendations.

Now, let's look at other statutes. The same process for the most part. Some areas we are going to we do not have to focus on, because we have already dealt with this issue. NEJAC has already said, well, look at all of the statutes.

The legal analysis has been provided by the Environmental Law Institute. The Office of Environmental Justice paid for the NAPA report, and also the Environmental Law Institute's report that have been made available to each and every one of you.

The report talks about using existing statutory authorities to advance environmental justice. It examines each and every statute that the agency administers. So, this goes back to what was said 200 years ago. This is a government of laws and not of men. It is obvious that it is the law, stupid. And that is where we are moving.

This is the way to mix policy with law in order to make a change, as

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far as the lives of many of the people that we are talking about at this meeting. It is not just a question of what is in somebody's heart at EPA, the state regulatory agency, industry, or whatever. It is what the law, what you must abide by, what you must do.

So, these reports, I invite you to read them, to examine them, whether or not you are an EPA community person, because it is really designed for community people to understand the laws that are administered by EPA and how you could ask the agency to make a difference in your lives.

Now, let me just talk briefly about the second part of ELI's effort. They are working right now on developing a guide for the document that you have, a guide, a handbook, for everyone to be able to read and to follow that thick book that was distributed.

It is sort of like a primer, as far as all of the existing environmental laws and statutes, and NAPA will be doing a second part, a second phase of their report. So, at this point, let me turn it over to Ann to talk about what was done.

MS. GOODE: Good afternoon. I would like to thank you for the opportunity to present NAPA's efforts, and tell you a little bit about the National Academy of Public Administration. The National Academy is an independent nonprofit organization that was chartered by Congress in 1967.

NAPA has 500 fellows who are former Congress people, heads of nonprofits, heads of local government organizations. It is a very prestigious group of fellows who were selected. There were seven who were selected to provide supervision for the development of OGA's project on integrating environmental justice into EPA's permitting process.

Now, I know that this is obviously a very important issue for the NEJAC. In 1996, the NEJAC Enforcement Subcommittee raised the issue in concern in 1999. There was the meeting, a three day meeting on

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environmental justice and permitting that resulted in a comprehensive report with a set of recommendations.

We were asked specifically by the Office of Environmental Justice to develop a report that would help the public to better understand how this integration of environmental justice in permitting could occur relative to RCRA, the Resource Conservation and Recovery Act, Clean Water Act, and the Clean Air Act, very specifically.

Our report is divided into four primary areas of consideration. The first is leadership; the second is the permitting process; the third permitting and risk reduction and pollution prevention; and the fourth is public participation.

On the issue of leadership, what we found in reviewing various materials in the course of the research is that the agency has made a very clear and strong policy stance with regard to the importance of environmental justice since the 1994 executive order.

Those are evidenced in many ways; policy statements made by former administrators going back to William Riley, to the current administrator's memo in August of this year. There is, however, a serious disconnect.

Despite these commitments, and, in many cases, substantial resource allocations to this effort, to help create an infrastructure, \$12 million for small community grants since 1994, and a significant level of activity of various sorts among most of the media offices in all of the regions.

There is still a disconnect between realizing the policy pronouncements and the program realities. The policies clearly state that environmental justice is to be integrated into every program, policy, and activity. When we looked specifically at the area of permitting what we found was incomplete connections, to say the least.

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We also found some significant activities in various media operations. So, we found that there was a significant misstep between what has been articulated and what has actually be done.

You have offices, for instance, like the Office of Solid Waste Emergency Response, who in the early parts of the administration under Carol Browner, issued a very clear policy statement from their political that environmental justice was not only important, there was an expectation that it should be integrated into their various activities.

You have a series of guidance documents, publications, outreach efforts, that demonstrate a belief that that in fact was important, and you see evidence of that in the permitting process.

And the Office of Air, the Office of Air is currently running a community training program on the Title V permitting process. They are working in conjunction with the nonprofit, the New York Perk, to put on the training.

They have done outreach to community people, in terms of developing the training. In the course of our research, we have very positive feedback about the training that is actually occurring. They have provided scholarships to communities in order to be able to participate.

They have also done other things like their economic incentive guidance has very explicit language about considering environmental equity and environmental justice in any trading programs. And, again, there is other evidence.

The Office of Innovation at EPA, it was formerly the Office of Policy, in 1994, initiated a very complex study in conjunction with a community in New York in Region 2, a Greenpoint-Williamsburg study, to look at how you look at cumulative risk assessment in a very localized area.

This was a community that had stack industries, that had significant transportation routes, and multiple and significant impacts. That study was

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published in 1999. The contract was completed then. There are many lessons learned there.

In their economic analysis guidance, they have explicit language and requirements with regard to environmental justice. So there have been various things that have been done as activities, some of which have direct bearing on the permitting process.

What is very clear is that EPA has clear statutory and regulatory authority to consider environmental justice in the permitting process. Our report started with the assumption that the memo by former general counsel, Gary Guzzi, in December of 2000, created a baseline for expectations in terms of the breadth of possibilities for considering EJ and permitting.

The existing agency culture we found was a barrier to better incorporation of environmental justice in the permitting process. And this meant many things from leadership, do you have clear expectations that are not only articulated, but are followed through?

Too, do you have people on the operational level, like your permit writers, who even begin to understand what this issue is and what is expected of them? Do they have the tools and wherewithal to do their jobs?

Our recommendations on leadership include the fact that there be greater accountability, clear articulation from the politicals in each of the media operations of their expectations, a need to develop follow up on the 1995 strategic plan that articulated important areas of concern, but failed to articulate them in a manner that suggested clear, expected outcomes or performance measures.

We are recommending that each media office develop a strategic plan on how they are going to integrate permitting, that there be accountability and performance measures to ensure that that in fact

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happens.

The accountability process should be consistent with all of the managers in the agency. One of the things we found in our research is that there is inconsistent implementation of permitting kinds of concerns across the media offices. In some offices, we found a really rich level of activity. And in other offices, quite frankly, we found not much of anything.

EPA should we think identify disproportionately impacted and other adversely affected communities, and establish explicit goals. It should be a more outcome-oriented process to get to bottom lines. How are things different? You had a plethora of activities. What has changed? What is different as a result of that?

Communication is an important issue. Cross-program, we found that there is a lot of good work that is out there, some existing at the state level, that is not being currently shared. So, there is a lot of reinvention of the wheel.

We have activities like the fundamentals of environmental justice that had been -- training programs have been developed now by the collaborative. Barry has said that new training is going to be developed. Training should be continually assessed to ensure the fact that it is meeting operational needs at the permitting level.

On incorporating environmental justice into individual permitting programs, again, we found that obviously there is latitude to do that. There is an absence, in some instances, of practical tools to assist the permit writers in doing that.

Permit writers to date have not received the training and guidance that might be helpful to them in that regard. There are other issues that come up in the permitting process that are incredibly important and are of concern to communities like noise, traffic, and odor, that these are important issues that need to be addressed.

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But there is also an issue of credibility, with regard to the permitting process. The permitting process itself will lack credibility if there is not the concurrent enforcement mechanism and ability to ensure for the community that the terms in the permit will in fact be adhered to.

In looking at things that we would recommend, in the short-term, we would suggest that EPA determine whether it can provide communities with early notice with regard to the applications. And in the long-term, that it ensure the fact that any new regulations that communities are provided early notice in the permitting process so that they may be engaged.

The notification practices. The notifications right now should be provided in languages that are appropriate to the communities. The permit writers should have better tools, and we make some suggestions and provide some examples of how that might happen. Permit writers should also be allowed the additional time as necessary to do the appropriate outreach and engagement with affected communities.

On the issue of risk reduction, it is very clear that the environmental justice issues are absolutely integral to the agency's mission. Environmental justice I think has sometimes been viewed as a coda to doing business, and for that reason the whole issue of culture barrier has been perhaps a problem. One would hope that education is the only issue in that regard.

In looking at the issues of environmental justice, there is a fundamental issue of reducing risk as part of the disproportionate impact issue. What we found is that EPA has efforts underway to improve the science so that more tools and means are available to assess disproportionate and adverse impacts on communities.

EPA, however, we found does have at its disposal now monitoring, environmental monitoring as a prospect for addressing some concerns of communities about the level of impacts that they are experiencing. Many

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regions have developed tools.

The Office of Environmental Justice is in the process of developing a number of tools with regard to impact issues, but they have not yet either been catalogued or assessed for their effectiveness. So, in many regards, we have efficiency perhaps problems with regard to everybody developing things and there not being a standardization.

Our recommendations are that EPA should work with the appropriate state and local health officials to develop ways of addressing reducing risks in disproportionately impacted communities, collecting monitoring data in these areas and considering novel ways of collecting that data.

EPA right now has two mobile monitoring units. They are rather expensive to operate. They are \$1.2 million units that cost \$10,000 a day to operate. Both of them are at Ground Zero now in New York, incredibly sophisticated, but there are states and localities that have developed less elaborate, but still useable technologies.

We cite an example from Jacksonville, Florida, with a mobile operating unit that was sited by the Environmental Law Institute as a best practice, in terms of being able to gauge localized impact. So, we think EPA should use a lot more monitoring.

They need to evaluate the existing tools that are out there, and they also need to look at data accuracy. When you are talking about localized impacts, data accuracy becomes a critical issue.

The final area is public participation. Much has been written and done with regard to public participation. What we need is some standardization with regard to expectations for the permitting process.

Again, for the short-term, look at what the standards that you have out there now that are agency standards, and ensure that they are actually applied in the permitting context, with regard to environmental justice areas disproportionately impacted communities, and for the long-term embed

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these in the regulations such that there is no question about what needs to be done.

I think I will stop there, but also add that the next part of the study that OEJ has asked the academy to do, we will be looking at three state programs. We understand that while EPA does very little direct permitting itself, 1 percent are the air permits, 4 percent are the water permits, 2 out of 100 RCRA permits were done by EPA.

EPA, nonetheless, can set the model for what can be done. And we have to look to the states in terms of performance for the bulk of the permitting activity. So, we will be looking at three state programs at the behest of the Office of Environmental Justice.

MR. LEE: Great. Thank you, Barry. And did you have any more comments, Barry?

(No response)

MR. LEE: So, questions and comments from the members. Jane.

MS. STAHL: I need some proof that I am still awake and here. I would like to thank both of you, and OEJ in general for taking us to the next step really, and to the next level of figuring out how to make EJ a real thing when it comes to application.

I mean, we talk among ourselves often about what we should do without understanding the underlying principles that allow us to do what we think we should do. And I think this gives us a very strong foundation. I think these are tools that can be used universally to just understand what the authorities are, and what the applications can be.

I think the next step, I mean, I do not think we are done yet. I think the next step, and I speak as much as a state regulator in this regard, as a member of NEJAC, is to in fact develop the guidelines and the standards to be applied through the appropriate authorities.

Because until and unless we know what the standards are, we won't

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have that next tool to give our permitting programs and our enforcement programs to say, this is how to look at this, not that you should look at it, or that you have the authority, but the nuts and bolts of how to actually apply the principles to the instances that come before us.

So, I applaud the effort. I will tell you right now that I am going to go home and use it, but I am waiting for that next step. Hopefully, we will all support that endeavor as well.

MR. HILL: Well, Jane and Ann did not talk about the three states, but I can tell you the categories. One of the states will be a state that has passed or enacted environmental justice legislation, and to see how they have successfully integrated environmental justice as a result of that statute.

Another state will be a state that has issued something officially stating that environmental justice is a policy, a major policy of this administration, so on and so forth. And, well, how has that been done? How have they successfully integrated environmental justice as a result of that statement?

The final state will be a state that has established a commission, or the same thing like NEJAC, made up of diverse groups, so on and so forth. But what have they done with respect to successfully integrating environmental justice?

The purpose of looking at three states that fall into these categories is to demonstrate or to show how they can serve as models for their sister states. How can they, in light of the fact that most of the programs have been delegated to the states, the permitting programs, how have they carried this issue forward as it relates to environmental justice?

So it is going to be an interesting endeavor, and NAPA is going to begin their study in January, I believe.

MS. STAHL: I would just urge that -- I mean, I think that is going to

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be very illuminative I believe. And, again, I would keep ratcheting it down to the very specific. What are the standards?

Do the standards need to change in order to create sustainable decisions within the existing authorities, and however the administration of those authorities is then modified if need be to apply environmental justice to and through the authorities?

But what are the standards going to be? What are the actual numbers going to be? Do we change the discharge standards? Do we change the emissions standards?

Because that is what we end up relying on when we go through our contested case proceedings, and issue a document that somebody is then going to say, I sue you, or I sue you, or who is going to. I mean, as you aptly said, Barry, it is the law. We are a nation of laws, and unless we have got a defensible standard to apply, we cannot assure that it is going to be upheld.

MR. LEE: Wilma.

MS. SUBRA: In the area of public participation, it is not just enough to give the communities the opportunity to comment. There is a real need, particularly in the environmental justice communities, to do capacity building, and enable them to have access to technical assistance.

Because, as Barry said, it has to go back to the law; 3,000 people can appear at a hearing and say we don't want it. If not one person stands up and says, "This is where it is in violation of the law," the permit is granted, and if you take it to court you are not going to win.

The community needs the ability to understand what the rules are, where the application violates the rule, and how they get this information into the record. And a lot of it also combines with what goes on within the local community.

So, it is not just someone picking it up from across the country and

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saying, this is where it violates. It has to wrap in the cultural issues and the local community issues.

Having said that, you get the best permit you can if the facility is permitted, and then the agencies do not enforce it, you have lost everything. And over, and over again, we see in environmental justice communities where enforcement is not occurring. They do not have the resources to demonstrate to the agencies that enforcement is not occurring. So, they become the recipients of these excess emissions merely because there is not enforcement.

MS. GOODE: On both of your points in the report, and I rushed through the recommendations, there are explicit recommendations about increasing support for technical assistance for communities.

And, in fact, in talking with some of the EPA folks, one came up with a very creative idea that why not consider providing additional funding to things like the Small Business Assistance Centers at the state level, like for clean air, and expanding them in a way so that they could assist in providing support for communities.

Tag grants, the TOSC program, or other programs can serve as models for what needs to be done more aggressively, and that is a clear recommendation. Another clear recommendation is the need for enforcement to follow permit issuance, and information available to communities about enforcement.

"Window on My Environment," which is the GIS System, it is an agency system. The report specifically recommends that that system as quickly as possible include compliance information in the system, so the average citizen can go to that GIS system and pull down using their zip code information about what is happening in a particular area.

So, enforcement and support for a community's ability to gauge are two very explicit recommendations.

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MS. SUBRA: On the enforcement issue though, if they do not do an inspection, then there is not that information available, and that is what frequently happens.

MR. LEE: Eileen.

MS. GAUNA: Thank you. I just want to make a quick comment. And I apologize if I am going over similar ground, because I was a little bit distracted here momentarily. But I wanted to make sure that this point is explored further. And that is, you know, yes, legal authorities are very important, but so are regulatory incentives to go beyond a compliance.

I get the sense that the practice has been thus far is sort of a give away the farm mentality, in terms of regulatory incentives. And what I would like to see is further exploration of using regulatory incentives as a quid quo pro for taking strong environmental justice mitigation efforts, instead of just sort of saying we are going to offer you, you know, flexibilities in terms of permitting or expedited proceedings, or pilot projects, or, you know, any of these other things that agencies are able to do using discretionary authority. That should be done in exchange for taking particular environmental justice protective measures.

So, I would like to see that use of exploring that use of discretionary authority and regulatory incentives in the permitting process.

MR. LEE: Okay. Does that wrap it up, Barry?

MR. HILL: Yes.

MR. LEE: Great, thank you. And, I mean, I think that we had this as part of the agenda because I wanted to make sure that you all realized the relationship of the work that you have done and the implementations of that. And, of course, that is the implementation is actually a lot broader and covers a lot of different areas, like Barry had mentioned, in terms of that chart.

#### **POLLUTION PREVENTION WORK GROUP**

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#### **by Charles Lee, Facilitator Presentation by Wilma Subra**

MR. LEE: Okay. But we can go on now to the pollution prevention work group. We had talked a little bit about it this morning when we discussed the NEJAC strategic plan. And, like I said, there are going to be two co-chairs of that; one is Ken Warren; the other is Wilma Subra. So, I wanted Wilma to say a few words.

MS. SUBRA: Did you pass out the --

MR. LEE: Oh, yes. And one of the items you have is a background paper that was done by the Office of Pollution Prevention at EPA, that we wanted to have provided for you. This is going to be just one part, one element in terms of background in preparation for this work group.

MS. SUBRA: So they have it?

MR. LEE: Yes.

MS. SUBRA: Okay. Ken and I have been delegated as co-chairs of doing the pollution prevention work group. One of the things with environmental communities is if you have heard over and over again about them being impacted by emissions by releases. We have heard it over and over again at this meeting.

One of the methods of improving their quality of life and reducing the exposure and the risk is to implement pollution prevention measures at a number of facilities. One of the stumbling blocks is going to be how do you get the community willing to buy in with the state or federal agencies and the industries. That is going to be a real challenge.

The issue of pollution prevention has been worked on by experts all over the world. We are not trying to reinvent that issue. We are going to take the technologies, the mechanisms, the programs, and figure out how to use them in environmental justice communities to improve the quality of

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the environment in which these communities live.

At first we are going to look and try and strategize which particular types of facilities are emission sources. And the initial list we just put together the last couple of nights is, industrial sources, area and mobile sources, agriculture and silver culture, waste and waste disposal facilities, waste water discharge, product replacement.

And then yesterday in the fish consumption work group of the air and water subcommittee, they want the pollution prevention group to look at how reductions can occur so that we stop and reduce the contamination of aquatic organisms. So, we are taking that as well.

Over the month of December, we are going to submit potential names for this group to Charles and his agency. And, hopefully, in January, we will put this group together and start meeting by conference calls. When Ken and I appear in D.C. together, we are going to be meeting with the agency to see what kind of programs they have and what they have access to.

One of the stumbling blocks is, so how do you measure success? The communities will tell you over and over again that they are being impacted. The industry is going to say, we are not having an impact past the fence line. So, there is a real need for measurement in order to determine success.

When you talked about EPA having these two mobile monitors, they are known as Tag-a-Trucks. And EPA has come into some of the communities around industrialized facilities and performed sampling and demonstrated that the pollutants are leaving the fence line and moving into the community.

So, this could be one way that we could establish a measure. Because if we say that these pollution prevention waste minimization efforts are appropriate to be applied under these conditions, and we do not

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have a way of measuring, we will never know whether or not we are successful.

We will also look at multimedia, so that it does not just get moved from one media to the other. And, in some cases, maybe in waste water, we will look at a single media or waste water with air deposition. It is a tall order. We have a lot of work to do in the next year.

If any of you know that you would like to work on it, or you know someone that you are acquainted with, we would appreciate it if you would give us their name and contact information.

It may not be that they want to be as part of the work group, but are willing to do some consulting with the work group, some briefing of the work group. It may be they want to participate only in one conference call.

We really need everyone's help, because this is bringing the technology and the environmental justice community together to improve the conditions in the environmental justice communities.

MR. LEE: Thank you, Wilma. Any questions or comments? She gave you a stirring encouragement, right. Jana?

MS. WALKER: Just one comment, and that is that the Indigenous People Subcommittee would like to have one or two representatives serving on the work group.

MR. LEE: Go ahead, Wilma.

MS. SUBRA: Could you nominate some people specifically? I mean, you do not have to do it right now. But could you give us the names of some people?

MS. WALKER: At our next conference call, we will try and pin down a person or two.

MS. SUBRA: Thanks.

MR. LEE: Annabelle.

MS. JARAMILLO: Yes. Wilma, you were in the Air and Water

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Subcommittee yesterday, and I will do this in the subcommittee report as well. But you will recall that the subcommittee suggested that the issues of environmental restoration, clean production, low impact development, and cost and benefits of P2, would be looked at?

MS. SUBRA: Right, and I have that on my list.

MS. JARAMILLO: Thank you.

MR. LEE: Larry.

MR. CHARLES: Wilma, I want to make this comment now, rather than after your report is drafted. But the idea of pollution prevention, you know, might be defined as putting in place policies and practices to eliminate new pollutions being brought upon an overburdened community. But I think the idea of reducing the polluting effect of existing facilities might also be included in the definition.

And so, if you and your work in developing this thing might look at policy decisions and strategies that can aid existing communities that are currently burdened with a number of environmentally risky facilities in polluting the facilities over years and generations, activities that could help reduce that or eliminate it. And I think inside the area of zero emissions technologies that are out there might be some interesting discussions for you as you pursue your report.

MS. SUBRA: Thank you.

MR. LEE: Dean.

MR. SUAGEE: I need to tell you about a project that I am involved in. And I hope this does not come across as volunteering to serve in this work group. But through my clinic, we are working on a project with three tribes to develop tribal environmental policy and acts.

The biggest chunk of funding for this is to the Oneida Tribe of Wisconsin through pollution prevention to an environmental justice and pollution prevention grant. And we are basically doing a tribal

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environmental policy by creating an environmental review process for the Oneida Tribe and two other tribes with the intent of avoiding pollution and other environmental degradation resulting from economic development.

So I suppose I need to at least participate in this work group in some capacity, even though I do not want this comment to be construed as volunteering to serve.

MR. LEE: Well, you volunteer just as a de factor volunteer. I think we have Peggy -- or Jana, Peggy, and Barry, and Veronica.

MS. WALKER: Just one other comment to perhaps put on your list of considerations, and that would be looking at whether the precautionary principle also would fit into that report as well.

MR. LEE: Peggy.

MS. SHEPARD: Yes, I just wanted to thank you for the scope of the report. I am wondering if all of our subcommittees should not be thinking about beginning to respond to these questions in your work groups, as well as perhaps considering some aspect of this meeting and report that you all can take on.

MR. LEE: Yes, I mean, I think at this point that, in terms of specific indications of some kind of expression of involvement are the Indigenous People Subcommittee, the Air and Water Subcommittee, the Waste and Facility Site and Subcommittee, the Health and Research Subcommittee.

I think we asked Graciela about Puerto Rico. And I think there are no more subcommittees left, right? I think Barry is next.

MR. HILL: Wilma, one of the things that is most important is the consultant that is involved in assisting the work group. I know that Catherine does not like to have a lot of focus on her. But the fact of the matter is that she was incredibly helpful in putting all of the thoughts and ideas together, and I think that that has made a tremendous difference as far as the quality of the report.

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So, I would like to say that as far as consultants who may have had some experience in this area as it relates to pollution prevention, you should get their names to Charles and we will go through the process of trying to find the best person for this particular effort.

I think that it is important to have the consultant involved early on in the process to begin to put some of these ideas together and to assist in the research methodology and other.

MR. LEE: Right. And I think Barry directed that at Wilma, but that is directed at all of the council members. Because, I mean, we are really beginning to look at that question, because we want to make sure that as soon as possible we have the process of identifying the consultant for this work group, you know, be in place.

So, I think Veronica, and then Richard, and then Larry. Okay.

MS. EADY: Wilma, I just think it is really exciting that this is going to be a topic of discussion. We have put a lot of thought into this issue, the intersection between pollution prevention and environmental justice in Massachusetts, and, in particular, some of the issues that Larry has been talking about, working with existing facilities to reduce pollution at existing facilities where a lot of the toxic burden is.

So, I just wanted to offer up to you as a bit of information. I know I talked to Charles about this, that in Massachusetts we have not only Toxicities Reduction Act, but we have a Toxicities Reduction Institute, which is out of E. Mass, and a Center for Sustainable Production, on which I serve on their advisory board.

So, I am really involved with those folks and would be happy to put forth some names that might be able to assist you including our Office of Technical Assistance, which does a lot of the work that Larry is talking about, and works with the National Pollution Prevention Roundtable.

MS. SUBRA: Great. So, could you submit those names? That would

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be appreciated.

MR. LEE: Richard, I think you are next.

MR. GRAGG: Yes, I just wanted to suggest that the work group membership or input address DOD and DOE or government facilities. In the draft here, I only see mention of business or industry as not putting out pollution, but some of our federal agencies need to be incorporated into the report.

MS. SUBRA: Okay.

MR. LEE: I think, Larry.

MR. CHARLES: I am going to try to tell the person from Louisiana something. Wilma, are you ready? I am from Louisiana, so you should let me get away with this. We really want to put on the committee. The International Subcommittee decided to nominate Dianne Wilkins to represent us on the Pollution Prevention Subcommittee. Thank you.

MS. SUBRA: Thanks.

MR. LEE: See, I did forget one thing.

MS. NELSON: Excuse me. Along that line, when we were talking about people on the committee, wouldn't it also be good to have somebody from the federal facilities work group on that committee as well? Is that a possibility?

MR. LEE: Sure. I think Peggy you are next. And, Barry, you are still -- did you want --

MR. HILL: Oh, no, no.

MS. SHEPARD: Yes, I noticed in your report that the pollution prevention through EJ grants have been lined out of the budget for 2002. And I am wondering if that also includes the pollution prevention grants. I mean, because there is two sets, pollution prevention, and then EJ through P2.

MS. SUBRA: EPA prepared the report. Ask someone from EPA.

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MR. LEE: Yes, this is a background paper that the work group, which is not yet constituted, but the Pollution Prevention Office did. And the answer to your question is I don't know. We will find out that answer, because the EJP2 grants were lined up, were zeroed out in terms of the budget for 2002. But, as far as the other one, I am not sure.

Okay. Well, moving right along. Well, we all wish Wilma and Ken the best of luck, right.

MS. SUBRA: Thank you. See you next year.

MR. LEE: We had given out during the lunch break a draft copy of the report from the December 2000 meeting on Integration of Environmental Justice and Federal Agency Programs. The chairs of that work group are Eileen Gauna and Pat Wood. And so, Eileen is going to give us an update on this report.

**INTERAGENCY ENVIRONMENTAL JUSTICE  
IMPLEMENTATION WORK GROUP**

**by Eileen Gauna**

MS. GAUNA: Okay. A couple of things I would like to mention at the onset is that unlike this particular meeting, the meeting on Interagency Initiatives was almost hopelessly broad. It was an extremely broad topic. And so, we faced a couple of particular challenges that I would like you to bear in mind as you read the draft report.

One of those challenges was when you looked through the transcripts, we saw that the -- it did not present a very good picture of what was going on because the presentations were necessarily limited in time, and how different presenters dealt with that, you know, five, ten minute time limit was problematic for us.

Some of them gave very general presentations that really did not give any specific information. Others gave very specific, you know, a few

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examples of what their agency was doing, but really could not flush out all of the things that their agency was doing, so the transcripts themselves were very fragmented.

The other challenge that we faced was that, you know, agencies work under completely different sets of authorities and under sets of missions, and undertake an amazing variety of activities. And so, it was very problematic to present this report in a way that could capture that diversity without inviting comparisons that may be unfair given their different activities and legal authorities.

The third challenge we faced was one of verification that, you know, there really is no way to independently verify that agencies are doing what, in fact, they say they are doing, and how effective their efforts are, and so forth. So, these are some of the ways that we hoped to deal with the challenges within this report.

First of all, we went to additional sources to try to get a more complete picture of what federal agencies were doing and we went to websites. There was a study undertaken by a group of nosey law professors that ended up doing an ELI report on it. We went to various sources.

Now, all of those sources, it should be important to note, all depended upon, you know, they were not independently verified sources. There has been no systematic study that has been verified. So, that is a limitation.

In terms of the framework from which to gather all of these variety of activities and everything, we tried to alert the reader to the differences between what agencies do. For example, some agencies themselves have very large environmental impacts. Like, obviously, the Department of Transportation is a real good example.

Some agencies do not have large environmental impacts, but have a lot of authority over private activity that has large environmental impacts.

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Some agencies have both; some agencies have neither. So, we tried to present a graph that sort of categorized these agencies by the nature of their activities, so that the reader could bear in mind that agencies are very different when they read this information.

Now, at the other end of the spectrum, we did see that and tried to capture a sense of commonality, in terms of what the types of activities that the agencies were doing. So, we tried to organize the material in a fairly general broad framework that looked at agency activities under four general categories of activities, so that one could get a sense of the commonalities in the types of activities that the agencies did.

We reorganized a little bit from the strict presentation, in terms of the NEJAC meeting itself. We thought it was very important to set the discussion of legal authorities before talking about different agency activities, sort of to set the context, the legal context of what followed.

Now that section itself, it should be noted, has important limitations because the -- for a couple of reasons. One, the legal authorities that we discussed primarily were those under the environmental statutes.

But, again, it should be noted that a lot of agencies work under a lot of legal authorities. And to our knowledge many of them have not undertaken as systematic the study of their legal authorities in terms of dealing with environmental justice than the EPA did.

So, in fact, that was one of the recommendations that we are proposing obviously to the council. Within the report, is sort of an encouragement to other agencies to undertake a review of their legal authorities along the same vain.

Another thing that should be noticed is in some legal areas, things are moving fairly fast. And so, what we did is we updated that section with information that has come out since the meeting in significant areas, notably, the Sandava Supreme Court decision that came out recently and

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discussed that, and the potential implications of that a little bit as well.

Overall, what we hope to accomplish by the report in organizing the report the way we did is to try to provide -- you know, given the limitations that I just mentioned, is to try to provide as complete and fair a picture as we can of what the various agencies are doing, because end of December last year was an important transition period in terms of regulatory.

You know, we had the transition from one administration to the next. And for a variety of reasons it was a good time to just kind of take a baseline snapshot of, okay, what has been done up to this point. And, hopefully, that can be used in the future to measure progress along the continuum.

Another reason that, you know, we organized the material in the way that we did is we thought it might be helpful for agencies themselves to be able to look at what sister agencies were doing for potential ideas, as to some of the ways that they might try to address environmental concerns within their own agency missions.

And then another part of the report also was to prompt this process further by taking a look at, as we did during the meeting of the interagency collaboration efforts, in trying to draw from them some sort of examples of what can be done in a collaborative manner to address environmental justice issues.

So, that is kind of the report in the snapshot. It is a very different report than the one that flows from this meeting. Because of the nature of the subject matter, we felt that it was premature to try to undertake some sort of a systematic in-depth report without any kind of verification measures or anything like this.

So, bear that in mind as you read it, and we will welcome any suggestions or ideas that you may have to strengthen the report and make it useful for the EPA itself, for sister federal agencies, and also for folks that

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may want to look at the report to find out what agencies to contact for what information, of whatever.

MR. LEE: Annabelle.

MS. JARAMILLO: Eileen, I was looking at the summary, and looking at the chart regarding environmental protection responsibility and environmental footprints, if you will, and I guess I am trying to understand how you matrixed that. For example, I am wondering if -- I am assuming this is just taking an analysis of what the departments are responsible for and how they can impact the environment.

But I am a little confused, in that, for example, under Department of Interior it seems to me like the Bureau of Mines and the Bureau of Land Management would have some major impacts in terms of their management of the land. For example, under BOM they have got some forest lands. They have got some grazing lands that can have some impacts.

They really, in the pacific -- I mean, in the southwest, not the pacific northwest, have a great deal of impact on many -- kind of in a checkerboard fashion, many of the lands there.

MS. GAUNA: We are certainly willing to revisit the categorization of those. I would imagine what prompted that one, in particular, was that the grazing and the mining would really be more private activity than would be --

MS. JARAMILLO: Than the agency itself.

MS. GAUNA: Than the agency itself doing something that impacts upon the environment. It would be authority that would have to allow the private sector to undertake these activities. And I think that is more the case with grazing and mining.

But, you know, we are certainly happy to revisit any of these. The categorizations themselves are not intended to be a type of an analysis,

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more than they are intended to provide a context for the differences among the various agencies.

MS. JARAMILLO: And I kind of thought that is probably where you were heading. And I was just concerned that in terms of their rule making, sometimes they do not consider these other things.

MR. LEE: Jana.

MS. WALKER: Yes, I was, I guess I originally volunteered to be on the work group.

MR. LEE: You still can be.

MS. WALKER: And I know that the Indigenous People Subcommittee really wanted to have representation on there. We had come up with about -- trying to recollect -- I think maybe two pages of recommendations that we had come up with. And I noticed that there is only three recommendations included in the report right now, and I do not think any of them are the ones that we had suggested.

I would like to I guess read through this, and then see about having some of our recommendations reflected in the report. But what kind of a time frame are you on, as far as your comments?

MS. GAUNA: Okay. First of all, absolutely. Our concentration up to this point had been to try to get the information and organize it in a coherent way, and develop some overarching recommendations that we could then use as an umbrella for more specific recommendations. So, we would be very interested in seeing those. And Charles is the keeper of the time frame.

MR. LEE: As soon as possible.

MS. WALKER: Actually, I think that those were provided to everyone maybe last fall or something.

MR. LEE: Yes, I mean, I think we have it as just, like Eileen said, I mean, coming into this meeting, you know, the final draft report that

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provides a framework was the key goal. And now, you know, in terms of going forward, in terms editing of that and incorporation of the things that you had talked about, Jana, I think that would be I think our next step.

And, I mean, I think the goal is to have this ready, completed, ready, and transmitted some time March/April. So, that is the time frame we are working with. Eileen, do you want to say anything else?

MS. GAUNA: Jana, do you still have those recommendations, if we can't --

MS. WALKER: They will be somewhere on my computer. And as soon as I get home, I will look for them and send them to Charles.

MS. GAUNA: Okay. I will contact you about that then.

MS. WALKER: Okay.

MR. LEE: I know we have them in the office somewhere. Yes, I mean, I think the -- just one last comment to this. One of the real uses of this report I think is, you know, there has been a -- the discussion over environmental justice and utilization of existing authorities, I mean, besides the EPA, the only other agency that has really kind of gotten, has entertained that discussion in a serious manner is Department of Transportation.

And so, I think certainly pushing this in that direction I think is going to be very important. Jane.

MS. STAHL: I think we also need to remember that the panel that spoke to us last year, and which formed the basis of this report, was not necessarily charged with the same level of focused question that we are now trying to pursue, and, for example, in the fish consumption area, hopefully, in the pollution prevention area when we get there.

So, I think it is very difficult for them to create a focused report out of what was a more generically and open discussion of just, you know, what all is going on out there by different agencies. So, I would suggest that we

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not necessarily look for this report to have the same kind of focused recommendations because its genesis was not at the same level.

I would also recall that I think many of the subcommittees actually came up with recommendations and action items or whatever we called it, pre-strategic planning, that we should try and at least capture and make sure that there is some reference or recollection of what happened through the subcommittees in last year's meetings. So, I would be happy to assist in that effort.

MR. LEE: Eileen, did you want to wrap this up with any final comments?

MS. GAUNA: No.

MR. LEE: Okay. Okay, moving right along.

#### **HEALTH REPORT RECOMMENDATIONS** **by Charles Lee, Facilitator**

MR. LEE: We have two other items in this portion of the agenda. And the next one says, is entitled, "Health Report Recommendations." And we do not have a piece of paper for you, but I wanted to kind of give you an update on progress made.

And let me just say that, you know, we had said that if you look at the process of the NEJAC and the Federal Advisory Committee making recommendations and a transmittal to the administrator, then the next step would be the EPA's response to that, in terms of some kind of a commitment in terms of implementation, or acceptance, and implementation.

And so, in the report that came out of the May 2000 meeting on community-based health research models. You know, I have talked about an integrated approach towards addressing health issues, and really focused on a number of things, among which, a primary one of which or

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a theme that ran throughout, was the fact that to do that kind of integrated community-based health model, one needs to have interagency collaboration.

And so, the Office of Research and Development has taken the lead along with OEJ's -- in collaboration with OEJ and the Office of Pesticides and OPPTS. Too, develop an approach and a strategy to do that. And short of being able to have, to really share the specifics of this with you, because you know the response to you has not come from an administrator's office, I think I wanted to share with you the fact that it is envisioned and you will probably get in the very near future a response that is, in my own personal opinion at this point, pretty significant, as far as a new approach towards this whole issue.

So, I think it is important not to go into the record at this point, in terms of reporting back to you. One thing that you should know is that it took a good deal of time to really craft the kind of response in a thoughtful way.

And I think that, I know Peggy knows that we had asked for, you know, extensions of time, in terms of the being able to craft this response. But my own opinion is that having done that, the kind of real meaningful response to the recommendations -- I mean, the response is a lot more meaningful and significant.

So, I just wanted to make sure you all knew about that. So, if there are any questions, I mean, there is not a whole lot to ask about because you do not have the papers in front of you. Okay.

#### **FEDERAL FACILITIES WORK GROUP** **Presentation by Brandon Carter**

MR. LEE: And then the next one. Brandon, are you -- and I do not know if Mildred, and Doris are here. Doris, you are here, right. As you know, there is a federal facilities work group, and that was established as

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a result of some time in latter part of the year 2000. And Brandon Carter is the DFO for that work group, and he is here to give you that report.

MR. CARTER: Okay. I guess in order of brevity, I am not going to go into all of the background and the scope, but I will just talk about the working group itself, and what the working group has done, and what it will be doing in the next year.

I guess, as many of you have heard from some of the testimony that was issued on Tuesday, that there are some pretty serious challenges in terms of environmental justice and incorporating those concerns into clean up. It is because of this testimony that has been received in NEJAC in the past that the Executive Committee last year decided to form the working group.

And prior to the meeting this January in Crystal City, the working group membership got formed in the Office of Solid Waste and Emergency Response agreed to take the working group in and to provide the financial commitment for supporting the working group's activity.

The working group was also tasked to -- by the Executive Committee to do four things which is: To identify and evaluate issues of concern; to provide a form for dialogue between federal agencies and communities; to compile available resources that are out there for communities; and to produce a report to the Executive Committee that would address two issues.

One would be an appropriate venue for dealing with federal facility issues; and the second would be recommendations based upon analysis of policy questions. A few weeks after the NEJAC meeting in Crystal City, we met in the first face-to-face meeting with the working group.

And from there we basically ironed out our agenda, which was to perform case studies, which we would use to get our key issues of concern, and to develop our policy recommendations. I do not know if

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many are aware, but there is a whole, a universe in history that is already out there, federal facility sites other agencies have already done, other FACA's.

EPA went through a long process that ended in 1996, through a FACA called the Federal Facilities Environmental Restoration Dialogue Committee, which already issued recommendations. Those recommendations were signed onto by the other federal agencies regarding clean ups.

And so, instead of trying to duplicate past efforts, we decided to use this as an opportunity to evaluate the effectiveness of these previous recommendations that came out of the previous efforts. So, coming into this meeting, the last meeting today, we worked with the Waste --- Subcommittee to kind of develop some synergies where we would directly with them and get some membership co-located, so that we can try to get more integrated with the NEJAC and get more responses and more reports out, so that people can get more of a sense of what is going on with the working group.

Coming into the next year, we anticipate having a final report that we will submit to the NEJAC, the Baltimore meeting next December, which will outline, provide you with all of the materials that I suggested that you guys task us to perform.

And it would also provide basically an outline for what we think would be an appropriate venue for --- the issues. So, I think Dr. Warren is here. And Dr. Warren works with ATSDR, and he works in a FACA with the federal facilities. So, there is a whole, you know, body that is out there that is available for communities when they try to make sure that FACA is addressed.

MR. LEE: Thank you, Brandon. Are there any comments or questions? Wilma.

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MS. SUBRA: Based on the comments we heard the other night, there seems to be a perception that you get a cleaner clean up under Superfund than under FUDS. Is it possible to do some kind of evaluation?

MR. CARTER: Well, see, this is why federal facilities are complicated is because there is different authorities that go into how sites are cleaned up and who regulates the clean ups of sites. Someone who used the fence sites or FUDS are a specific category that has its own funding and authorization from Congress, and that goes to the Army Corps of Engineers, and that is outside of our Superfund Clean Up Program. So, FUDS are dealt with independently of Superfund.

MS. SUBRA: Yes, I understand that. But would it be possible to do maybe a pilot comparison or something to -- because the other night it was just like we do not want them to be a FUD, we want them to be a Superfund site.

MR. CARTER: Well, that's a part of the case studies is we are going to try to get a representative sample of sites, get a FUD site, get some base closure sites, get a Department of Energy site, get a site with the Department of Interior interest, and try to compare, try to use that as a model for comparison to see how these principles and recommendations that were issued before being implemented across the board.

FUDS is a very complicated issue. And I guess EPA currently right now is working on a new policy that we will have issued by the end of this year, or hopefully early next year that will basically state our position on FUDS.

Since there is also Congressional authorities there involved, it becomes a little more complicated. I do not necessarily think that clean ups are not as good a FUD, it is just that the pot of money is smaller for FUDS clean ups than would be a Superfund trust fund.

MS. SUBRA: The other issue is I am working on a number of military

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sites that are Superfund with the community. After the September 11th incident, have you considered the possibility of some of these inactive ones being activated again?

And if they are reactivated, or they are expanded -- because the history of a lot of those has been up and down based on the various war efforts. But if they are reopened or expanded, a consideration that you have to do a clean up before you start up a new unit on a surface that would impede the clean up because most of these sites have like huge ground water contamination.

MR. CARTER: That is a difficult question to answer because sites fall under many different categories. There are sites that have been identified by Congress under the Base Realignment and Closure Act (BRAC), and those sites will never be reopened. Those sites are slated for property transfer to local communities. There is also sites they put in standby. And those sites can be put on higher alert, and personnel can be put back on those.

MS. SUBRA: They can be reopened without an evaluation of contamination.

MR. CARTER: Well, there also are NPL sites that are active facilities that EPA continues to monitor, and I guess for people that come from the local area would be. Whidbey Naval Air Station is an example of an active NPL facility that EPA works on clean up with the Navy, but the base still continues to operate as a functional facility.

MS. SUBRA: Thanks.

MR. LEE: I think we have Jane, Mary, and Veronica. Jane.

MS. STAHL: I would just like to remind the council and particularly the working group that this is an area that the Environmental Council of the states has similarly spoken to the administrator about through resolution.

It is one of those, you know, regardless of where you stand, this is

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one of those areas where the states and the EJ communities are in fact on the exact same page in assuring that federal facilities are brought to the same level of clean up as would be any private entity subject to federal law and state laws.

So, there may well be resources through the ECOS staffing that you can avail yourself of, and I would be happy to put you in contact with the right folks.

MR. CARTER: Oh, that would be great. Thank you.

MS. STAHL: Okay.

MR. LEE: Mary.

MS. NELSON: Just to say again based on the testimony not only the other evening, but in prior times, that this is a really important and big time issue. And so, I just want to make sure that as their report is coming and it is sort of scheduled for next December, that we have enough time to deal with it, and to give it its appropriate review.

And that, secondly, it would seem to me because this issue does fall interdepartmentally that it might good to figure out how, you know, I do not know if you are committee does, or your work group does involve like the Department of Defense, and some of the others in the very process. Because it seems to me it is important to involve people instead of just sort of dumping the whole thing on their lap at the end of the time, and whether there is any capacity to do that.

And then, thirdly, in our subcommittee we heard of amazingly a couple of examples where the Department of Defense had worked and had done some interesting things, some positive things, in terms of doing this.

And it seemed to me it would be good to hold up those kinds of examples and maybe involve those people from the Department of Defense in helping to share their experience with others so that we are

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trying to spread, where there are the few glimmers of light, that we are trying to spread that.

MR. CARTER: And I guess just to comment on one of the questions you had about participation of other federal agencies, and that is something that I actually left out. But at the NEJAC meeting in Crystal City in January, which the focus was on interagency implementation of environmental justice, what we actually were able to accomplish was to get an MOU signed, the Department of Energy, Department of Defense, and Department of Interior that would ensure their cooperation with this process. And all of their staff and personnel all through have been, they have assigned people to work with us as ex-officio with the working group.

MR. LEE: Great. Veronica.

MS. EADY: Brandon, I know you addressed the subcommittee yesterday. And I actually had a question for you yesterday that I forgot to ask, so I will ask it now. In your efforts to not reinvent the wheel, have you come across anything, or do you have any plans with the working group to address this recurring issue of the kind of recalcitrance of federal agencies, or their -- you know, the really difficult issue of cleans ups being federal agency versus federal agency, and EPA not really having the hammer of penalties, or any of the myriad of enforcement tools they can use with private companies.

And so, I was wondering if there were any plans to address, attempt to address that issue, or if some of the other things you have come addressed it?

And the other thing is that I heard you say, I think, that there was going to be a final report at Baltimore. And I was wondering if you meant draft report.

MR. LEE: Draft.

MR. CARTER: Well, I guess that would have to be decided by the

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receiving body, if they want to receive a report that would be finalized by the working group, or a draft report that would be available for comments at the meeting and finalized later on.

Could you actually repeat the first question? I forgot. Oh, yes, lead agency authority.

MS. EADY: Yes, the federal agency versus federal agency thing.

MR. CARTER: I guess, essentially, the answer is, yes, we will address that question, because that is pretty much implicit in the whole issue of federal facility sites is the lead agency authority question and EPA's authority under CERCLA and the NCP.

And so, I guess in a sense, yes, we will address that because that is really the main issue of federal facility sites is the fact that each agency has their own authority to clean up the sites.

MR. LEE: Good. Richard?

MR. GRAGG: Yes, I would like to know if you have plans to, in your assessment of the federal facilities, are you going to compare or integrate information from this document?

And what I mean is in terms of what is being said here, as to what they are or are not doing, more so, what they are in this report compared to what you are finding, I mean, what is your baseline going to be?

MR. CARTER: We will incorporate all of the materials from all reports that have been generated about federal facilities. So, this report will be one of others that will be included, and it is kind of like a background information about -- you know, there has been -- you know, reports have been generated from the Department of Defense and from other agencies. And so, we will include that in that same sort of context.

MR. GRAGG: Well, my understanding of this report is that the report is telling us how the agencies have integrated EJ into their operations. And you are looking at federal facilities, or other federal facilities. So, I guess

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I want to know are you going to do any assessment? Are they at least owning up to what they have told us in this report at minimum?

MR. CARTER: No, I think that is actually fair, and I think that we probably will do that.

MR. GRAGG: Okay.

MR. LEE: Yes, thank you, Brandon. Oh, Wilma. I am sorry.

MS. SUBRA: One of the "new issues" that has arisen at federal facilities over the last couple of years is the perchlorate contamination, which is used as an oxidating agent in a lot of the explosives.

At number of sites that I am working on, we have documented that it is very soluble. It discharges from the site into drinking water sources, which would have a tremendous impact on environmental justice communities; but also that it builds up in organisms, aquatic and terrestrial organisms, which some of the communities may use as subsistence sources of food. Are you going to address this issue in any way?

MR. CARTER: We had not intended to address specific contaminant issues. I know perchlorate is actually an issue that is very new and very hot on the table. And if you are interested in getting updates, I can certainly help update you specifically on that issue.

EPA is currently working on a new MCL for perchlorate, and there is going to be a period here that is scheduled for the first week of March in Sacramento, California on the MCL data. So, I can certainly keep you updated personally, and if there is anybody else who would like updates I can do it. But we are looking more in terms of implementation of clean up programs, not specifically in terms of addressing specific types of contaminants.

MR. LEE: One more.

MS. SUBRA: Could you at least just flag it to consider it?

MR. CARTER: Oh, yes we can.

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MS. SUBRA: Because these are sources of food and drinking water for the communities.

MR. CARTER: Oh, we certainly can.

MR. LEE: I think, Richard, and Mary, and Veronica.

MR. GRAGG: Is your report going to tell us, or give us an idea of the number of communities that may be directly impacted by federal facilities and what their status is, in terms of, you know, they may be impacted by a federal facility, but the federal facility may be under clean up and all that, or there may be nothing being done.

MR. CARTER: The working group had raised and approached the idea of cataloguing environmental justice communities at or near federal facility sites. And we kind went away from that because we have somewhat limited resources, and that would take away from our ability to produce the reports on implementation of the clean up programs.

We certain can identify the total number of federal facility sites that are out there in the universe. And I think that would require a little more in-depth data and information to try to catalogue the specific communities at each facility where it is relevant.

MR. GRAGG: Now, I can understand the limitation of resources, but that is what I think is the approach that needs to be taken because that is the real issue is who is being impacted. The notion of whether or what state something is in, in terms of clean up, does not really get to the issue of how the communities are being dealt with, and what impacts that have happened to them.

I am not saying to assess that, just who are the communities that are being impacted by these facilities? I think that is important for us to know.

MR. LEE: I think, Mary, and then Annabelle.

MS. NELSON: Just a quick comment. I hope you are not limiting it just to the clean up issue. I hope you are also going to cover some

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prevention standards. How do we ensure that existing sites do not commit the sins of their fathers or the other places and dump new things, or leave sites ten years from now. So, hopefully, we are dealing with some prevention and some other kinds of things, and not just clean up.

MS. JARAMILLO: One other piece is, I would hope that we also look at some of the delegated authorities that go along with this. For example, on the commissioning of chemical weapons arsenals. Many of those are being done under state authority. So, I would really be interested to know is how seriously even some of the states take that.

MR. LEE: Great, okay. Well, I think we can wrap up this session. But before I do, I wanted to kind of end this particular report on the point that Mary made about, you know, there are some positive examples that we would do well to really look at. It was mentioned at the discussions yesterday, the Waste Facility Siting Subcommittee, the positive developments taking place at Bay View Hunters Point.

There is the Metlakatla Indian community, which is now environmental justice and National Brownfields showcase community, that involves the reservation and the clean up and restoration of the Metlakatla Indian community that involves the Department of Defense, the Coast Guard, and the Federal Aviation Administration.

And then, there is the Washington Navy Yard Bridges to Friendship Project that is really a spearhead under the leadership of Admiral Christopher Weaver. Admiral Weaver actually presented to you, and he has been an unabashed advocate proponent of the environmental justice.

We did a training for all of the federal agencies around environmental justice, in terms of piloting the EJ training collaborative, an introductory module, and he went and did a session for them. So, these are like really I think important positive examples that I think it was very important that Mary, you know, pointed our attention to.

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As you know, I want to really commend Brandon for his hard work, and the work of that work group, and the support of the Office of Solid Waste and Emergency Response. As you know, this issue came to the NEJAC under -- I mean, this was a very difficult issue to get our hands around.

It is very important to note the fact that this kind of progress has been made around this is very significant, and I just want to make sure that we all acknowledge that. So, with that, Peggy, I think we can end this session and turn it back to you.

#### **SUBCOMMITTEE REPORTS AND ACTION ITEMS**

by Peggy Shepard, Chair MS. SHEPARD: Okay. Do we want to take a break? What is the will of the council? Do we want to take a break now before the subcommittee reports?

MS. : No, let's keep moving.

MS. : Let's keep moving and finish.

MS. SHEPARD: All right. Okay. Who would like to volunteer to give the first subcommittee reports?

MS. JARAMILLO: I can do that.

MS. SHEPARD: Okay, Annabelle.

#### **AIR AND WATER SUBCOMMITTEE**

##### **Presentation by Annabelle Jaramillo**

MS. JARAMILLO: Basically, what I am going to do is just kind of highlight some of the ideas and recommendations that came out of the deliberations of the Air and Water Subcommittee. There are no formal letters of resolutions that need to come forward, but just some general recommendations. We spent most of the time in work group meetings, and kind of that is where these come from.

One concern the Air and Water Subcommittee has is the issue of

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resources and adequate staff for subcommittee working groups. That came specifically from our permitting and utilities work group, in that, we do not have enough people involved, and that just not enough staffing to do much of that work.

I think the group did come away with the concept that you can get people that are not necessarily on the subcommittee involved in a working group, and that that might help to alleviate that problem. But it is always useful to know who other folks are that might be interested in these particular topics.

So, that is the permitting and utilities work group within the Air and Water Subcommittee, anybody wants to be involved with that.

MS. SHEPARD: Do you want to say a sentence or so about what that --

MS. JARAMILLO: I will cover a couple of topics that they are involved with.

MS. SHEPARD: Okay.

MS. JARAMILLO: And maybe I should skip over to those now, so we can kind of connect them. One piece that they want to do is develop a document on best practices for permitting that are sensitive to environmental justice issues. And they want to review and provide comment to EPA's new source review study, which is expected in January or February of 2002. That is one piece.

Let me see what is another one. And then, obviously, they will be very interested in what will be happening with the Pollution Prevention P2 Conference. Let me see.

Oh, one thing I did not mention this morning when we were talking about the listening sessions was the communications piece of that and I think it was covered. In that session, we were talking about how that loop occurs, the communication loop, and how NEJAC learns about what

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happens at the listening sessions.

But, most importantly, how do we find out when they are occurring? So, if people are interested in going to them, and perhaps participating in them, that that would be another way of keeping the subcommittees up-to-date on that process.

I think I mentioned earlier, I have already talked to you about the recommendations to the pollution prevention work group, in terms of looking at environmental restoration, clean production, low impact development, and the costs and benefits of pollution prevention. So, that is a piece for them.

The air toxics working group will be looking at, or will be reviewing and providing comment to EPA's Office of Air and Radiations work plan for the National Air Toxics and Integrated Air Toxic Strategies. So, that is a piece they are going to be working on and bringing forward.

The subcommittee's fish consumption work group, which basically got folded into the NEJAC's work group that put together the document that we talked about at this meeting is going to continue some work by providing review and comment to the Office of Waters Guidance document for assessing chemical contamination data for use in fish advisories. They will be providing feedback to EPA on that piece.

One piece that did come out of that working group's meeting was that somehow the work group got -- basically, was incorporated into the larger work group. And so, some other issues revolving around water quality did not get addressed, and there is a concern that there needs to be a look at some of those.

We had started a year ago to look at issues around TMDLs, and the combined animal feeding operations, and water permitting. That is work that they want to continue. There is a concern that the individuals, most of the individuals moving off the subcommittee, or retiring from the

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subcommittee, were really working on water issues, and so there is a paucity.

There is just not very many folks left on the subcommittee to really kind of address that issue. And, basically, that is to OEJ, Charles, that that needs to be remedied, in terms of trying to find some folks to fill that role in the subcommittee, and of course the recommendation is the Office of Water as well.

Let me see. There was one item that was brought up again, and I am not sure it really necessarily falls in EPA's lap. But I am going to offer it to you, as it might be something the interagency working group might want to look at, and that was the issue of addressing water quality and water supply.

I think that is probably more an interagency piece, and that the Bureau of Reclamation has a lot of responsibility for that. So, I am going to hand that off to you, Charles. It was not really stacked out to well, that is, it was just an idea that came up and we really did not spend a lot of time talking about it.

With that, I think those are the highlights of our day, and I will just stop there.

MS. SHEPARD: Okay. Thank you very much. Larry Charles, for the International Subcommittee.

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## **INTERNATIONAL SUBCOMMITTEE**

### **Presentation by Larry Charles**

MR. CHARLES: Okay. Well, in spite of the rule for selecting subcommittee chairs, I still thank you for the honor of having the opportunity to serve in this capacity. All of the members of our subcommittees were meeting as members of the subcommittee for the first time. We are all new.

And so, much of what we are going to report here is based on good work done by the members of the committee in past years, at least over the last year. However, there are some new discussions and ideas that we are going to put forth here.

I am not going to read the whole detailed thing, but I will summarize. But the formal documents are here, and will be entered into the record, the transmittal letter, which acknowledges. And I will mention the members of the committee, Jose Matus, Phillip Hillman, Dianne Wilkins, and me.

Carmen Gonzales participated as a proxy for absent member, Caroline Hotaling. We especially acknowledge our DFO, Wendy Graham, and the EPA EJ program manager, Marva King, for superior support both in the preparation of pre-reading documents, and facilitating our discussions through to this endpoint. We just have to have an opportunity to serve.

A summary of actions by our committee, which are quite a few, and I am really proud of what we were able to accomplish. Number one, we recommend that, specifically on the draft Fish Consumption Report, that it be revised to acknowledge international connectiveness between polluting a fish in one country impacting human health of communities in another country.

We thank the delegation from Thailand for their presentation, which

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helped sharpen our understanding of that connectiveness and the example shown by them of contamination occurring on the eastern shore of Thailand and the possibility of human effects happening in our country due to air and current patterns.

Number two, we also encourage that the final report be circulated to NEJAC members, stakeholders, and countries in which OIA operates. We think it could be helpful to them.

Three, we intend to do a draft letter from the committee to EPA OIA expressing our pride in the volume and breadth and accomplishments of OIA. Some of this work will result in major worldwide reduction of --- chemicals, POPs, in farming and industrial use.

We underscore the correctness of deploring culturally diverse teams to represent EPA in the international discussions. We encourage OIA to continue and increase the use of this strategy in fielding teams to engage communities, participate in treaty discussions, and work with foreign countries in sharing capacity.

We intend to do another letter to EPA OIA expressing praise for the OIA's work on the global Persistent Organic Pollutants Treaty, the POP Treaty, also known as the Stockholm's POPs Convention signed by Administrator Whitman, May 23rd.

We support and celebrate the contents of that treaty and eagerly await congressional gratification. We also applaud EPA Region 6 and 9 for great leadership and participation in the roundtables on environmental justice in the U.S./Mexico border area.

We are delighted to know that some of the leadership from Region 9 -- Region 9, I believe -- 6, that was involved in those negotiations and was very effective there is now a part of the leadership of OIA, and we look forward to the quality of leadership --- and OIA as well.

We intend to arrange a conference call between the subcommittee

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and OIA to obtain feedback about OIA's priorities and interests that require NEJAC advice. This information will be used to help us develop our strategic plan as a subcommittee, which is due September 2000.

Collaboration with the Indigenous People Subcommittee will occur. In fact, it has occurred to provide EPA OIA information on the planning process for implementation of the Stockholm's POP treaty. We nominate for that work, Jose Matus, and we intend to add one additional member to that.

In the discussions and the presentation by EPA staff, we saw that once the treaty has been signed that the next work that EPA has to do, or the U.S. government has to do, is develop an implementation plan for the items of the treaty that the government is responsible for.

We did conclude in the conversation that there is an opportunity for input from NEJAC in the development of that plan. And we put forth one person who is willing to serve on it, and we reserve the right to nominate a second person. But then both will be considered by the department, and we hope both selected.

We intend to develop a process to determine how to organize our strategic plan. This will be led by our current vice chairman and incoming chairman, Tseming Yang. We will draft an outline of principles for environmental justice for U.S.-based multinational corporations and their activities in foreign countries.

This is a project that will be led by both myself and Phillip Hillman from the Polaroid Corporation. We see that as a long-term project, and we are exciting about the possibilities that that will bring for us.

But I will put we intend to suggest that it be given to the administrator and presented to multinationals, U.S.-based multinationals as a volunteer program for behaviors in foreign countries with respect to stewardship and environmental justice principles.

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We intend to complete the Report on the Roundtable on Environmental Justice on the U.S./Mexico Border by January 31st. We make that commitment because the draft is already done, and it is a matter of collecting comments and finalizing the documents, and we expect to be able to have that done by the 31st.

The same for the report on the farm workers group. We expect that report also to be completed. The draft is in the same status as the prior. We intend to explore avenues for the subcommittee to collaborate with other international roundtables that are already funded and scheduled to attempt to add an international discussion on environmental justice as a part of that conversation.

So, Dianne Wilkins will be working. I nominate her. At least we will ask her to pursue that idea and try to help us make it happen. As announced earlier, we have nominated Dianne also to serve on the NEJAC pollution prevention group.

We will request a meeting with Richard Moore, out of our respect for his contributions to this organization over the years, to get further clarifications from him, and specifically on the environmental justice issues he has regarding the U.S./Mexico border region.

Richard indicated that when he returns home, he intends to write his comments and mail them into us in that area. Outside of the report, we invited him to do the same in spelling out in more detail in written form some of the comments he made regarding the NEJAC strategic plan. He indicated he would write that and forward it to us, and we would then forward it to the chair.

And that is about it. So, one day's worth of meeting. It was a very exciting group. New people, I guess we do not know any better, but we have committed to do a lot. We have completed a lot already, and we look forward to a great year. Thank you.

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MS. SHEPARD: Okay. Thank you, Larry. Next, Veronica Eady, from Waste, Solid Waste.

#### **WASTE AND FACILITY SITING SUBCOMMITTEE**

##### **Presentation by Veronica Eady**

MS. EADY: Yes, I chair waste and facility siting, and we are also in a pretty profound transition in our subcommittee. Not only is this the first time we have met since Vernice Miller Travis has left the council and left the chairmanship of the Waste and Facility Siting Subcommittee, but we also have a new assistant administrator for us, Marianne Lamont Horinko, who has stepped into the shoes of Tim Fields, who worked very closely with the subcommittee for many years.

We also got a new designated federal official, Kent Benjamin, who had been with the committee for quite a long time, went on a detail, and so now we have Rey Rivera. So, we have a lot of newness going on within the subcommittee, as well as a lot of new people coming on to the subcommittee.

I will say that we have two positions open on the subcommittee. One is a back fill, or a subcommittee member who recently advised us that she would have to leave the subcommittee because of cutbacks at her company. The other position is not a back fill position. We decided, as a subcommittee, some pretty I think significant thing with respect to the federal facilities working group.

The first thing we decided was after hearing from Brandon Carter, the DFO for that working group, and also Dr. Mildred McLain, who is the co-chair, we decided as a subcommittee to expand the size of the subcommittee, and also with the cooperation of OSWER to appoint an additional person to the subcommittee, someone with federal facilities experience, who would be able to serve on and co-chair that working

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group with Dr. Maclean.

So, we are hoping to be able to come up with some names in the near future. We are going to be talking; Linda Garczynski from OSWER, Brandon, Rey Rivera, who is our DFO, myself, and Dr. Maclean are going to be going over the needs of the federal facilities working group, and who that new person should be. That will be added to our subcommittee.

We are in the process of talking about the P2 working group and what our role as a subcommittee should be with respect to that working group. However, I will talk in a minute about what we are sort of planning to do with respect to our strategic plan that is due September 30th, and the direction that we are going as a subcommittee. And I think that that is relevant to the P2 working group.

One thing that I wanted to note though was that the new AA, Marianne Horinko, shared with us, as well as her staff at OSWER, what her overarching objectives were and the things she wanted to address while she was in the AA position at OSWER.

One of the beauties of her vision is that she tends to look into this overarching thematic way that touches all of the various and diverse OSWER programs. And so, we tried to put our thinking caps on and think of a way that we, as a subcommittee, could also sort of adopt that sort of approach and be able to touch a lot of the OSWER programs with our strategic planning.

Her objectives mainly touched on, of course, environmental protection, prevention, which includes recycling and waste minimization, which we find is really relevant to P2, and, finally, sustainability. And somewhere in here, and I do not quite know how it fits in, but she is also quite interested in work force development.

We had a discussion about how 50 percent of the SES staff at EPA are going to be eligible for retirement in five years, and she is very

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concerned about that, and concerned about diversity in the ranks, and how to promote diversity in the ranks.

We, fortunately, have quite a bit of expertise on our subcommittee in the area of diversity work and working with labor issues. And so, we are hoping to be able to address that issue as one of our priorities. And I was really glad the other day to hear Larry Charles talk about how diversity in the ranks and retention in mentoring were all really a critical part of environmental justice.

So, we are going to be working on that. We have set up a team of Donna McDaniel; Holly Welles, who works at PG&E, and I envision her to be a proxy quite a bit for Bob Harris on the subcommittee, so she sat in with us.

I am also really thrilled to be able to offer up a woman from my office, who is working on the very same issues in my office. So, she is going to be on that team. And Michael Lythcott has also volunteered, who has done a lot of diversity work and diversity training, in particular, with USDA. And so, that is going to be one of our key things. Obviously, we are going to be working very closely with the federal facility working group.

And then, finally, we came up with a larger project that we wanted to work on as a working group, sort of in the same spirit that the working group has done projects in the past with the public dialogues around Brownfields, the trash transfer station report, and, you know, things of that size and magnitude.

So, what we wanted to do was to work with OSWER to explore EPA's role in fostering community strategic planning for the reuse and revitalization of contaminated sites post-clean up. And I really glad that we were able to center on this topic because before Vernice left, we had spent a lot of time, in fact, maybe a year, talking about restructuring the subcommittee so that we could again focus on the overarching theme of

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land use.

And so, it was really nice to be able to center on this topic. Because, first of all, we did not toss out all of the work that we put in as a subcommittee under Vernice. We were able to sort of build on that thinking, also building on Marianne Horinko's objectives around land use and land revitalization.

And, finally, hopefully finding overlaps with P2, so that when we come into the Baltimore meeting we are going to have spent a year building a lot of relevance to the topic that is going to be coming up then, and really be able to contribute some important input as a subcommittee in that meeting.

Some of the topics that are going to come under this research project that we are doing is going to involve incentives towards revitalization and reuse that will focus on sustainability and exploring what tools EPA has as an agency to provide incentives for sustainable and clean production reuses.

We are going to do some case studies and try to explore some success factors, maybe failure factors. We envision looking at a number of outstanding projects including some of the IWG EJ demonstration project. We are hoping to touch on the issue of gentrification.

As many of you may know, there is this school of thought that says that when you have sustainable development, you find necessity gentrification, which creates displacement of these various same communities that we are seeking to work with.

So, gentrification is going to be a key part of our research. And, ultimately, we are going to put together a written report of our findings. This is going to start happening very soon. So, when we do our strategic plan in September of 2002, it may look quite a bit different from what I am saying right now, because I envision that we are going to probably be pretty far ahead by September of 2002 in this project.

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But what we have planned is to meet with our new subcommittee members -- and, as I said, we have quite a few -- hopefully, in February, face-to-face, so that we do not run into the syndrome of new people just out there floating and not knowing where they are going. We are going to sit down in February and get our work plan down on paper right away and take off from there.

MS. SHEPARD: Well, okay. Good report. Look forward to hearing more about all of this. Who is next?

MS. SUBRA: I would like to comment.

MS. SHEPARD: Okay.

MS. SUBRA: On the work force initiative that you are going to look at, part of the NACEPT committee's work over the last two years, we have generated a report that looked at the large number of people that are going to be retiring very shortly within EPA, and we produced a report.

We looked at what the other agencies within the U.S. government are doing, and that report was authored by Dorothy Bowers. And so, you can get it off the NACEPT website. And you might want to look at that, because it did do a lot of comparisons.

MS. EADY: Thank you.

MS. SHEPARD: Okay, Jana.

MS. WALKER: I do not have a comment. I was going to give my report.

MS. SHEPARD: Yes.

MS. WALKER: Okay.

MS. SHEPARD: Please.

#### **INDIGENOUS PEOPLES SUBCOMMITTEE**

##### **Presentation by Jana Walker**

MS. WALKER: I am giving the report in the absence of the chair of

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the Indigenous Peoples Subcommittee. The subcommittee met yesterday, and we went ahead and continued discussions on the fish consumption issue, and we had many tribal representatives at our meeting. We were very fortunate.

One of the speakers was Merv George from the Klamath River Intertribal Fish and Water Council. And he is going to be submitting some comments for the fish consumption report because the tribes up there, the Hoopa and the Uric, are involved in relicensing on dams.

And so, water passage and core water quantity issues are at the forefront there. And I think that is something that our report could use. Also, I wanted to go ahead and invite Don and Rosemary to come up, and they are going to help me give this report.

We also heard from Tom Goldtooth and some folks from Alaska, from the Alaska Toxics Community Action Group. One of the recommendations that came out, and I think this came from Tom, was that NEJAC should really urge EPA to help educate tribal communities on the purposes and actions of NEJAC.

At a meeting that was on Sunday by indigenous environmental network, they invited Danny Gogal, the subcommittee's DFO, and also Coleen Poler, who is a member of the subcommittee, to talk about the fish consumption report, and do some outreach to the tribes up here. And Danny talked on the purposes of NEJAC.

Also, the Indigenous Peoples Subcommittee came up with a very detailed three year strategic plan. We met out in New Mexico during the summer for a couple of days. We have two sponsoring offices for our subcommittee, the American Indian Environmental Office, as well as OEJ.

We have met with the American Indian Environmental Office to discuss our strategic plan, and that went pretty well. We still need to meet, I guess, with Barry Hill and Charles Lee regarding our plan.

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But, just briefly, two of our goals are to participate on the two work groups, fish consumption work group, as well as the pollution prevention work group.

Secondly, we want to develop a guide on recommending how EPA might help interested tribes identify and address environmental justice issues related to tribal environmental regulation within Indian country.

Fourth, to advise and provide information to EPA on using the National Environmental Policy Act and the National Historic Preservation Act to address tribal cultural issues. And yesterday during our subcommittee meeting, we did show a one hour video, "In the Light of Reverence," which focused on protecting tribal cultural sites on federal public lands.

Our fifth goal is to evaluate and assess the need to revise, distribute, and provide follow up on our Consultation and Collaboration Guide, which came out about one year ago. I think there have been copies around here. We have been getting very good feedback so far on that guide.

Sixth, we want to coordinate and collaborate with EPA-supported tribal organizations, the NEJAC and its subcommittees, to better address the public health concerns of tribal communities.

And so, one reason why I have asked Don Aragon to join us is because he is a member of the Tribal Operations Committee, and that is an EPA-supported tribal organization that was formed back in '94, by EPA, to establish a partnership between tribal leaders and EPA senior management. And so, I have asked Don to just take about five minutes and give an update, because that committee just met last week. Go ahead.

MR. ARAGON: Well, thank you, Jana, Madam Chair. My name is Don Aragon. I am the executive director for the Wind Group or Environmental Quality Commission for the Shoshonean and Arapaho

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1 Tribes, and I come from Fort Washakie, Wyoming.

2 For clarification to the full NEJAC here, the Tribal Operations  
3 Committee, which we call the TOC, is an advisory board to the American  
4 Indian Environmental Office, which is in the Division of Water at the EPA,  
5 Washington, D.C. headquarters.

6 There is a representative that sits on the TOC from each of the ten  
7 regions that EPA works with, and I represent the states of Colorado, Utah,  
8 and Wyoming. And I am also in the Region 8 office. The TOC has been  
9 working with the EPA on the development of core water quality standards  
10 for Indian tribes for the past two, two-and-a-half years.

11 It is our feeling that the agency needs to press forth with the core  
12 water quality standards. Because with the issues that are being brought  
13 forth to the NEJAC here, insofar a fish consumption, pollution, and  
14 controls, at this time, there are only 20 Indian tribes in the entire United  
15 States, or less than 20 that have approved core water quality standards by  
16 the EPA, and this is not good.

17 What we have here is a lot of river, streams, lakes, and so forth, that  
18 are unprotected, due to the fact that tribes do not have their core water  
19 quality standards. And, as other people in our subcommittee are aware of,  
20 there has been a lot of litigation between tribes and states.

21 The core standards are thought of to be a place marker only, to allow  
22 Indian tribes to get all of the necessary work done so that they can develop  
23 their own core standards, or core water quality standards. This would help  
24 both the agency and the tribes.

25 Because, at this particular time, the agency has been issuing permits  
26 on the Indian reservations, and they are using any standards that they can  
27 find. I think what is most commonly referred to as what is ever available.  
28 In most cases, that is tribal water quality -- I mean, tribes are used in state  
29 core water quality standards. There has been some concerns about the

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1 use of state water quality standards on Indian lands.

2 So, what happened last week is that TOC met with the National  
3 Congress of American Indians in Spokane, Washington. We had a large  
4 meeting. Most of the concerns over there were addressing basically the  
5 same issues that the NEJAC was talking about here today about the fish  
6 consumption, the uncontrolled contamination, and the fact that the EPA has  
7 been issuing permits on Indian reservations without core water quality  
8 standards.

9 And so, for your information, Madam Chair, I brought along some  
10 resolutions that were passed that are being sent on to the EPA  
11 administrator for her review. And these are resolutions that come from the  
12 National Congress of American Indians.

13 I am not really sure how many tribes belong to that, but it is one of the  
14 largest Indian organizations in the United States. They do address these  
15 types of situations where we feel Indian country is not being protected or  
16 properly being supported.

17 We are very pleased to be associated with the National Congress of  
18 American Indians. Because we feel, from the Tribal Operations  
19 Committee, we want to work with the other Indian environmental  
20 organizations so that we are not duplicating what someone is doing.

21 We want to make sure that we have an understanding of what is  
22 happening with the issues as they affect the Indian environmental world.  
23 And we feel that the Tribal Operations Committee, which is, as I have  
24 noted, is an advisory board to the AIEO, the American Indian  
25 Environmental Office in EPA, that if we work with these other Indian  
26 organizations we can bring about some change to the environmental  
27 concerns in Indian country.

28 And we are highly concerned about the fact the administrator has not  
29 pushed forth the approval of the core water quality standards for all of the

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1 Indian lands. And we want to stress here today, and make note of the fact  
2 that this needs to be done almost immediately. We feel that we are  
3 jeopardizing Indian lands, Indian health, and Indian concerns by not  
4 pushing forth with the core water quality standards.

5 And, Madam Chair, if I may, I have made copies for the members of  
6 the NEJAC to allow you to see what resolutions are being sent to  
7 administrator, and we can get these passed out. I want to thank you for  
8 this time to express myself. Thank you.

9 MS. SHEPARD: Thank you, Don. Also, as noted by Anna Frazier  
10 earlier today, she brought up the fact that the subcommittee had discussed  
11 the need for an Alaskan native representation on the Indigenous Peoples  
12 Subcommittee.

13 And, as I think I reported in connection with the fish consumption  
14 report, we have 565 federally recognized tribes, and 229 of those are  
15 located in Alaska. Those issues up there are very unique, and very  
16 different from the lower 48 in many respects.

17 And since Rosemary is here all the way from the Anopia community  
18 of Arctic Slope, I just asked her to take just a couple of minutes and maybe  
19 share her thoughts on this meeting and the uniqueness of the issues up  
20 there.

21 MS. ANTUANGARUAK: As she stated, my name is Rosemary  
22 Antuanguaruak. I am from Nuigsut, Alaska. I am with the Indian community  
23 of the Arctic Slope, in the native village of Nuigsut. I would like to express  
24 our support for the committee members that have brought our discussions  
25 forward, and helped to incorporate them into some of these  
26 recommendations that were put there. Dean, and I believe it is Anna, was  
27 very instrumental in doing that.

28 In Alaska we have multiple layers of agencies with limited resources.  
29 Our resources are taxed and it is hard to add on additional duties when you

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1 are carrying many hats. Funding sources are limited and expectations to  
2 commit to other issues, along without additional funding resources, causes  
3 changing our ability to effectively interact with that.

4 Specifically, the funding capacity building for tribes and nonprofit  
5 organizations was an important issue. One thing I wanted to note was we  
6 had the Alaska Forum on Pollution, or something of that, that is coming up  
7 in February, that it was done last year in February.

8 At that meeting, there was an air program that was requested of EPA.  
9 There were a lot of commitments that were stated at that meeting that have  
10 not been addressed. We would like to encourage the agency to work  
11 forward on those commitments.

12 The issue about communications, as you all have problems getting  
13 the communications across, you can imagine the issues we are facing with  
14 225, and many of them do not have internet access. Tribes are not  
15 interested to get involved in the development and the implementation plan  
16 to ensure that incorporation of the tribe's views and issues.

17 Most of the Alaskan villages are 95 percent Alaskan native. We  
18 would like to ensure that the environmental issues are looked at, and look  
19 at ways of decreasing the cost but increasing the value; that subsistence  
20 value is something that is very important to the community's health.

21 We also appreciate the recognition that there is a large void on these  
22 committees that are here without the Alaskan native voices incorporated  
23 into that. Federal agencies must respond to our issues and resolve them  
24 in ways that the tribes work with to develop. I think that is really important.  
25 I believe you all either heard that in our -- incorporating that into your  
26 views, and I appreciate that.

27 MR. IVENOFF: If I can, I would like to be recognized. I am Art  
28 Ivenoff. I am the environmental specialist with the native village of  
29 Unalakleet. There are four issues that I would like to bring to your

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attention.

Again, climate change I think is one of the key issues. But we realize that there are other factors that relate to climate change such as the cycles. We also realize that emissions plays a great role in what happens.

For the last two years the governor of the state of Alaska has declared it a disaster area for our fisheries. Last year our fisherman harvested 69 King Salmon for their commercial take, and the year before it was 800. So, we are seeing a dramatic decline among the salmon that are being returned to our river systems.

There is a lot of factors involved. There is the issue, of course, of climate change, and there is the issue of contaminants. There is the potential for exploitation occurring at the high seas. I think it may be a combination of all of these factors that are playing a significant role in the decline of our salmon.

We are salmon people. If it is not Coho Schnook, if it is not Schnook that we take during the summer, it is Coho that we take during the fall; and if it is not Coho in the fall, then it is Tom cod or smelts during the winter months, and during the spring we harvest trout.

I am just wondering what types of contaminants are my people exposed to by consuming these different types of resources.

MS. SHEPARD: Okay.

MR. IVENOFF: And I think it is an issue that needs to be addressed by this forum.

MS. WALKER: All right. Well, I appreciate all of you helping me with my report, and that concludes my report.

MR. IVENOFF: Madam Chair, if I can continue, there are several other issues I would like to bring to your attention.

MS. SHEPARD: This is part of your report, Jana?

MR. IVENOFF: Well, it is not part of the report, but she stated awhile

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ago that -- I have got some things that are unresolved, and I have got some issues that I wanted to bring to this forum.

MR. LEE: Can I ask you how long would it take?

MR. IVENOFF: It won't take very long.

MS. SHEPARD: Two minutes? Okay.

MR. IVENOFF: I guess the next issue is the migration of our fish and game resources. We do not know where our fish migrate, but we know that our migratory birds go back and forth between Mexico and Russia. And we do not know what they are being exposed to. They come back and forth and we harvest them during the spring and during the fall.

It goes the same with some of the species that we do not use, but we use their eggs on a regular basis during the spring, during the spring months. I think there is a lot of potential that we are being exposed to. Yet, whenever we approach the agencies we are always being told, sorry, but we just do not have the resources.

And it was just stated, she just stated that fact just a second ago. I think there is a real need to identify either some of the resources that were consumed and get some baseline data.

I think often in Alaska what we see are the rich portions of the state that get the funding, while the tribes that really use the resource are being neglected. I think that is dead wrong. We need baseline data on all of the resources that our tribal people in Alaska consumed.

There was also an issue that was mentioned awhile ago about capacity building. I just wanted to quote Confucius, and he said, "I hear and I forget, I see and I remember, I do and I understand."

About six years ago, there was a meeting Kivalina with the Department of Defense, the Department of Energy, the Alaskan Department of Environmental Conservation. We were discussing Project Chariot. Project Chariot was a project where the Atomic Energy Authority

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wanted to go and detonate five atomic bombs near Point Hope.

They told the people there is not going to be any significant impact on your resource. So, they came back to the community and they told the people there don't worry, we have already conducted some studies.

The simple fact is the tribal members were still concerned and they will always be concerned unless they are given the tools, the capacity to go out and monitor their fishing game resources themselves. I think NEJAC needs to address the issue of capacity building.

MS. SHEPARD: Thank you very much.

MR. IVENOFF: And one other thing here. She mentioned a session that is occurring in Anchorage in February. It is Alaskan Forum on the Environment. I think it is critical that representatives from this group travel to Alaska and present the fish consumption report.

I think, you know, they mentioned that there are 229 tribes in Alaska. And all of those, for the most part, are fish consuming societies, and we need to be briefed. So, I am extending that welcome to NEJAC. Thank you for your time.

MS. SHEPARD: Thank you. Larry.

MR. CHARLES: I just want to bring to the attention of the speaker, the presenter, who just finished -- I forgot his name.

MS. SHEPARD: Excuse me?

MR. CHARLES: Art, I think. The very first recommendation of the International Subcommittee submitted in the meeting here today was to recommend the draft fish consumption report be revised to acknowledge the international connectiveness between polluting a fish in one country, impacting human health of communities in another country, as enabled by fish migration, or by air and water currents. That point was heard, and we are attempting to try to increase the focus on that.

The second thing I want to mention to you is that the idea of the

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region listening session was discussed also. I am not sure if you were in the room when that happened. And, specifically, it was suggested that this region conduct one of those sessions in Alaska.

And so, finally, in the meantime, while you are in Seattle, I would ask you to contact the regional administrator directly and attempt to get some assistance from that office regarding the issue that you have; and all of this until we can come up with something that is more formal and more better than what is in place right now to address specific issues that communities are bringing.

And I did the "more better" on purpose. I do no better than that. All right. Thank you.

MS. SHEPARD: I am sorry. Annabelle.

MS. JARAMILLO: And I am not going to take very long on this. I think this just points out the need for that through that collaboration and that information sharing. It not only happens between states, but it happens within local communities, as well as what one community does to do in terms of some prevention or doing some things. If they do not work together with the community next door, then it just does not do any good. I think this is a very good point. Thank you.

MS. SHEPARD: Thank you. Jane Stahl.

#### **HEALTH AND RESEARCH SUBCOMMITTEE**

##### **Presentation by Jane Stahl**

MS. STAHL: I have neither Veronica's energy, nor Jana's continuity or longevity, but I will try and do justice to our subcommittee.

MS. SHEPARD: Okay. I am sure you will. Thank you.

MS. STAHL: And I would like to begin by noting that I am reporting on behalf of a very diminished, but not depleted subcommittee. Three of our members, Rose Augustine, Carlos Porras, and -- see I don't -- it is too

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late in the day -- were not here at this meeting. This would have been their last meeting.

I am hopeful that we will have a full complement of members in the very near future, so that we can in fact do justice to the mission of our subcommittee and serve the rest of this body and EPA in doing as we were asked to provide coach and timely and relevant advice to EPA.

With that as background, I would note that we had a very good meeting yesterday, the bulk of which was devoted to the fish consumption issue and the recommendations from which I reported on this morning.

I would remind the group of two of the recommendations that we made this morning, because they do have the nature of follow up work by our sponsoring offices. The one was the request to EPA's OPPT and water programs to be in touch with each other with regard to high production volume chemicals that are providing information under TSCA with a specific bent towards identifying those that are potentially toxic and which can enter the aquatic environment.

And, taking that a step further, that where the pathway is found to exist to recommend additional testing and rule making on those chemicals be expedited.

The second recommendation that came out of those discussions was, as noted this morning, to request collaboration between and among federal agencies in sharing their data regarding fish and aquatic resource contaminant levels, and ask that EPA determine whether that issue would be, or could be coordinated by the interagency working group on environmental justice.

With an eye toward continuing our efforts, and again hopefully with a fuller body, ORD has agreed to share with us through OEJ a list of potential participants on the subcommittee and share around some resumes so that we can see if we can make recommendations along those

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lines as to new members that would fit not only the categories of stakeholders to fulfill our needs, but also hopefully with the expertise that will enhance our ability to serve in our function.

We also were hoping to obtain from the Office of Research and Development information about groups that we heard about yesterday but do not know about, and that was a Tribal Science Council and Regional Science Councils. These are entities that we had not previously heard about nor had familiarity with.

But, in particular, if there are Regional Science Councils or more localized entities that we can pull together with our regional listening sessions to not necessarily to push things away from the national level, but to make things more approximate to those who want to act on environmental justice issues that might be a source for us all.

We also have a commitment from ORD and OPPTS to work together to identify areas which they are or will be working on, which would benefit from environmental justice advice and recommendations, so that we can in fact come up with a strategic plan that is aligned toward meeting their work products needs in a timely fashion, and, hopefully, align with the goals under which they are seeking to achieve, primarily in our regard, goal 4, which is with regard to safe and healthy communities, and goal 8, with regard to sound science.

The two items which we are looking to participate in, which meet both of those goals, or are formulating under those goals are in fact pollution prevention and cumulative risk. So, we are hoping to further engage in the activities that will serve our sponsoring entities and the EJ communities while meeting the agency's overall goals. And that I believe is the end of my report.

MS. SHEPARD: All right. Sounds like a good start. Savi, and the Enforcement Subcommittee.

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## **ENFORCEMENT SUBCOMMITTEE**

### **Presentation by Savi Horne**

MS. HORNE: Thanks, Jane, for looking out for us. The Enforcement Subcommittee met in a closed facilitated administrative meeting pursuant to the provisions in the FACA to consider issues of process and procedure but not substantive ones.

The committee was fruitful and productive. OEJ and OECA have reaffirmed their commitment to the subcommittee to work in a collaborative manner on policy issues of concern to the agency, the NEJAC, and the environmental justice community.

As a departing member of the NEJAC, I would personally like to thank the work, her tireless work in grooming a stewardship of the Enforcement Subcommittee through this process, and that is our DFO, Shirley Pate. Thank you.

MS. SHEPARD: Thank you, Savi. And Graciela.

## **PUERTO RICO SUBCOMMITTEE**

### **Presentation by Graciela Ramirez-Toro**

MS. RAMIREZ-TORO: Yes, my report is also very short because our subcommittee was formed at the end of the year 2000, and shortly after that the change in administration happened here and in Puerto Rico.

And, as I said earlier, we have some six members of the committee that used to belong to agencies. And with the change in administration, those positions were ---, so the Kivalina field office and Region 2 spent most of the time this year trying to identify the new members.

We are now ready to start working. Most of the people have been identified and the Kivalina field offices submitting the names to the regions so they can follow the channels to be appointed. While we were operative in the first half of the year, we had a conference call to clarify the agenda

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for the Puerto Rico Subcommittee.

Again, now with the changes in the format of NEJAC meetings and other procedures, we will revisit the Puerto Rico Subcommittee agenda when we meet in January again. Also, we will try to align our agenda with the goals of the national. We are planning to start with the areas of pollution prevention. And we hope that next year we can have a very long report.

MS. SHEPARD: Thank you, Graciela.

## **ACTION ITEMS**

MS. SHEPARD: I am just going to ask if there are any action items? Richard.

MR. GRAGG: Yes, one issue that came up in our Health Subcommittee, and also in regard to the fish consumption report, that my action item pertains to, is the inclusion of representation from the Virgin Islands on these subcommittees.

The point is is that the U.S. has other territories, and especially in these island nations, especially in regards to fish consumption, and all of the other issues that we are dealing with, that there needs to be representation.

MS. SHEPARD: Okay.

MS. HORNE: It is just a brief point.

MS. SHEPARD: Savi.

MS. HORNE: Maybe my mike is dead. I just want to just add my two cents into what Richard is saying. And, as a Caribbean Basin person, to recognize that unless the NEJAC is prepared to say there are no intent on EJ issues in the Virgin Islands, that we so move to make the Puerto Rico Subcommittee more inclusive, which might mean a name change.

MS. SHEPARD: Graciela.

MS. RAMIREZ-TORO: What I think I will do then is take this

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1 recommendation back to the Kivalina field office and to the region. Puerto  
2 Rico Subcommittee was established because Region 2 made a big effort  
3 to create this committee.

4 As a matter of fact, they provide all of the support, or the economical  
5 support for me to be here and for the subcommittee itself. So, I will bring  
6 back the recommendation and I will inform back of what is the reaction.

7 MS. SHEPARD: Okay. And I should just remind you that that is not  
8 an action item, but it is new business that is being asked to be considered.  
9 And we will take that under consideration.

10 MS. RAMIREZ-TORO: I imagine that also other islands like Hawaii  
11 are in other regions, so I guess it would have to be worked out within those  
12 regions.

13 MS. SHEPARD: Exactly. Thank you, Graciela. Are those all of the  
14 comments? Thank you all. Then we will move to Charles who has some  
15 acknowledgments.

16 MR. LEE: Right, thank you. I think it is terrible making  
17 acknowledgments –

18 MS. SHEPARD: Oh, I am sorry. I am sorry. I have one more piece  
19 of business. In the spirit of communications, I would like to do a year-end  
20 report that compiles the accomplishments of the NEJAC over the past  
21 year. So, I am going to ask all of you to -- especially, those of you who had  
22 committees, to forward me accomplishments.

23 And if there are other comments or submissions by other council  
24 members, would you please forward those comments or suggestions  
25 around our accomplishments and achievements this year?

26 MR. LEE: It might be helpful, Peggy, if you gave everybody a date by  
27 which you need it.

28 MS. SHEPARD: Good point. Why don't we say mid-January, after  
29 the holidays, around January 15th? Does that sound doable?

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1 MS. EADY: Can you repeat again, Peggy?

2 MS. SHEPARD: Well, I am sorry if I woke you up. But I said in the  
3 spirit of communicating, you know, to a broader audience, as well as to all  
4 of the members and committee members, I would like to compile a list of  
5 accomplishments that council members feel that we have achieved over  
6 the past year. That includes subcommittee chairs, as well as simply  
7 members. And if you could get that, e-mail that to me, perhaps, me and  
8 Marva, by January 15th, that would be great. Thank you all.

9 MR. LEE: Okay. Thank you, Peggy. I want to make sure that we do  
10 a bunch of acknowledgments, because these meetings do not just take  
11 place. They are put together with a lot of hard work by a lot of people  
12 behind the scenes. And so, I think it is important we do this.

13 Even though we are doing this with very people in the room, I think  
14 it is important it goes into the record. And so, you have to do double duty  
15 in acknowledging them so that we really do this justice.

16 The first group I want to make sure gets acknowledged are the  
17 designated federal officials. And they are: Wendy Graham, Shirley Pate,  
18 Will Wilson, Alice Walker -- if you could all stand, or whatever -- Rey  
19 Rivera, Brandon Carter, Brenda Washington, Aretha Brockett, Teresita  
20 Rodriguez, and Danny Gogal.

21 The next group that we need to acknowledge is the -- you know, when  
22 we do these meetings, we do it in conjunction with a regional office. In this  
23 case, we did this in conjunction with region 10, who did a lot of the  
24 outreach and other types of support, as well as the coordination with the  
25 community groups that resulted in the very successful community event on  
26 Monday evening. The four people that we want to acknowledge are:  
27 Joyce Kelly, Michael Letourneau, Victoria Plata, and Ony Okoro.

28 The next group to acknowledge are the contractors from Tetra Tech  
29 under the direction of Victoria Robinson. And I do not know if Victoria is in

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1 the room, but she is still working. And so, I would like all of the contractors,  
2 staff to stand to be acknowledged.

3 You know, all of the pieces of paper that you generate, everything you  
4 want to get typed, all the things that you want to get handed out,  
5 everything, you know, all of the boxes you want to shipped, I mean, they  
6 are the ones that does this.

7 So, the next group I want to make sure we acknowledge because  
8 they are very integral to the success. And they are not really here but -- I  
9 mean, in this room, but is the hotel staff.

10 Then I want to acknowledge the Office of Environmental Justice staff  
11 that is here under the leadership of our esteemed director, Barry Hill. And  
12 they are: Renee Goins, Marty Halper, Danny Gogal. I do not know if they  
13 are here in the room. Danny is in the back. Okay.

14 And then, I want to make sure we recognize again, because there  
15 were very few people in the room, Jamie Song, the OEJ intern, that does  
16 a lot of the work. Then there is the person that I guess backstops  
17 everything that we do, who is the associate director for resource  
18 management for Office of Environmental Justice that handles all of these  
19 contracts and everything is Linda Smith. Where is Linda?

20 MS. : Working.

21 MR. LEE: They are all working. And then, lastly, but at least she is  
22 here, even though she works all of the time is perhaps the most important  
23 person to the success of the NEJAC is the queen of the NEJAC, Marva  
24 King.

25 And, with that, I want to thank all of you who decided that you could  
26 stay till the end of the meeting, and to Peggy Shepard for chairing, and all  
27 of your hard work. Thank you.

28 MS. JARAMILLO: Before we leave, I think it is appropriate that we  
29 all really want to thank you, Charles. There is times when we kind of want

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1 to say, kind of get unlisted numbers. But, Charles, this would not happen  
2 without you as well, so I want to thank you personally.

3 (Applause)

4 MS. JARAMILLO: And thanks to our esteemed chair, Peggy  
5 Shepard, as well.

6 (Applause)

7 MS. SHEPARD: Please, everybody, have a safe trip. We really  
8 appreciate all of the public members who are still here hanging in and still  
9 advocating.

10 (Whereupon, the meeting was concluded at 4:35 p.m.)  
11

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