

MEETING SUMMARY

of the

WASTE AND FACILITY SITING SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 25, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:



**Kent Benjamin
Office of Solid Waste and
Emergency Response
U.S. Environmental Protection Agency
Designated Federal Official**

**Vernice Miller-Travis
Chair**

**CHAPTER EIGHT
MEETING OF THE
WASTE AND FACILITY SITING SUBCOMMITTEE**

1.0 INTRODUCTION

The Waste and Facility Siting Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Thursday, May 25, 2000, during a four-day meeting of the NEJAC in Atlanta, Georgia. Ms. Vernice Miller-Travis, Partnership for Sustainable Brownfields Redevelopment, continues to serve as chair of the subcommittee. Mr. Kent Benjamin, Environmental Justice Coordinator, Outreach/Special Projects Staff (OSPS), U.S. Environmental Protection Agency (EPA) Office of Solid Waste and Emergency Response (OSWER), continues to serve as the Designated Federal Official (DFO) for the subcommittee. Exhibit 8-1 presents a list of the members who attended the meeting and identifies those members who were unable to attend.

This chapter, which provides a summary of the deliberations of the Waste and Facility Siting Subcommittee, is organized in six sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair and the Assistant Administrator of EPA OSWER. Section 3.0, *Update on Work Groups of the Subcommittee*, summarizes the activities of the work groups of the subcommittee. Section 4.0, *Presentations and Reports*, presents an overview of each presentation and report received by the subcommittee, as well as a summary of questions asked and comments offered by the members of the subcommittee. Section 5.0, *Summary of Public Dialogue*, summarizes discussions offered during the public dialogue period provided by the subcommittee. Section 6.0, *Significant Action Items*, summarizes the significant action items adopted by the subcommittee.

The members of the subcommittee also participated in a joint session with the Health and Research Subcommittee of the NEJAC to discuss the exposure investigation of Mossville, Calcasieu Parish, Louisiana, conducted by the Agency for Toxic Substances and Disease Registry (ATSDR) in November 1999. Chapter nine of this document provides a summary of the deliberations of the joint session.

Exhibit 8-1

**WASTE AND FACILITY SITING
SUBCOMMITTEE**

Members

**Who Attended the Meeting
May 25, 2000**

Ms. Vernice Miller-Travis, **Chair**
Ms. Veronica Eady, **Vice Chair**
Mr. Kent Benjamin, **DFO**

Ms. Denise Feiber
Ms. Donna Gross McDaniel
Ms. Patricia Hill Wood
Mr. Melvin Holden

Ms. Katharine McGlooin
Mr. Harold Mitchell
Mr. Neftali Garcia Martinez
Ms. Mary Nelson
Ms. Brenda Lee Richardson
Mr. Mervyn Tano
Mr. Michael Taylor
Mr. Johnny Wilson

Members

Who Were Unable To Attend

Ms. Lorraine Granado
Mr. Michael Holmes
Mr. David Moore

2.0 REMARKS

Ms. Miller-Travis opened the subcommittee meeting by welcoming the members present and Mr. Benjamin, as well as Mr. Timothy Fields, Jr., Assistant Administrator, EPA OSWER, and Mr. Michael Shapiro, Principal Deputy Assistant Administrator, EPA OSWER. Ms. Miller-Travis also introduced Ms. Veronica Eady, Executive Office of Environmental Affairs, Commonwealth of Massachusetts, as the vice-chair of the subcommittee. At the conclusion of Ms. Miller-Travis' welcoming remarks, Mr. Fields greeted the members of the subcommittee and informed the members of the public present that "EPA officials are not members of the subcommittee, but helpers." He then briefly outlined some initiatives the

subcommittee had been involved in. Those initiatives include, but are not limited to, relocation of residents under Superfund, facility siting under the Resource Conservation and Recovery Act (RCRA), minority worker training, and the Brownfields Economic Redevelopment Initiative. Ms. Miller-Travis added that OSWER and the subcommittee had spent significant time developing a partnership. Mr. Shapiro then greeted the members of the subcommittee and informed the group that OSWER had been working to follow up on suggestions previously offered by the subcommittee.

3.0 UPDATE ON WORK GROUPS OF THE SUBCOMMITTEE

This section discusses the activities of the work groups of the Waste and Facility Siting Subcommittee of the NEJAC.

3.1 Waste Transfer Stations Work Group

Ms. Sue Briggum, Director of Government Affairs, Waste Management, Inc. and former member of the Waste and Facility Siting Subcommittee of the NEJAC, made a presentation on the status of the report, *A Regulatory Strategy For Siting and Operating Waste Transfer Stations*. The report, which was developed by the Waste Transfer Stations (WTS) Work Group of the Waste and Facility Siting Subcommittee, provides to EPA OSWER recommendations and suggestions related to WTSs. Exhibit 8-2 describes the purpose of the WTS work group. The report was submitted to the EPA Administrator in March 2000.

Following Ms. Briggum's status report, Mr. Fields informed the members of the subcommittee about EPA's *Municipal Solid Waste Transfer Station Action Strategy*. The report outlines actions and best management practices (BMP) EPA plans to implement in response to environmental justice concerns related to WTSs that the WTS Work Group set forth in its report. According to Mr. Fields, OSWER agrees with the recommendations presented in the report of the WTS Work Group and plans to address issues raised specifically about such facilities located in New York City and Washington, D.C. In the case of many of the suggestions, said Mr. Fields, it will take some time to scope out and implement appropriate actions. However, he added that other suggestions will be acted on right away. The draft status report is a work in progress and an intra-agency work group has been formed to continue working with the subcommittee, he continued. An action meeting was to be held on June 11, 2000 to discuss BMPs, he then announced.

THE WASTE TRANSFER STATIONS WORK GROUP OF THE WASTE AND FACILITY SITING SUBCOMMITTEE

The Waste Transfer Stations (WTS) Work Group of the Waste and Facility Siting Subcommittee is charged with conducting fact-finding efforts and issuing recommendations to the U.S. Environmental Protection Agency (EPA) for a national approach to addressing the effects of the siting and operation of WTSs on low-income and people of color communities. A WTS serves as a temporary storage facility where waste can be stored for no more than 10 days while it is being transported to a permanent disposal facility. The disproportionate effects of clustered siting and operation of WTSs in a number of municipalities, including New York City (NYC) and Washington, D.C., was brought to the attention of the National Environmental Justice Advisory Council (NEJAC) in May 1997. The NEJAC had been advised that in certain communities in NYC, there is a disproportionate concentration of WTSs. As a consequence, those communities suffer adverse health, environmental, and economic effects. In addition, the city's current regulatory process does not address such concerns adequately. The NEJAC had been advised further that representatives of such communities feared that those conditions would be exacerbated by the impending closure of Fresh Kills Landfill, NYC's only remaining landfill.

Mr. Fields also stated that OSWER was working to resolve issues related to marine WTSs. An operations and maintenance manual was being developed to specify cleanup technologies, waste handling procedures, reporting and record keeping procedures, and other matters, he said. The EPA report promotes community participation, he continued, and OSWER also was developing a citizen's guide that provides information about how WTSs operate and how environmental justice issues are addressed. The EPA report also focuses on waste reduction and facility siting as well as uses the principles of the *Model Plan for Public Participation* developed by the NEJAC.

In addition to the draft status report, OSWER was engaging in dialogue with local officials and was to hold forums in New York City in which the public will be invited to participate, said Mr. Fields. It is hoped, he added, that such a targeted approach will help facilitate change.

Mr. Fields then offered special thanks to Ms. Briggum, the WTS Work Group, and officials of EPA Region 2.

Ms. Miller-Travis informed the new members of the subcommittee that the OSWER response report is the product of work carried out over a period of three years. She then asked Mr. Fields and Mr. Shapiro about the response of state and local officials to the report. Mr. Fields replied that many of the responses focused on the observation that not all cities have the problems found in New York and Washington, D.C. Some counties have acceptable operations, he pointed out. Similarly, responses from state officials point out that not all states have such problems, he continued. Mr. Shapiro added that a single model may not be adequate for all situations. However, he noted, in general, the response to the report had been positive. Ms. Miller-Travis then asked whether the Agency has heard from officials of New York City. Mr. William Muszynski, Deputy Regional Administrator, EPA Region 2, informed the subcommittee that EPA had not heard formally from officials of New York City. However, EPA Region 2 is in discussion with those officials, he stated.

Ms. Miller-Travis then thanked Mr. Fields and the OSWER staff for the hard work they had devoted to the development of the recommendation report. Mr. Michael Taylor, Vita Nueva, pointed out that failure to hold all industries to the same standards creates problems. Ms. Briggum responded that the problem remains the number of new facilities.

Mr. Neftali Garcia Martinez, Scientific and Technical Services, asked for information about action to be taken in New York City and Washington, D.C. Mr. Fields told the subcommittee that such information would be forthcoming.

Ms. Mary Nelson, Bethel New Life, Incorporated, asked Mr. Fields what mechanisms would be used to disseminate the information to other regions. Mr. Fields responded that the Agency recognizes that there are similar problems in other parts of the country. He asked that people inform the Agency of areas in great need. The citizen's guide is intended to be used in other communities, he added. Ms. Thea McManus, EPA OSWER, also responded that the information would be distributed through public health groups and workshops would be held to discuss implementation.

Ms. Denise Feiber, Environmental Science and Engineering, Inc., asked how the subcommittee will be kept informed of actions related to the WTS issue. Mr. Fields answered that he would provide updates to Ms. Miller-Travis. He also suggested that other members of the subcommittee could be designated as points of contact. He suggested further that members of the subcommittee could become involved in focus groups. Ms. Miller-Travis

observed that an establishment of an "implementation group" would be appropriate. She suggested that the following individuals serve as members of that group: Mr. Garcia Martinez, Ms. Briggum, and Ms. Samara Swanston, The Watch Person Project.

Ms. Swanston then spoke briefly about the approach that should be taken in the BMP manual to address enforcement in New York City. She also stated that no WTSs should be located on waterfronts. Mr. Fields added that the BMP manual will include a citizen's guide that will address involvement of citizens. Ms. Swanston then stated that the issue of clustering is not addressed adequately. Mr. Fields responded that EPA's report on *Municipal Solid Waste Transfer Station Action Strategy* is a work in progress. He suggested that members of the subcommittee provide additional comments about areas they believe require improvement.

Ms. Eady volunteered to serve as a member of the implementation group and requested that EPA Region 1 should be involved in the process. Mr. Fields then discussed the regional conference calls that are held monthly, suggesting that the response report be added to the agenda of those conference calls.

Mr. Mervyn Tano, International Institute for Indigenous Resource Management, stated that some of the issues discussed in the response document are related to the development of technology. Ms. Briggum added that research and development is difficult because of competitiveness in industry. It is difficult, she noted, for specific companies to conduct research and development. Mr. Tano added that there is a lack of public participation in industry research and development. Mr. Fields agreed with Mr. Tano's observation. Mr. Tano then added that the BMP manual should cover processes that occur after a specific BMP has been implemented. For example, processes that take place after garbage is collected, such as compaction and disposal should be taken into account.

3.2 Brownfields Work Group

Mr. Taylor updated the subcommittee on the activities of the Brownfields Work Group of the Waste and Facility Siting Subcommittee. Mr. Taylor began his update with a discussion of the economic factors in brownfields redevelopment. Mr. Taylor stated that there are four key areas in which communities can have influence on redevelopment. Those areas, he said, are: (1) recognize the need or vision for redevelopment, (2) recognize the business opportunity, (3) take the initiative, and (4) compile

initial information. Redevelopment planning should focus on returning benefits to the community, he declared. Mr. Taylor also stated that the community should be involved in the land use planning process. Further, potential exposure pathways for future planned use should be investigated before redevelopment, he added.

Mr. Taylor presented to the subcommittee draft recommendations related to the involvement of stakeholders in environmental and land use decision making. The recommendations encourage EPA to “develop a directive that incorporates the following principles and audit all programs for their stated policies, as well as practices in stakeholder involvement and land use, against the following principles that support the promotion of environmental justice.

- Early and meaningful involvement of affected communities in decisionmaking processes.
- Definitions of “stakeholders” that correspond to definitions in American Society for Testing and Management (ASTM) Standard E-1984-98, particularly the definition of the community as a special stakeholder group consisting of those who live and/or work around the site.
- Integration of land use planning, as it affects decisions regarding improvements in public health and the environment, into all programs.
- Encouragement of community-based planning as a critical methodology for environmental protection and promotion of its use “inside and outside the Agency.”

The draft recommendations are meant to involve communities from the very beginning of the process, continued Mr. Taylor. Community-based planning is integral, he said. Ms. Miller-Travis stated that the draft recommendations are consistent with the results of the strategic planning session of the subcommittee held in Washington, D.C. She stated that EPA had no authority to direct local governments in the areas of local land use and zoning. She then stated her belief that implementation of the recommendations will prevent lawsuits filed under Title VI of the Civil Rights Act of 1964 (Title VI). Mr. Fields responded that the recommendations point to a real need and that EPA already was examining the issue of community involvement in local land use and zoning decisions.

Ms. Feiber thanked Mr. Taylor specifically for the first recommendation, stressing the importance of early and meaningful involvement. Ms. Brenda Lee Richardson, Women Like Us, then expressed her strong support for the recommendations. Ms. Richardson stated that one of the challenges communities face is to establish a working relationship with Federal authorities. She challenged EPA to bring other Federal agencies involved in brownfields efforts to the table, suggesting that EPA facilitate a meeting in Washington, D.C.

Ms. Miller-Travis stated that the subcommittee was in concurrence with the draft recommendations.

Mr. Johnny Wilson, Clark Atlanta University, asked whether there is a working definition of the term “meaningful community involvement.” Ms. Miller-Travis added that the phrase “critical methodology” must be defined, as well.

3.3 Superfund Redevelopment Initiative Work Group

Ms. Feiber provided a status report on the activities of the Superfund Redevelopment Initiative Work Group. The purpose of the work group is threefold, she said: (1) to participate in the development of EPA policy on the Superfund Redevelopment Initiative (Section 4.6 of this chapter describes the initiative); (2) to provide recommendations about plans to redevelop Superfund sites for productive and appropriate reuse; and (3) to ensure that environmental justice issues and community outreach efforts are incorporated meaningfully into program policies and plans. Ms. Feiber informed the subcommittee that the members of the work group had identified a number of issues and concerns related to the Superfund Redevelopment Initiative. Those concerns include remedy selection, education of remedial project managers and others about the opportunities that the initiative presents, lack of significant involvement of regional environmental justice staff in the program, implications of the use of institutional controls, and the need for a representative of a potentially responsible party (PRP) to serve on the subcommittee’s work group.

Activities of the work group to date had included review of proposed guidelines for the document Superfund Redevelopment Initiative Pilot Program, conversations with Ms. Bonnie Gross, EPA Region 3, about the Avtex Fibers site in Front Royal, Virginia, and numerous conversations with program staff, she reported further.

Ms. Feiber concluded her status report by outlining the goals of the work group, listing them as follows:

- Define and articulate the concerns of the Waste and Facility Siting Subcommittee related to the Superfund Redevelopment Initiative.
- Define the role of the subcommittee.
- Establish how the work group will interact with OSWER.
- Define concrete ways to have a positive effect in the areas of concern identified.
- Help achieve the goals of the NEJAC (gather a broader range of opinions).
- Effectively integrate stakeholder concerns into remedy selection.

4.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations made and reports submitted to the Waste and Facility Siting Subcommittee of the NEJAC.

4.1 Presentation on International City/County Management Association Activities

Ms. Miller-Travis asked Ms. Molly Singer, International City/County Management Association (ICMA), to update the subcommittee on the activities of her organization. Ms. Singer informed the subcommittee that an ICMA report on institutional controls was to be released soon. The recommendations set forth in the report are based on four years of research, she noted. Ms. Singer then reported that ICMA was working with the city of Clearwater, Florida to develop a model environmental justice plan for conducting effective environmental justice and land use activities. Ms. Miller-Travis asked when the model action plan would be completed. Ms. Singer replied that the model plan will be developed after the city of Clearwater provides its views to ICMA. A draft plan should be available within three months and a final version of the plan should be available within a year, she said. Ms. Miller-Travis asked that Ms. Singer remain in contact with Mr. Benjamin.

4.2 Presentation on New Bethel Life, Inc. Activities

Ms. Nelson presented information about the New Bethel Life, Inc. organization. New Bethel Life, she

explained, is a community development corporation. The organization, she continued, adheres to two basic principles: (1) sustainable community development and (2) ecological integrity and environmental quality. Other principles of the organization include high quality of life and public participation, she added. A major environmental initiative of the group is local worker training and placement, said Ms. Nelson. She explained that New Bethel Life strives to turn liabilities into assets. To do so, the group identifies available sites, performs data collection, and markets information about viable sites to redevelopers. Ms. Nelson then provided a slide presentation on a site in Chicago that was redeveloped with the help of New Bethel Life.

Mr. Wilson asked about the effect of the project on the poor people who lived in the area before the redevelopment project. Ms. Nelson replied that old homes were renovated and new homes were to be built. Ms. Miller-Travis asked Ms. Nelson to state the demographics of the area. Ms. Nelson answered that the area is 96 percent African American. She also stated that membership of the board of directors of the redevelopment project reflects the composition of the community. Mr. Tano asked what provisions had been made for home ownership. Ms. Nelson responded that many programs, such as "Sweat Equity" and cooperative housing opportunities are in place to help facilitate home ownership for residents of the area.

4.3 Update on the U.S. Environmental Protection Agency Brownfields Job Training and Development Demonstration Pilot Program

Ms. Myra Blakely, EPA OSPS, provided an update on the EPA Brownfields Economic Redevelopment Initiative Job Training and Development Demonstration Pilot program. Exhibit 8-3 describes the Brownfields Job Training and Development Demonstration Pilot Program. To date, she reported 37 job training pilot projects are in place.

The pilot program establishes links with schools so that participants can obtain two- and four-year degrees. The majority of the jobs will be created as a result of redevelopment efforts, Ms. Blakely reported. Most of the job training pilots are funded by the U.S. Department of Labor. Ms. Blakely provided the following statistical information:

- 16 of 21 pilots reported 750 participants.
- 495 participants have completed training.

Exhibit 8-3

**BROWNFIELDS JOB TRAINING AND
DEVELOPMENT DEMONSTRATION PILOT
PROGRAM**

In 1998, the U.S. Environmental Protection Agency (EPA) launched a new element of its Brownfields Economic Redevelopment Initiative to help local communities take advantage of jobs created by the assessment and cleanup of brownfields sites, and to facilitate the cleanup of these sites – the Brownfields Job Training and Development Demonstrate Pilot program. Each job training pilot project, located within or near a Brownfields Assessment Demonstration pilot project, is designed to train residents in communities effected by brownfields sites. These skills then can be used for future employment in the environmental field, including conducting cleanups using innovative technology. Each pilot project monitors the progress of the trainees for at least one year as they seek employment in the environmental field.

Each job training pilot project is awarded up to \$200,000 over a two-year period. Colleges, universities, community job training organizations, nonprofit training centers, states, counties, municipalities, Federally recognized tribes, and U.S. territories are eligible for the job training grants.

- 268 participants are employed in environmental jobs.
- There are pilot programs in all 10 EPA regions.

In response to Ms. Miller-Travis' inquiry about funding levels for the pilots, Ms. Blakely stated that the pilots are funded at various amounts up to \$200,000. That amount of money allows trainees, for example, to rent cars for transportation to work, she noted. Childcare also is made available, she added. Ms. Donna Gross McDaniel, Laborers-AGC Education and Training Fund, then stated that job training is important in the brownfields redevelopment effort. She added that she believed that there must be some way to provide continued training. Ms. Blakely replied that EPA was exploring the possibility of providing supplemental funding. Ms. Nelson suggested that an interagency link be established for funding. Mr. Taylor stated that trainees often are placed in short-term jobs. Ms. Blakely responded that the pilot programs are working to encourage employers to provide sustainable employment. Ms. Eady added that the

Commonwealth of Massachusetts is concerned about tracking the pilot programs. Ms. Blakely stated that the pilots are able to report their progress accurately.

4.4 Update on U.S. Environmental Protection Agency Social Siting Booklet

Ms. Karen Randolph, EPA Office of Solid Waste (OSW), presented the final draft of the EPA *Social Aspects of Siting RCRA Hazardous Waste Facilities*. The booklet was developed at the request of the Waste and Facility Siting Subcommittee of the NEJAC to serve as a companion to the May 1997 brochure, *Sensitive Environments and the Siting of Hazardous Waste Management (HWM) Facilities*. The May 1997 brochure addressed technical issues related to the siting of HWM facilities, where the new booklet, she pointed out, focuses more sharply on the social aspects of the siting of such facilities. The booklet is intended to help industry and state, tribal, and local government agencies develop an increased awareness of communities' concerns about quality of life that arise when decisions related to siting are made about HWM facilities.

The next phase of the booklet project involves distribution, said Ms. Randolph. The booklet will be available on the Internet, she announced.

Mr. Benjamin thanked the members of the subcommittee and the staff of OSW who had worked on the booklet project. Ms. Miller-Travis asked whether EPA would look to the document for guidance. Mr. Shapiro responded that, with respect to community involvement, EPA will use the booklet. Ms. Patricia Hill Wood, Georgia Pacific Corporation, suggested that the booklet should be distributed widely.

4.5 Discussion of Socioeconomic Vulnerability

Mr. Michael Callahan, EPA Office of Research and Development (ORD), discussed the topic of cumulative risk. Mr. Callahan defined cumulative risk as the combined risks posed by two or more agents or stressors. Mr. Callahan expressed his interest in learning the views of the members of the Waste and Facility Siting Subcommittee about what components should be included in a framework to be developed on assessing cumulative risk. Ms. Miller-Travis reviewed several points for the members of the subcommittee who had not been present at the Executive Council in December 1998 when the subject was discussed. No community is exposed to only one chemical or contaminant, she said. The

question of how environmental protection is considered in cases of multiple exposures is being examined, she continued, and that a system or method for the identification of synergistic effects is needed. Mr. Callahan then stated that the document to be developed would be a broad overview, similar to an ecological framework document. The issue of synergy will involve identifying those factors that are important, he said. The primary audience of the new framework document will be staff of EPA, he noted, although, the document should serve people outside EPA, as well. Mr. Callahan then pointed out that risk assessment is a tool.

Ms. Eady asked when the draft document was expected to be completed. Mr. Callahan replied that the draft should be available in approximately 16 months. Ms. Eady also asked how EPA would consider cross-media exposure. Mr. Callahan answered that the framework would examine all factors that affect the population. He stressed that the framework will be a "science document," not a "policy document."

Mr. Tano stated that the science of probability is inexact at best. Mr. Callahan agreed that data associated with risk assessment is uncertain. Mr. Tano then asked whether, with respect to health effects, the framework would focus on specific age groups. Mr. Callahan replied that it would focus on that issue.

Ms. Richardson asked how data would be validated and what role local health departments would play. Mr. Callahan responded that there is a science aspect of probability and a policy aspect, for example, the level of probability of harm is a policy decision, he observed. Ms. Richardson responded that policy and science must go hand-in-hand.

Ms. Miller-Travis asked how the peer review process would take place under the framework. Mr. Callahan responded that the first cycle of the process is the gathering of questions from the appropriate stakeholders. Ms. Miller-Travis asked whether members of an affected community are stakeholders in the process. Mr. Callahan replied that they are. Ms. Miller-Travis then stated that the subcommittee should continue to discuss the topic and should also develop a mechanism for involving all the other subcommittees of the NEJAC in the review of the proposed framework.

4.6 Update on U.S. Environmental Protection Agency Superfund Redevelopment Initiative

Mr. John Harris, EPA Office of Emergency and Remedial Response (OERR), presented information about the status of the Superfund Redevelopment Initiative. Exhibit 8-4 describes the Superfund Redevelopment Initiative. He reported that 10 pilot

Exhibit 8-4

U.S. ENVIRONMENTAL PROTECTION AGENCY SUPERFUND REDEVELOPMENT INITIATIVE

On July 23, 1999, the U.S. Environmental Protection Agency (EPA) announced the Superfund Redevelopment Initiative, a coordinated national effort to help communities redevelop formerly contaminated Superfund sites and return them to use as new parks, retail operations, and industrial facilities. Through the initiative, EPA will help communities convert environmental liabilities into community assets. At every cleanup site, EPA will ensure that there is an effective process and the necessary tools and information needed to fully explore future use are available before EPA implements a cleanup remedy.

EPA has begun to implement the initiative on a pilot-project basis to demonstrate and improve the techniques it has developed after having studied the redevelopment process at sites at which reuse already has occurred. The Agency also is refining policies; building partnerships; sharing information about successful reuse; and informing local governments, community groups, developers, and other affected stakeholders about options available in the redevelopment of Superfund sites.

For more information about the initiative, visit EPA's Internet home page at
<<http://www.epa.gov/superfund/programs/recycle/index.htm>>.

projects have been selected on a noncompetitive basis since July 1999 and that one reuse plan has been completed. Mr. Harris then stated that a second-round competitive process had been announced in December 1999. During that process, 56 proposals were received, and sites in 26 states had been selected. The criteria used in evaluating proposals included project strategy, budget, Superfund cleanup phase, expected role of the current or future site owner, expected role of the state, and clearly identified additional value through

the assistance of EPA, he continued. Recommendations of proposals for acceptance were to be made to Mr. Fields on June 6, 2000, he said, and pilot awards would be announced in mid-June, 2000.

Upon finishing his status report, Mr. Harris asked the members of the subcommittee to help identify the need for a third round of pilot projects. Ms. Miller-Travis agreed that the subcommittee would do so. Mr. Harris asked how his office could reach potential applicants. Ms. Miller-Travis then asked whether PRPs know the process is available. Ms. Feiber asked where to obtain information about the initiative. Mr. Harris replied to Ms. Feiber that a "fair amount" of information is available on the Internet. Ms. Feiber then asked how post-record of decision (ROD) activities would be addressed. Mr. Harris responded that there is greater opportunity for pre-ROD involvement.

4.7 Status Report on the Relocation Policy and Forum

Ms. Suzanne Wells, EPA OERR and Ms. Pat Carey, EPA OERR, presented a status report on the relocation policy and forum. Exhibit 8-5 describes background information about the relocation policy.

Exhibit 8-5

BACKGROUND INFORMATION ABOUT THE RELOCATION POLICY

In January 1995, the Waste and Facility Siting Subcommittee of the National Environmental Justice Advisory Council (NEJAC) requested that the U.S. Environmental Protection Agency (EPA) develop a policy to be used in determining when citizens should be relocated from residential areas near or affected by Superfund sites. EPA initiated the national relocation pilot project at the Escambia Woodtreating Superfund Site in Pensacola, Florida. EPA reviewed sites at which cleanups were conducted in residential areas and solicited the views of stakeholders by sponsoring a series of forums to provide stakeholders the opportunity to share their views and experiences.

In 1996 and 1997, reported Ms. Wells, seven forums were held for representatives of industry; state and local government; and public health, tribal, environmental justice, and other agencies. She explained that on June 30, 1999, the *Interim Final Policy on the Use of Permanent Relocations as Part*

of Superfund Remedial Actions was issued, she continued. The document, Ms. Wells continued, discusses the circumstances under which permanent relocation should be conducted as part of cleanup at a site that is included on the National Priorities List (NPL). The policy provides examples of situations in which permanent relocation could be considered, she said. The policy also stresses community involvement in relocations, said Ms. Wells.

A multistakeholder meeting was held in Washington, D.C. in March 2000, continued Ms. Wells. The meeting provided stakeholders the opportunity to share their comments on both policy and implementation issues. Characteristics of a successful relocation were identified during the meeting, she added.

The next steps in the development of the final policy involve the completion of case studies, the development of "mini-guidance" documents, the conduct of outreach forums, and the implementation of the guidance, said Ms. Wells.

4.8 Presentation by the U.S. Department of Transportation on the Uniform Relocation Act

Mr. Ronald Fannin, U.S. Department of Transportation (DOT), and Mr. Reginald Bessmer, DOT, presented information about the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Mr. Fannin explained that the intent of the act is to solve problems affecting people and reimburse the costs associated with moving. This act, he explained, governs what the Federal government can and cannot do in relocating people. Information about the act can be found at <http://www.fhwa.dot.gov/environment/env.sum.htm>, they noted. Ms. Miller-Travis pointed out that the act is the law that governs Superfund relocations.

4.9 Guidance for Reducing Toxics Loadings

The Air and Water Subcommittee held a joint session with the Waste and Facility Siting Subcommittee to discuss EPA's draft guidance for the efforts of local areas to reduce levels of toxics.

Mr. Fields acknowledged the efforts of Ms. Dana Minerva, Deputy Assistant Administrator of EPA Office of Water (OW) and Mr. Robert Brenner, Acting Deputy Assistant Administrator of EPA Office of Air and Radiation (OAR) to reduce toxics loadings in overburdened areas. He introduced a draft

guidance proposed by EPA that is intended to provide ideas and incentives to help states and localities reduce levels of toxics in their communities. He explained that the guidance describes a priority process for approval of state implementation plans (SIP) that include toxic reduction plans, financial support for programs under which environmental justice issues are addressed, and Federal recognition of state and local programs intended to reduce levels of toxic pollutants. He added that the guidance also includes an appendix that describes ways in which state and local governments can work together to reduce pollution in their communities.

Mr. Fields asked members of the two subcommittees for their comments. He asked that they provide their opinions about whether the guidance is adequate and complete and whether the administrative benefits are sufficient to encourage state, local, and tribal governments to participate in achieving reductions in levels of toxics. He also asked for additional incentives that may encourage various sectors to participate. He asked that the subcommittee review the guidance and provide comments to Ms. Jenny Craig, EPA OAR, by June 30, 2000. Mr. Fields added that EPA would then revise the guidance in response to comments received and present the revised version to the subcommittee for the next meeting of the NEJAC.

Ms. Nelson commented that the incentives currently listed in the draft guidance "sound wonderful," but stated that she would expect that many governments will not participate. She asked whether there were any regulatory mechanisms that could be used to encourage participation. Mr. Fields responded that the effort must be voluntary, since there currently is no regulatory mandate to participate. He added that EPA therefore must provide good incentives.

Ms. Rosa Hilda Ramos, Community of Cataño Against Pollution and member of the Air and Water Subcommittee of the NEJAC, asked why the guidance covers only hazardous or toxic substances. Ms. Craig explained that each EPA program uses a different definition of hazardous and toxic substances. She stated that, in the guidance, those terms have a general meaning. Ms. Craig added that the definitions of those terms would be stated in the guidance.

Mr. Tano stated that, as EPA reviews risk factors associated with toxic substances, the successes and failures of reduction efforts can be measured.

Mr. George Smalley, Manager, Constituency and Community Relations, Equiva Services LLC, served as proxy for Ms. Clydia Cukendall, JC Penney and member of the Air and Water Subcommittee of the NEJAC, asked what sources of funding are available to local municipalities for the replacement of diesel buses with buses that run on alternative fuels, an action recommended in the guidance. Ms. Craig responded that EPA currently does not have grant money available for that or other activities described in the guidance. She emphasized that good incentives are the key to making the voluntary program work. Ms. Marianne Yamaguchi, Director, Santa Monica Bay Restoration Project and member of the Air and Water Subcommittee of the NEJAC, added that resources are the greatest incentive. She suggested that pilot studies be used to "kickstart" the program, technical assistance training be provided to governments on implementing the program, and that efforts be made in direct outreach to specific communities that are interested in the program. Ms. Nelson asked that EPA consider encouraging the pooling of the resources of various government programs, for example, through Agency partnerships. Mr. Fields agreed that the suggestions made by the members of the subcommittee were valuable.

Ms. Ramos commented that most of the pollution in affected communities likely originates in industries that probably would not participate in such programs. Mr. John Seitz, Director, EPA OAR at Research Triangle Park, responded that he is encouraged by the positive outcome of the 3350 program, which was the precursor of the Toxic Release Inventory (TRI) voluntary reporting program. Mr. Leonard Robinson, TAMCO and member of the Air and Water Subcommittee of the NEJAC, expressed agreement with Mr. Seitz.

Referring to local efforts to develop goals and measure progress, Ms. Eileen Gauna, Professor of Law, Southwestern University of Law, asked that more guidance be provided to overburdened areas that may need more aggressive strategies for reducing levels of toxics than other communities. Mr. Fields agreed that areas that are overburdened may require more aggressive plans.

Ms. Wood stated that she understood the objective of examining existing statutes and enforcing environmental justice elements in those statutes. However, she questioned the applicability of the guidance to any particular region; it would be "in the eye of the beholder" or the resident who lives in an area, she said, whether his or her community is

overburdened. Ms. Wood added that perhaps EPA should focus the guidance on assessing the relative burden of pollution in the communities.

Ms. Miller-Travis commented on the retrofitting of diesel engines in New York City. She reported that she had worked with EPA Region 2 and the state of New York to encourage use of alternative fuels by making public funding available. However, she explained, the Metropolitan Transportation Authority (MTA) had blocked their progress. She said that she would like to use regulatory tools to bring MTA to the table, but does not wish to create incentives to help that agency take an action it had failed in the past to take to comply with the law. Referring to the pilot studies as suggested by Ms. Yamaguchi, Ms. Miller-Travis also acknowledged that it is difficult to find a source of funding, but financial help should not be provided to MTA to take an action that should be required of it. The money should be directed toward implementation of innovative technologies, she suggested.

To clarify the issue, Ms. Craig stated that the guidance and financial support are not intended to help industries or municipal agencies comply with existing laws. She said that they are meant to encourage voluntary efforts to “go above and beyond” existing regulations, adding that compliance with existing laws is assumed.

Ms. Eady said that her state had used provisions of the National Environmental Policy Act (NEPA) to prompt the transit authority to use alternative fuels.

Ms. Minerva addressed the issue of voluntary rather than regulatory programs. She presented the example of EPA OW’s total maximum daily loads (TMDL) program, which asks states to identify water bodies that do not meet water quality standards. She explained that EPA OW envisioned that, as states identified their impaired water bodies, they would take regulatory steps to ensure that the water bodies meet water quality standards and take additional voluntary steps to manage future growth in neighboring communities. She stated that regulatory compliance and voluntary efforts should work together.

Mr. Wilson reported that while EPA laboratory reports may indicate that water quality in an area meets the maximum contaminant level (MCL), he had noticed during his inspections of drinking-water supplies in various Georgia counties that the results are contradictory. He said that he had been told by a technician for a drinking water unit that the water

was contaminated, but the concentrations of the contaminants were not high enough to be considered a problem. Yet, an African American woman in that same community drew water from the faucet that bubbled in her glass. Ms. Minerva responded that MCLs and TMDLs fall under different EPA OW programs. She and Mr. Wilson agreed to discuss the issue further after the subcommittee meeting.

Ms. Minerva stated the EPA OW would be interested in helping communities conduct a pilot study. However, she acknowledged that funding is an issue. She added that her office’s incentives primarily would encourage early response to issues. Dr. Michel Gelobter, Graduate Department of Public Administration, Rutgers University and chair of the Air and Water Subcommittee of the NEJAC, asked about financial help through National Permit Discharge Elimination System (NPDES) or state revolving funds. Ms. Minerva responded that EPA had not given extensive consideration to the possible use of those sources.

Mr. Tano noted that there are similarities between the goals of the guidance and those of national and international standard-setting organizations, such as the International Standards Organization (ISO). He suggested that there should be link between the programs of such organizations and Federal procurement policies, through which a local government can become eligible for Federal procurement if it receives a form of “certification.” Mr. Fields said that that form of “voluntary coercion” would be considered as the draft guidance is revised.

5.0 SUMMARY OF PUBLIC DIALOGUE

When Ms. Miller-Travis opened the floor to public dialogue, the following comments were offered.

5.1 The Tri-State Environmental Council, Save Our Community (SOC), Inc.

Mr. Alonzo Spencer, Save Our Community, Inc. (SOC), told the members of the subcommittee about the Waste Technologies Industries (WTI) hazardous waste incinerator located in East Liverpool, Ohio. The incinerator accepts more than 200 mixed chemical wastes brought in by rail and truck, he said. Currently, the incinerator does not have a permit to operate, and the owners of the incinerator are seeking to renew the permit, charged Mr. Spencer.

SOC, he continued, had been struggling for more than 20 years against hazardous waste facilities. WTI had changed ownership three times, violating Ohio state law, he stated.

Ms. Terry Swearigen, SOC, then informed the members of the subcommittee that two children living in close proximity to the incinerator suffer from rare forms of eye cancer. Contamination from the incinerator is the suspected cause, she said. Ms. Swearigen then requested that the Waste and Facility Siting Subcommittee encourage the Administrator of EPA not to renew WTI's operating permit and asked that members of the subcommittee attend a hearing concerning the incinerator that was to be held in August 2000. Ms. Wood asked when the permit had expired. Ms. Swearigen responded that the permit became active in 1985 and expired in 1995. Ms. Miller-Travis asked Mr. Shapiro and Mr. Fields to investigate the issue of the permit. Mr. Shapiro stated his belief that EPA Region 5 currently was investigating the matter. Ms. Miller-Travis assured Mr. Spencer and Ms. Swearigen that the subcommittee would follow-up on all actions taken by EPA. In response to Ms. Swearigen's question whether the subcommittee could work with the ombudsman, Mr. Shapiro responded that it could. Ms. Miller-Travis then asked Mr. Shapiro to facilitate discussions with the ombudsman.

5.2 The Alabama African-American Environmental Justice Action Network and the Southern Organizing Committee for Economic and Social Justice

Ms. Ann Smith, Ashurst Bar/Smith Community Organization and Ms. Connie Tucker, Southern Organizing Committee for Economic and Social Justice and former member of the Waste and Facility Siting Subcommittee, spoke to the subcommittee about a landfill located in Tallapoosa County, Alabama. Garbage from 18 counties is dumped in the 30-acre unlined landfill, they reported. The landfill is located in a community that is 98 percent African American, Ms. Smith said, adding that EPA had not provided sufficient oversight of state programs. Ms. Smith submitted to the subcommittee a written statement describing various other sites in counties in Georgia, Alabama, and Louisiana that have concerns related to environmental justice. When Mr. Benjamin asked Ms. Smith what action she wished the subcommittee to take, Ms. Smith responded that she would like the subcommittee to launch an immediate investigation of sites regulated under RCRA in the state of Alabama, concentrating on both closed and

operating landfills. She also requested that the subcommittee recommend that EPA contact the U.S. Inspector General to conduct audits of the adequacy and performance of state programs funded by EPA.

Ms. Nelson asked Ms. Smith whether the landfill in Tallapoosa County, Alabama was open. Ms. Smith responded that the landfill currently was closed, but that an active effort was underway to obtain a permit for the facility.

Ms. Gross McDaniel noted that the requests made by Ms. Smith seemed very broad and asked for more specific requests. Ms. Smith responded that the requests were not very broad and reiterated her request that the subcommittee recommend that EPA inspect programs under RCRA conducted by states. Mr. Fields interjected that OSWER can work with EPA regions 4 and 6 to accumulate statistical information about compliance with RCRA permits and enforcement actions taken, with a focus on Alabama, Georgia, Mississippi, and Texas.

Ms. Tucker added that she would like the subcommittee to visit Louisiana and tour "Cancer Alley." Ms. Miller-Travis responded that the subcommittee could send a delegation as an immediate response.

5.3 Cleanup Standards on Nomans Island, Massachusetts

Mr. Jeff Day and Ms. Beverly Wright, Aquinnah Wamanoag Tribe, presented information about the lack of cleanup standards on Nomans Island, located in Weymouth, Massachusetts. While Nomans Island is part of the South Weymouth Naval Air Station, it was not included on the listing of the naval air stations on the NPL, they explained. The Massachusetts Department of Environmental Protection was able to persuade the U.S. Department of Defense (DoD) to conduct a limited removal of exposed unexploded ordnance (UXO) from the island, they continued. Mr. Day stated that the surface removal did not remove UXO embedded below the ground surface, below mean low tide, in cliff faces, in coastal ponds, or in wetlands. A study done by the Massachusetts Department of Public Health for the years 1987 through 1994 found that female residents of the town of Aquinnah (which includes all 540 acres of tribal trust lands) had a cancer rate that was 93 percent higher than the average rate for Massachusetts, he continued. Contamination from Nomans Island is the suspected cause, he said. The Aquinnah Wamanoag Tribe believes there is a correlation between the cancer

rates and carcinogenic materials known to be present on Nomans Island, he stated. The tribe would like EPA to conduct an investigation under the provisions of the Clean Water Act and the Clean Air Act, said Mr. Day.

Further, the Aquinnah Wamanoag Tribe would like the Waste and Facility Siting Subcommittee to support a recommendation that EPA intercede with DoD to urge that Nomans Island be cleaned up and to work with the Wamanoag Tribe in that process.

Ms. Miller-Travis compared the cleanup of Nomans Island with that of the island of Vieques, Puerto Rico. No cleanup standards have been set, she noted. Ms. Eady informed the subcommittee that only approximately one-third of all bombs on the island actually had exploded. Because of the habitat and wetlands on the island, the state of Massachusetts does not want to explode the remaining UXO, she continued. Further, she added, there is clear evidence that people are using the island. Institutional controls placed on the island are ineffective, she observed.

Ms. Miller-Travis proposed that the subcommittee draft a resolution recommending that EPA request cleanup by DoD. The resolution would be presented to the Executive Council of the NEJAC for consideration, she noted. She also recommended that the subcommittee continue its discussion with the Aquinnah Wamanoag Tribe and work with the Indigenous Peoples Subcommittee to address the issue.

6.0 SIGNIFICANT ACTION ITEMS

This section summarizes the significant action items adopted by the subcommittee.

The members of the subcommittee adopted the following action items:

- ✓ Continue to work with the WTS Work Group on the development of the draft status report, EPA's *Municipal Solid Waste Transfer Station Action Strategy*.
- ✓ Provide OSWER with points of contact for informing the subcommittee about OSWER's implementation of the BMPs presented in the draft report, *EPA's Municipal Solid Waste Transfer Station Action Strategy*.

- ✓ Discuss with EPA Office of Environmental Justice the development of a mechanism for involving all subcommittees, through a representative work group, in the ongoing discussion of the cumulative risk framework.
- ✓ Identify all actions taken by EPA Region 5 in response to community concerns about permitting issues related to the WTI incinerator in East Liverpool, Ohio.
- ✓ Recommend that EPA regions 4 and 6 develop and provide to the Alabama African-American Environmental Justice Action Network and the Southern Organizing Committee for Economic and Social Justice statistical information about compliance with permits and enforcement actions taken in those regions focusing on Alabama, Georgia, Mississippi, and Texas.
- ✓ Prepare for the approval of the Executive Council a resolution requesting that EPA intercede with DoD to urge that DoD cleanup Nomans Island, Massachusetts and work with the Wamanoag Tribe in that process.
- ✓ Recommend to the Executive Council that a resolution be developed to support the formation of a NEJAC work group to assist ATSDR and EPA in following public participation protocols pertinent to issues of environmental justice and to focus on bringing about resolution of issues of concern to the community of Mossville, Louisiana.

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