

**NATIONAL ENVIRONMENTAL JUSTICE  
ADVISORY COUNCIL**

**APRIL 2019 MEETING SUMMARY**

**Bethesda, Maryland  
April 30 – May 02, 2019**

## PREFACE

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee that was established by charter on September 30, 1993, to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice.

As a federal advisory committee, NEJAC is governed by the Federal Advisory Committee Act (FACA). Enacted on October 6, 1972, FACA provisions include the following requirements:

- Members must be selected and appointed by EPA.
- Members must attend and participate fully in meetings.
- Meetings must be open to the public, except as specified by the EPA Administrator.
- All meetings must be announced in the Federal Register.
- Public participation must be allowed at all public meetings.
- The public must be provided access to materials distributed during the meeting.
- Meeting minutes must be kept and made available to the public.
- A designated federal official (DFO) must be present at all meetings.
- The advisory committee must provide independent judgment that is not influenced by special interest groups.

EPA's Office of Environmental Justice (OEJ) maintains summary reports and/or transcripts of all NEJAC meetings, which are available on the NEJAC web site at <https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council-meetings>. Copies of materials distributed during NEJAC meetings are also available to the public upon request. Comments or questions can be directed via e-mail to <NEJAC@epa.gov>.

### **NEJAC Executive Council – Members in Attendance**

Richard Moore, NEJAC Chair, Los Jardines Institute  
Jill Witkowski Heaps, Vice-Chair, University at Buffalo School of Law  
Sylvia Orduno, Vice-Chair, Michigan Welfare Rights Coalition  
April Baptiste, Colgate University (by telephone)  
Charles Chase, University of Colorado-Denver  
Ellen Drew, Rural Communities Assistance Corporation  
Reverend Michael J. Ellerbrock, Virginia Tech  
Jan Marie Fritz, University of Cincinnati, University of Johannesburg, University of South Florida  
Rita Harris, Sierra Club (by telephone)  
Cheryl Johnson, People for Community Recovery (PCR)  
Virginia King, Marathon Petroleum Company  
Rosalyn LaPier, Piegan Institute and Saokio Heritage  
Mildred McClain, Citizens for Environmental Justice and Harambee House Inc.  
Melissa McGee-Collier, Mississippi Department of Environmental Quality  
Jeremy Orr, Natural Resources Defense Council  
Na'Taki Osborne Jelks, West Atlanta Watershed Alliance and Proctor Creek Stewardship Council  
Millicent Piazza, Washington State Department of Ecology  
Dennis Randolph, City of Grandview, Missouri  
Cynthia Kim Len Rezentes, Mohala I Ka Wai

Jerome Shabazz, JASTECH Development Services and Overbrook Environmental Education Center  
Karen Sprayberry, South Carolina Department of Health and Environmental Control  
Michael Tilchin, Jacobs Engineering  
Hermila "Mily" Trevino-Sauceda, Alianza Nacional de Campesinas  
Sandra Whitehead, National Environmental Health Association  
Sacoby Wilson, Maryland Institute of Applied Environmental Health  
Kelly Wright, Shoshone Bannock Tribes  
Dewey Youngerman III, Continental Maritime of San Diego

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**MEETING SUMMARY**

The National Environmental Justice Advisory Council (NEJAC) convened on Tuesday, April 30, 2019, Wednesday, May 1, 2019, and Thursday, May 2, 2019, in Bethesda, Maryland. This synopsis covers NEJAC members' deliberations during the three-day meeting. It also summarizes the issues raised during the public comment period.

**1.0 NEJAC MEETING**

This section summarizes NEJAC members' deliberations during the three-day meeting, including action items, requests, and recommendations.

**1.1 Welcome and Opening Remarks**

**Richard Moore**, the NEJAC Chair, welcomed attendees and gave an overview of the public comment procedure. He reminded public commenters about the time window allotted for comments and encouraged them to speak specifically to their issues and recommendations. He also noted that Spanish translation services were available, and that several state and regional environmental justice coordinators were present. He noted that some NEJAC members were attending the meeting via telephone. At his suggestion, the Council members briefly introduced themselves and stated their affiliations.

**1.2 Public Comment Period**

On April 30, 2019, the NEJAC held a public comment period to allow members of the public to discuss environmental justice concerns in their communities. A total of 11 individuals submitted verbal public comments to the NEJAC. An additional 4 individuals had signed up to speak but were not in attendance. Each speaker was allotted seven minutes.

**1.2.1 Stephanie Herron – Environmental Justice and Health Alliance for Chemical Policy Reform (Wilmington, Delaware)**

**Stephanie Herron** started by pointing out the lack of sufficient public notice for the current NEJAC meeting. The first notice of the meeting on the EPA Environmental Justice (EJ) Listserv was April 17, and notice was placed in the Federal Register two weeks prior to the meeting, which is the legal minimum amount of notice. Given the fact that people travel from all over the country to give comments, this amount of notice is inadequate. The meeting's location is also inaccessible to people from many parts of the country, as was the last meeting in Boston. Both meetings have been held in the Northeast in non-EJ communities, and Bethesda is an expensive area to stay, especially for people from smaller organizations with tighter budgets. Several commenters, including Ms. Herron, have requested that NEJAC meet in Puerto Rico in the aftermath of Hurricane Maria. Ms. Herron said that she joined several other commenters in demanding that the next NEJAC meeting be held in an EJ community, specifically in Houston, which has seen multiple explosions, fires, and chemical releases just in the past month.

Ms. Herron expressed her deep concern about EPA's proposed rollbacks on the risk management plan (RMP) rule, especially given that her home state of Delaware has 23 RMP facilities. In the past five years, eight incidents have caused the evacuation of over 1,100 people and almost \$24 million in damage in Delaware. These numbers do not include the most recent incident at the Croda facility, where there was a major release of ethylene oxide, or recent incidents at the Delaware City Refinery. Ms. Herron requested that NEJAC send a letter to EPA recommending that they abandon proposed rollbacks to the RMP rule. In addition, the EPA's proposed rule on hydrochloric acid and its request for comments on the Integrated Risk Information System (IRIS) health risk value for ethylene oxide is completely inappropriate. When it comes to protecting public health, the EPA should abandon their attacks on science and instead strengthen protections for communities like Ms. Herron's.

**Jill Witkowski Heaps** said that NEJAC is very interested in hearing more about the proposed rollbacks on the RMP rule and asked if Ms. Herron's group had a one-pager or an FAQ on the subject, and **Ms. Herron** said that she would be happy to share that. **Dewey Youngerman** asked if there were any other areas where she would like to see NEJAC meetings take place, and in addition to Puerto Rico and Houston, Ms. Herron suggested Louisiana communities like Mossville and Lake Charles, and West Virginia communities including Institute and Charleston. These areas are facing multiple RMP facilities and legacy contamination issues, and their burden should not be increased by having to travel long distances to testify. **Chair Moore** said that Puerto Rico has not been completely ruled out as a future meeting location, and that NEJAC has discussed sending an RMP letter to the Administrator.

**Jeremy Orr** asked for a response to the issue of lack of notice, and **Matthew Tejada** said that the Office of Environmental Justice (OEJ) can only control meeting advertisement up to a certain point. For the current meeting, the notice was not published in the Federal Register until 15 days before, and NEJAC cannot advertise through their Listserv until the notice is released. He said that OEJ shares the concerns about the timely advertising.

### **1.2.2 Celeste Flores – Faith in Place (Lake County, Waukegan, Illinois)**

In addition to her work with Faith in Place, **Celeste Flores** is the Co-Chair of Clean Power Lake County, a grassroots organization working to bring renewable energy to the area and achieve a just transition for coal plants. She asked NEJAC to urge the EPA to develop and enforce specific regulations for ethylene oxide (ETO) rather than bundling ETO with the rulemaking for hydrochloric acid production facilities. Waukegan, Illinois is a community of immigrants, low-income and working class families, primarily African-American and Latino/Latina. There is a coal fire power plant with active coal ash ponds on the lakefront, five Superfund sites nearby, and two facilities that emit ETO, a Class 1 carcinogen, into the air. Ever since learning about the harms of living with these toxins, Ms. Flores and many other residents have become actively engaged in the community to try to change these conditions. Ms. Flores and her community want NEJAC to work with EPA to address ETO usage across facilities in the U.S. At the moment, Lake County has policies that address stationary sterilization facilities, but they need policies to address the production process as well. They hope that NEJAC will stand behind Lake County communities that are fighting for the right to breathe clean air.

**Cheryl Johnson** asked if Lake Michigan was Lake County's source of drinking water, and **Ms. Flores** said that it was. Ms. Johnson said that Chicago's Superfund sites are ineligible because they also use filtrated water from the lake as drinking water, and that is why the re-authorization of Superfund should include air quality. This would place Illinois on the top of the National Priorities

List (NPL). Ms. Johnson said that in the future she would like to serve on a NEJAC working group to look at re-authorizing Superfund sites. **Karen Sprayberry** asked if the Lake County community has reached out to the EPA before, and **Ms. Flores** said that they have reached out as organizations and have also gotten both Senator Duckworth and Senator Durbin to reach out to the EPA, only to be told that they will not do testing in Lake County. The Lake County Health Department and surrounding areas have put together enough funding for a month's worth of testing, but this is nothing compared to what the EPA could do.

**Melissa McGee-Collier** asked if the coal plant in the community was still in operation and emitting ETO. **Ms. Flores** said that the ETO is emitted by the Medline and Vantage facilities. The coal plant is a different issue, but it is on the lake and contaminating the groundwater. **Sacoby Wilson** asked if they had thought about using Title VI of the Civil Rights Act as a legal tool, and **Ms. Flores** said that they had not, but that they would consider it. Dr. Wilson suggested that since Senator Duckworth is involved in the Environmental Justice Caucus, the community should reach out to her to step up and work on Title VI. He also asked what the health department was doing, and Ms. Flores said that the Lake County Health Department did bring in the EPA and IEPA to talk to the mayors, but community members have not been allowed to engage in those conversations. Dr. Wilson asked if there was a local county EJ plan to leverage, and Ms. Flores said that there was not, to the best of her knowledge.

### 1.2.3 Lih Young

**Lih Young** appeared before the NEJAC as a reformer, advocate, and activist. She expressed concerns about government function when it comes to social issues, and the fact that civil rights are, in her opinion, practically ignored. This injustice penetrates every aspect of society, and recently public-private partnerships (PPPs or P3s) have been contributing to the problem. Dr. Young has testified before many government agencies about the importance of enforcement to prevent bad actors from harming the public and protect the wellbeing of society. **Mily Trevino-Sauceda** asked for clarification around the term PPP, and **Dr. Young** explained the ways that some public-private partnerships exploit taxpayer money and contribute to a larger system of the abuse of vulnerable populations. **Na'Taki Osborne Jelks** added that in a lot of PPPs the community is left out, and they should start to advocate for public-private-community partnerships to make sure that the community plays a central role in the process, especially when public money is involved. **Dr. Wilson** said that this speaks to the issue of how gentrification happens where communities basically pay to be gentrified. NEJAC should go back to their earlier report on equitable development, where P3s come into play and taxpayer money is used to exploit communities with little accountability. **Jerome Shabazz** asked for particular recommendations to ensure greater accountability, and **Dr. Young** said that they were included in her attachments.

### 1.2.4 Emma Cheuse

**Emma Cheuse** expressed support for concerns and comments raised by the Environmental Justice Health Alliance for Chemical Policy Reform and community groups on the issues of ETO and prevention of chemical disasters at industrial facilities. EPA's National Air Toxics Assessment (NATA) has identified a serious national problem of toxic ETO air pollution, which has been around for years. EPA should use its full Clean Air Act authority to reduce these preventable emissions and end their cumulative impacts, and they should require all sources to take steps to protect public health. The risk assessment that EPA has done underestimates the risk to vulnerable populations, and they should follow the toxicology evaluation from the IRIS program, which shows that air pollution causes cancer, neurological harm, and other serious health problems. In order for EPA to

do its job, it must listen to its own scientists and to independent scientists, who submitted a letter to EPA on this issue the week prior to this meeting. Ms. Cheuse also noted that there is a robust comment docket on this issue.

Ms. Cheuse also mentioned what she views as the administration's unlawful delay of the 2017 Chemical Disaster Rule, which amended the Clean Air Act's Risk Management Program. Though the rule is in full effect, EPA is still pursuing rollbacks that will harm the communities of color and low income communities that are most in harm's way from chemical disasters. The Chemical Safety Board has advised EPA to implement and enforce the rule rather than gutting it, and Ms. Cheuse asked NEJAC to call on EPA to stop the rollback plan. In statements like EJ 2020 the EPA has made promises to account for and provide environmental justice, and the test is in the action that EPA takes. Ms. Cheuse called on EPA to provide more funding and staff support for NEJAC, more public notice and support for community advocates, and to follow up on requests made to raise chemical disaster prevention and air toxics standards as top priorities.

**Chair Moore** asked for clarification about the deadline for a public comment period, and **Ms. Cheuse** said that the first rulemaking where EPA received comment on facilities emitting ETO was the hydrochloric acid rulemaking, and the comment period closed on Friday, April 26. The EPA is considering not using the IRIS cancer risk value of ETO for regulatory purposes, and this runs counter to science. Chair Moore asked if she was asking NEJAC to send a letter to the Administrator, and she said that community advocates are calling for NEJAC to advise EPA on the strong need to protect communities from ETO.

**Ms. Trevino-Sauceda** asked for a written submission on this topic, and **Mr. Shabazz** asked if there was a particular industry or offender of concern for emitting ETO. **Ms. Cheuse** said that ETO is coming from a number of different kinds of facilities, including sterilizers and chemical manufacturers. EPA has full information about this and the harm is preventable if the right solutions are put into place.

### 1.2.5 Abigail Omojola

**Abigail Omojola** urged NEJAC to send a recommendation to EPA to continue to use sound science, specifically IRIS and the health risk value of ETO, and to do more to protect the health of impacted communities. Breast Cancer Prevention Partners translates the large body of scientific evidence linking breast cancer to chemical exposures into public education and advocacy to reduce breast cancer risk. The National Toxicology Program and IARC both categorize ETO as a known human carcinogen when it's inhaled, and studies by the National Institute for Occupational Safety and Health have found increased incidence of breast cancer in women who experienced cumulative exposure to ETO while working in commercial sterilization facilities. Weakening the safety standards does a huge disservice to communities living near facilities and plants, and by EPA's own calculation, these are disproportionately communities of color and low-income communities.

When IRIS updated the risk assessment for ETO in 2016, ETO was found to be much more potent than previously estimated. Based on this new information, the acceptable exposure level of ETO was lowered, and this revealed that communities across the country are being exposed to cancer risk that is far above what the EPA has deemed acceptable. Rather than undermining and questioning the updated science, the appropriate response from the EPA is to take decisive and immediate action to protect affected communities.

**Dr. Wilson** asked how Breast Cancer Prevention Partners (BCPP) has engaged other partners on this issue and if they have reached out to the congressional environmental caucus, and he asked what she wanted NEJAC to do as it pertains to cancer risk, disparities, morbidity, and survivorship. For women of color, reproductive effects should also be discussed. **Ms. Omojola** said that BCPP has worked with people in the room on advocacy and has spoken to members of Congress about these issues. They are very much focused on public education and working with industry to reduce toxins in their chemicals, to make sure that toxins do not reach communities in the first place. Dr. Wilson asked if Ms. Omojola was asking NEJAC to be involved with other agencies in an interagency working group on this issue, and she said that that would be helpful.

**Ms. Trevino-Sauceda** said that Latinas have less incidence of breast cancer than any other women of color, but they have more risk because of a lack of information. She asked whether BCPP had any information about recent incidents of Latinas working in agriculture who contract breast cancer, and **Ms. Omojola** said that she would pass on some information from the scientists at BCPP.

### **1.2.6 Linda Whitehead – Delaware Concerned Residents for Environmental Justice (Wilmington, Delaware)**

**Linda Whitehead** presented comments on ethylene oxide. She shared her experience with chronic lymphocytic leukemia, which produced many side effects and forced her to take an early retirement. Lymphocytic leukemias are some of the cancers caused by exposure to ETO, which damages DNA and is 30 times more carcinogenic than was previously thought. Dr. Whitehead said that she lived close to the cancer cluster in New Castle, Delaware where the recent ETO release occurred at the Croda plant. As research on ETO continues, it has become clear that the harm extends beyond the one-time chemical release; the regular levels in the atmosphere contribute to cumulative impacts on a daily basis. NEJAC should make a formal recommendation to the EPA Administrator requesting that the EPA act to stop the high cancer risk of ETO and abandon their current course of attacking and undermining science. Manufacturing plants need more regulation, and the EPA should recognize the alarming nature of cumulative ETO impact over time. Furthermore, the EPA should improve the RMP program to minimize risk from hazardous facilities and make sure that communities surrounding them are fully aware and prepared in the event of a serious release.

**Ms. Sprayberry** asked if they have tried to talk to Croda and work with emergency response to communicate in the event of a release, and **Dr. Whitehead** said that communication has been an issue. **Chair Moore** asked about a public or community meeting with representatives of Croda after the event, and **Dr. Whitehead** said that there was a meeting, but the general feeling was that the response from Croda has not been strong enough. **Ms. Sprayberry** asked if they have considered using EPA grants for creative problem-solving, and **Dr. Whitehead** said that there is always room for more action on the community side.

**Vice-Chair Heaps** thanked all of the participants for their comments on ethylene oxide, especially within the regulatory process context. She said that not all of these comments were on the regulations.gov docket and invited participants to email any comments to her so that she could start on a letter for this meeting. **Ms. King** asked if Dr. Whitehead was speaking to existing regulation or if she wanted new regulation, and **Dr. Whitehead** said that she thought it was new regulation. **Vice-Chair Heaps** said that often NEJAC will comment on a pending regulation even if the formal comment period is closed. **Ms. McGee-Collier** asked how the state environmental agency has responded to complaints and interacted with communities, and **Dr. Whitehead** said



that she was not directly involved, but her understanding was that they had not gotten satisfactory responses from the state.

### 1.2.7 Stephanie Schwarz

**Stephanie Schwarz** addressed EPA's implementation of the Toxic Substances Control Act (TSCA). Under TSCA, which was amended in 2016, EPA must determine whether chemical substances present unreasonable risk to human health or the environment, and they must evaluate those risks without consideration of cost. TSCA has a unique emphasis on determining the risk posed to potentially exposed or susceptible subpopulations, and this reflects congressional recognition that certain communities are disproportionately exposed to chemical substances. Despite EPA's broad commitments on environmental justice, they have failed to incorporate any environmental justice considerations into their Section 6 risk evaluations. EPA has determined that they will not evaluate exposure pathways through air, water, or land, where those pathways are regulated or may potentially be regulated by other EPA statutes. They have also failed to evaluate risk from legacy uses, including exposure to disposal of asbestos. By excluding known exposures, EPA treats risk resulting from those exposures as zero, despite evidence that establishes that exposure levels well above zero are occurring. These exposures are occurring even accounting for actions taken under other EPA statutes. A large number of facilities that use these chemical substances are concentrated in communities of lower socioeconomic status, but EPA is now ignoring emissions from those facilities in its risk evaluations.

NEJAC should advise the EPA, in its risk evaluations, to reconcile its decision to ignore releases covered by other statutes with its duty to adequately protect communities that carry the burden of pollution permitted by those other laws. Most likely, EPA will find that it cannot assess risk to environmental justice communities without looking at those exposure pathways through air, water, and land. Under TSCA, workers are also a potentially exposed or susceptible subpopulation, as they often live and work in EJ communities. NEJAC should advise EPA to identify risk to workers rather than rely on nonbinding regulations under other statutes, as EPA has said it will do.

**Dr. Wilson** said that he appreciated the focus on exposure science, and that the current regulatory schema is broken, as statutes like the Clean Water Act, Clean Air Act, and Safe Drinking Water Act have never addressed the issues of EJ communities. There is an intersection of susceptibility (for example age, genetics, and predisposition) and vulnerability (economic, social, and geographic hazards). The EPA needs to conduct sound science, including cumulative risk assessments, and bring Title VI together with TSCA to address these issues. **Ms. Schwarz** said that TSCA mentions potentially exposed or susceptible subpopulations, and EJ communities are captured under both of those categories. EPA's 2020 Action Agenda also specifically mentions cumulative risk assessments that EPA should be conducting, but are not currently doing, under TSCA. Dr. Wilson reiterated that this is a science issue, and NEJAC needs to address it by leveraging tools like TSCA and previous NEJAC reports.

**Vice-Chair Heaps** thanked Ms. Schwarz for adding her comment to many others calling for continued scrutiny of TSCA, and this might be a topic for a longer-term NEJAC subcommittee to make sure it's being implemented correctly. **Ms. Schwarz** added that there is currently a prioritization process for EPA to select the next twenty chemicals that will undergo risk evaluation, and NEJAC could advise EPA to undertake outreach to communities that are impacted by those twenty high priority chemicals.

### 1.2.8 Joseph Bocchiaro III

**Joseph Bocchario** spoke about his group's efforts to prevent a factory from being built in their community, which they fear could become the next Superfund site. Jefferson County is affected by unusual weather patterns and temperature inversions that trap pollution in the air. Many citizens depend on well water and septic tanks, and there is extreme economic diversity in the area. As in other areas, statistically, minorities live in the poorest neighborhoods, close to the proposed factory. The plant, Rockwool, burns coal and natural gas to melt rock and make mineral wool insulation, which is the replacement product for asbestos in the building industry. The facility will emit a large amount of air pollution and could potentially pollute the community's aquifer. According to one analyst, as stated in the Rockwool permit, the facility will emit 471 tons per year of volatile organic compounds, 239 tons per year of nitrogen oxides, and 154 tons per year of particulate matter. There is an elementary school right across the street, and a VA hospital and other medical facilities nearby. A fracked natural gas pipeline is being built to the factory, and this is disrupting the Boyd Carter Cemetery, where descendants of enslaved African Americans are buried. The community and citizen scientists realized that they needed a health risk assessment; a request for proposals attracted only one bidder, and that company was turned down because it is partial to the polluting industry. Upon consulting the Agency for Toxic Substances and Disease Registry (ATSDR), Dr. Bocchario learned that they do not perform health assessments on projects that have not been built. He said that this system seems upside down; why do we have to wait until something is built and people get sick and die before we investigate it, and how can we trust a system that has rules written by an industry that is more profitable when the rules are lax.

Dr. Bocchario asked NEJAC to help provide a plain English explanation to people about what is happening and what the risks are to their community, so that they can make informed decisions about whether or not they want to live there.

**Michael Tilchin** asked if they have looked at health and environmental impacts in areas where Rockwool plants currently exist, and what if any pollution controls the owner/builder of the plant has committed to including. **Dr. Bocchario** said that Rockwool or Roxul has factories all over the world, and they are all located in places that are underprivileged and susceptible to pollution. Since the factories are usually surrounded by clusters of other industries, it can be difficult to isolate the impacts of those particular factories on the communities. Engagement with Rockwool has been curt, but the West Virginia Department of Environmental Protection (WVDEP) did issue a permit to Rockwool allowing the substances listed above. **Ms. McGee-Collier** asked if the facility was operating, and **Dr. Bocchario** clarified that while it was not operational and they do not yet have a building permit, construction has begun. Ms. McGee-Collier asked about the zoning of schools in West Virginia, and Dr. Bocchario said that according to zoning rules, you cannot build a school across the street from a factory, but you can build a factory across the street from a school. She asked if the facility was receiving federal funding, and Dr. Bocchario said that they have received state funding and that there was a tax incentive agreement that was kept secret from the public until after all of the contracts were signed. Ms. McGee-Collier said that if they can tie some type of federal funding to the facility, then the facility is required to do an environmental impact statement (EIS), which would include a health assessment.

**Dr. Wilson** emphasized that building a pipeline through a black cemetery is an act of desecration that needs to be adjudicated, possibly with the help of historic preservation. He pointed out that NEPA does not require a health assessment, which is a gap, but Title VI could be used to fill that gap by bringing up the cemetery and the disparate impacts on the surrounding low income communities. This speaks to a larger point for NEJAC to consider about how to deal with cultural assets like cemeteries and churches, which are often under attack in EJ communities. **Jan Marie**

**Fritz** asked about the origins and membership of CCAR, and **Dr. Bocchario** said that the group grew organically out of a small group of concerned citizens asking the right questions of the right people. **Mr. Youngerman** said that if the chemical statistics that Dr. Bocchario read earlier were written in the permit, an EIS might have already occurred, and **Dr. Bocchario** said that he would check. **Ellen Drew** asked if noise pollution could be used against the plant, and **Dr. Bocchario** said that there would be a significant amount of noise associated with the facility. **Cynthia Kim Len Rezentes** read out part of Section 106 of the Natural Historic Preservation Act, and said that it could be used as leverage where the burial ground is concerned.

**Chair Moore** said that comments around the lack of sufficient public notice were very important. He also flagged the significance of budgets and grants, such as the EJ Small Grants, and references that were made to the importance of an interagency working group.

### 1.2.9 Susan Sabella

**Susan Sabella** presented the remarks of Juan Parras, the Director of Texas Environmental Justice Advocacy Services (Tejas). He was unable to attend the meeting, partly due to short public notice and also because of the tremendous environmental issues that Houston has experienced since Hurricane Harvey. The ongoing threat of another environmental disaster needs to be seriously addressed by the NEJAC. Mr. Parras requested that they focus on the Houston Ship Channel area and invited the NEJAC to hold their next meeting in Houston, Texas. He referenced the EJ community of Manchester, Texas, which is a classic case of environmental racism. To date, not one state or federal agency has addressed the cumulative impacts or health and safety issues in that community. Surrounding industries and chemical plants continue to apply for increases in air toxin releases, including the Valero plant, which is seeking an air permit to release 512 tons of hydrogen cyanide per year. Even when the community can successfully reduce air toxins on a new permit, the sheer number of facilities in and around Manchester makes it impossible to truly improve their conditions. Mr. Parras asked for NEJAC's attention and assistance to help the citizens of Manchester better their living environment for themselves, their community, and their children. He also included a series of maps showing the location of plants, schools, parks, and infrastructure around Manchester, as well as a list of reference websites of recent environmental incidents in Houston. Ms. Sabella said that she was happy to take questions and comments back to Mr. Parras and his colleagues.

**Dr. Wilson** remarked on the theme of cumulative impacts, and he said that NEJAC should think about how they can advise a different approach to air quality management. They need to recommend an airshed approach in heavily industrialized regions, to look at the cluster effect of multiple facilities releasing compounds. The airshed approach would force different entities to work together or be regulated together in order to bring down levels. They should also look at best practices in other areas like California that have air management districts.

**Ms. Drew** said that they know Houston does not have zoning for these kinds of things, which is a real issue, and she said that she was curious about Mr. Parras's suggestions. **Dr. Wilson** said that they recently published a paper in Environmental Justice talking about vulnerability in Houston pre-Hurricane Harvey, which he mentioned because it tied into conditions for disasters and lack of equity of emergency preparedness and evacuation. He challenged the NEJAC to think about how they could re-conceptualize looking at these issues with the interagency working group, which should involve agencies like FEMA and Homeland Security. **Chair Moore** said that Tejas and many other organizations had been testifying in front of NEJAC since the beginning of the Council, and it takes time to build trust. Often regions are the closest contact that grassroots organizations have

with the EPA, and sometimes the regions do not follow up on commitments. He said that Mr. Parras reminded him that Region 6 made a commitment several years ago to assist the Manchester community, and the region did not follow up on that commitment. He asked the Region 6 representative in the audience to take that comment back to the region.

### 1.2.10 Dora Williams

**Dora Williams** asked NEJAC to call on the EPA to reverse their apparent desire to undermine the integrated risk information systems. Ms. Williams's community is in walking distance of the Croda facility, and when the recent spill occurred, there was no emergency contact system in place, and the community was not told about the ethylene oxide release until 24 hours later. **Sylvia Orduno** asked if they had any recommendations about types of communication, and Ms. Williams said that there is an evacuation plan in place from Wilmington, but it excludes New Castle. Continuing the evacuation route signs and having a designated place to go would be a good start. **Michael Ellerbrock** asked if they knew why there was no communication, and **Ms. Williams** said that they did not know.

**Dr. Wilson** said that differential notification is one form of environmental injustice. He asked if they had notified other communities and **Ms. Williams** said that their community was basically black and brown, while the other community in the area was much less diverse, and this less diverse community seemed to be much better informed. Dr. Wilson asked how far the two communities were from each other, and Ms. Williams said that they are less than two miles apart. Dr. Wilson said that equity in preparedness and evacuation was an important issue and asked what the role is of the environmental justice coordinators in Delaware. Ms. Williams said that the communication was very limited and somewhat stagnant because of political differences.

**Mr. Youngerman** said that it is possible that the community is in a calculated safe zone and that could account for the lack of signage, and conversations with the city and regulators might help to get signs posted. A local OSHA office could be a possible resource for a multiagency approach. **Ms. McGee-Collier** asked if there was any local environmental planning commission made up of industries, and **Ms. Williams** said that if they did, she did not know about it. Ms. McGee-Collier said that in Pascagoula, Mississippi, they worked with a local environmental planning committee to allow community members to attend meetings and ask their own questions, and this could be an avenue for New Castle residents to investigate.

### 1.2.11 Michele Roberts

**Michele Roberts** introduced a short video produced by her organization called Life at the Fenceline. She echoed other commenters and said that it was important to show why we need cumulative impact assessments and an airshed approach. Across the country, people who live on the fenceline have been left to fend for themselves against plants and facilities that are expanding into their communities. Life at the Fenceline highlighted the dangers facing the communities who live in fenceline zones near high-risk chemical facilities. The poverty rate is much higher here than the rest of America, and people living in these zones are disproportionately black and Latino. Though they did not have a choice in allowing such dangerous facilities to be built, they are the ones that live with the risks and fight every day for safer lives. At the end of the video, Ms. Roberts drew attention to Mossville, Louisiana, a fenceline community with only 100 families still remaining that has not received attention from any agency. Video link: <https://comingcleaninc.org/fencelines>.

**Dr. Wilson** asked Ms. Roberts to expand on the role of the EJ coordinators in Delaware, and **Ms. Roberts** said that the coordination is poor to say the least. After the Croda incident there was very little outreach, and it took the urging of the communities to set up a meeting, and she reiterated the comment that the two white communities were the only ones contacted when the incident occurred. Croda was fined \$249,000, but it is doubtful that that will cover all of the monitoring and testing of air and soil that needs to be done, let alone any remediation.

**Dr. Ellerbrock** asked if the media covered the Croda story, and **Ms. Roberts** said that the media actually did a great job. One local reporter in particular, Maddie Lauria, covered the matter extensively and has tried to engage with the health department, but she has not gotten any response. Across the board, there has been a clear disconnect between the health department and other members of the federal government that are supposed to protect human health and safety; that is why a comprehensive response process and policy are so important to EJ communities. At the conclusion of her comments Ms. Roberts said that she needed to place a sense of urgency on the Council's hearts and spirits about the Mossville community.

### **1.3 Closing Remarks and Adjournment**

**Vice-Chair Heaps** summarized her impressions from the public comment session. Many people spoke about the urgency of ethylene oxide, which currently has a hydrochloric acid rule, as well as the problematic approach by the EPA of disregarding IRIS and current science. The rollback of the chemical disaster rule sounds like a timely and important issue for NEJAC to weigh in on, and they could do so in a short and concise letter. She said that she would be happy to draft two letters for the other members to review, and several other members expressed their support. **Mr. Tejada** said that as they are thinking ahead to the NEJAC business session, members should keep in mind issues where they would like clarity in order to be responsive to the concerns they get from the community. **Vice-Chair Heaps** said that she would email members a copy of the notes she took during the meeting, and suggested that they might ask EPA to give them a follow-up report on what has been done on the Mossville community.

## **2.0 Welcome, Introductions, Day One Recap and Opening Remarks**

On Wednesday, May 1, 2019, **Chair Moore** welcomed everyone in attendance and asked Council members and guests to briefly introduce themselves. He noted that some Council members may join the meeting by telephone throughout the day and turned to Mr. Tejada for his remarks. **Mr. Tejada thanked** everyone for their work the previous evening and turned the meeting over to Vice-Chair Orduno.

### **2.1 Welcome & Dialogue: U.S. Environmental Protection Agency Leadership**

**Vice-Chair Orduno** explained that the Council had organized their questions into three discussion categories, with each category led by a different NEJAC member. She welcomed Deputy Administrator Darwin and invited him to make some opening remarks before the discussion.

#### **2.1.1 Henry Darwin, Acting Deputy Administrator – U.S. EPA**

**Henry Darwin** thanked the NEJAC for their service and for committing themselves to making a difference. Mr. Darwin spent eighteen years at the Arizona Department of Environmental Quality, eventually serving as the director before moving to the EPA. Throughout his career he developed a special interest in the ways that a management system can help improve an organization. His

system is based upon regular monitoring of the important things that they do on a regular basis, and he has challenged the team at OEJ to find a way to evaluate the effectiveness of EPA's environmental justice program. In order to evaluate the success of a program and discover new opportunities, there must be a way to evaluate the program in its existence.

Under Mr. Darwin's leadership, some minor reorganization has taken place in order to enable the agency to align policy priorities with the people who are actually doing the work. The agency received several recommendations by independent third party scientists to centralize management of their laboratories. Accordingly, they are in the process of naming the Office of Research and Development as the national program for the agency's labs. Additionally, they have realigned regional offices so that each one follows headquarters' organizational structure. This will help the organization to ensure that resource needs and allocation match policy direction and priorities. Each region's environmental justice program is now placed in the immediate office of the regional administrator, and this will facilitate coordination of environmental justice efforts between regions.

Mr. Darwin presented some of the Administrator's priorities that may impact environmental justice. These include: children's environmental health; the EPA's lead action plan; efforts on the lead and copper rule; efforts related to perfluorooctanoic acid (PFOA) and per- and polyfluoroalkyl substances (PFAS); and communication of risk, which ties the previous priorities together. Mr. Darwin thanked the Superfund working group and said that he looked forward to reviewing their report, and he gave a special thanks and acknowledgement to the NEJAC members whose terms were about to expire.

**Vice-Chair Orduno** thanked Mr. Darwin and asked the discussion leaders to introduce themselves. **Melissa McGee-Collier** introduced herself, and **Mr. Darwin** asked her if she would go back and write her Title V permits differently based upon her later experience as an inspector, and she said that she would. As an inspector, she was able to look around and see who was in the facility and who was impacted by the permits she wrote, and if she could go back now she would make the permits more stringent. Mr. Darwin said that it might be a best practice to have permit writers visit facilities, and Ms. McGee-Collier agreed. Mike Tilchin and Sacoby Wilson introduced themselves, and then returned to Ms. McGee-Collier to begin the discussion.

**Ms. McGee-Collier** began the discussion with a question about measuring performance. As staff go about developing performance measurements, are states, tribes, and U.S. territories engaged in the process and helping to develop indicators? **Mr. Darwin** said that there were always opportunities to have meaningful conversations. They have not finalized anything, and they do plan to undertake significant outreach with partners like NEJAC to reach meaningful outcomes for communities. Ms. McGee-Collier said that counting the number of public comments does not get you to effectiveness of a program. Looking at qualitative and quantitative measurements of environmental protection is effective because environmental protection is tied to environmental justice. She asked if EPA would consider having regional hearings on EJ budget gaps, and Mr. Darwin said that he would take that request and get back to the NEJAC. **Vice-Chair Orduno** asked if EPA had been considering the idea that regulatory and budget responsibilities might be increasingly passed on to the states and concerns that those responsibilities would not be executed effectively. **Mr. Darwin** said that the majority of federal environmental programs in states are executed by the states with EPA oversight. The states have matured significantly since those programs were first enacted, and their relationship with EPA has not necessarily changed at the same pace. Rather than the parent/child relationship of the past, EPA and the states should have a peer to peer relationship, and they are in the process of making that happen.

**Dr. Wilson** asked how the EPA integrated environmental justice considerations into performance evaluation when it comes to budgetary determinations. **Mr. Darwin** said that logic model tools have yet to be used at EPA, and in order to utilize them, EPA has to think differently about the data it collects. Dr. Wilson said that EPA has a data input problem to inform their indicators, but at the same time, they don't want to accept citizen science. Mr. Darwin said that they do have concerns about the accuracy of their monitors, and they are actively working to find the most appropriate model for citizens to monitor their own environments. EPA's role should be less about direct oversight and more about helping the states identify better opportunities for gathering accurate information. Dr. Wilson said that speaks to the need for baseline data and asked about action indicators in the EJ 2020 Plan. Mr. Darwin said that he was not aware but he would go back and check. Dr. Wilson mentioned frustration and concerns about the reduction of EJ coordinator full-time equivalents (FTEs) from 1.5 to 1.3 and asked about the determination process behind this change, which is contrary to the belief that more staffing is necessary. Mr. Darwin said that if FTE count is related to budget, they have to make adjustments according to allocations from Congress. EPA is trying to do the best they can with what they have, but first they have to figure out what they have and where it is going. Dr. Wilson said that when they think about the cost benefit analysis they need to emphasize return on investment for EJ communities, and that is what NEJAC wants to see.

**Mike Tilchin** said that one of NEJAC's requests was for the Deputy Administrator to request NEJAC's help with performance indicators related to the effectiveness of environmental justice. **Mr. Darwin** said that he would talk to Matthew Tejada about the best way to create a charge. Mr. Tilchin said that there is no indication that unequal environmental impacts on EJ communities have diminished, as evidenced by the public comment session the previous night. The NEJAC was interested in hearing about Mr. Darwin's past experiences of successfully engaging with advisory committees and what made those engagements so effective. Mr. Darwin said that he has always found brutal honesty to be very helpful. Any problem that they know about is a problem that they can work to address, and he encouraged the NEJAC to be very honest with EPA about what they should or should not be doing.

**Vice-Chair Orduno** summarized the requests from NEJAC thus far. In addition to the charge to NEJAC from EPA, she mentioned the potential to reinvest recovered EPA budgetary funding into more EJ coordinators and continued funding of EPA rulemaking, implementation, and enforcement at the same levels, despite proposed rollbacks. They also requested that any response from EPA be communicated in writing within a prompt timeframe. Vice-Chair Orduno invited other NEJAC members to present questions and comments.

**Vice-Chair Heaps** expressed NEJAC's disappointment that Administrator Wheeler could not attend the meeting after members had rearranged their schedules to have a dialogue with him. She requested that he find time to meet with at least a portion of the NEJAC in the near future. She also requested earlier public notice for future meetings. She asked that EPA and the administration strongly consider scaling back the pace, volume, and content of the regulatory process at EPA. In order to hear from stakeholders and industry and establish sound science, the regulatory process can often move very slowly, but at the moment they are seeing rollbacks happening at a breathtaking pace without the chance for meaningful public input.

**Ms. Trevino-Sauceda** raised the issue of the Worker Protection Standard, which was in the process of being implemented when rollbacks were announced. The new regulations would have introduced new protections for workers and their families, including preventing minors from applying chemicals. Instead, the regulation will be weakened, which seems to go against the EPA's stated prioritization of children's environmental health. **Mr. Shabazz** said that it was encouraging

to see the EPA embracing the Lean management strategy, but efficiency is usually about performance over time, and the time factor is very important for EJ communities. He wondered if EPA had any outward-looking approaches to report out to the citizens about the agency's progress. **Mr. Darwin** said that part of his job is to create that sense of urgency that is missing from the agency, and that EPA does intend to eventually make their work public. Mr. Shabazz advised EPA to communicate that information to communities in language that is aimed at the public, not industry or academics.

**Dr. Ellerbrock** said that his concern was not with Mr. Darwin but with who brought him in. Mr. Darwin needs to show EPA how to do more with more instead of showing them how to do more with less and giving them an excuse to cut the budget. **Dr. Wilson** said that we need to have equity along with efficiency and reminded everyone that when they are talking about indicators, those are real peoples' lives. EPA needs to adapt the concept of embedded sensor networks and make them community-driven, and they need to do data visualization and integrate resources into EJSCREEN to show where the money is going and how it is impacting communities.

**Mr. Tejada** thanked the NEJAC members for the preparation and level of dialogue and thanked Mr. Darwin for his engagement. **Chair Moore** echoed his remarks and said that there is no disconnect between budget and policy, and this was evident in several of the points that NEJAC members raised.

### **2.1.2 Cosmo Servidio, Regional Administrator – U.S. EPA**

**Cosmo Servidio** thanked the NEJAC for inviting him and for their dedication to environmental justice. He highlighted one example of Region 3's local engagement, a risk study they conducted with the EJ community of Chester, Pennsylvania, to identify factors of environmental health and quality of life concerns. They worked with community members, stakeholders, and industry to develop the Chester Environmental Partnership and empower residents to fully engage in environmental issues and overcome challenges. Before joining EPA, Mr. Servidio was the Director of the Southeastern Office of the Pennsylvania Department of Environmental Protection, where he saw and heard firsthand what should be done to address communities' concerns. He said that whenever an issue comes up, his first question is how they will be able to discuss it with the public, and he is committed to maintaining this interaction with communities. Region 3 has collaborations with entities in Philadelphia, and they recently issued an EJ award to Friends of Deckers Creek in West Virginia to monitor bacteria levels in the watershed, teach the public about contamination, and develop stormwater best practices. The region also works to provide consultation and support to seven federally recognized tribes to expand environmental programs. In their own office, Region 3 staff endeavor to incorporate environmental justice into their daily work. The office's recent realignment brought together children's health, tribal environmental education, and NEPA programs to allow greater synergy in their environmental justice efforts.

**Chair Moore** said that the closest contact that many grassroots groups have is with the staff in the region, and he complimented Region 3 staff for their good work. He pointed out that much of the public testimony from the previous night came from residents of Region 3. Dr. Fritz mentioned Region 3's prison initiative to look for noncompliance in prisons, and **Mr. Servidio** said that that program has been successful and they do still work with states to facilitate inspections and training on compliance. **Ms. McGee-Collier** referenced Mr. Darwin's earlier comments about the large numbers of permits that the states issue and said that when EJ communities suffer from inadequate permitting, it is easy to see why some people say that the states are the problem. She asked how, in the event of EPA and the states assuming a more peer to peer relationship, they will make sure that



environmental justice does not fall by the wayside. **Mr. Servidio** said that environmental justice is a priority for him and for all of the other regional administrators. Region 3 coordinates with states' environmental justice programs, and they have scheduled monthly calls with state secretaries to make sure that EJ information and resources are shared. The region still needs to oversee the states and make sure that they are implementing their programs, and that never changes.

**Ms. Trevino-Sauceda** said that having meetings with agricultural representatives is a good start, and she recommended that they meet with workers from nonprofit organizations rather than workers that the companies bring with them. Nonprofit organizations are the ones that monitor poisonings, which often go unreported. These groups help the workers who come to them for assistance, and they will help to build the trust between the regional EPA offices and the community. **Vice-Chair Heaps** raised four of the most critical issues from the public comment session: the Croda facility in Delaware and issues around ETO and the emergency Planning and Community Right-to-Know Act (EPCRA); the West Virginia Panhandle Rockwool facility; the alarmingly high incidence of Ewing sarcoma in natural gas country in Pennsylvania; and the Appalachian storage hub and ethane crackers being proposed in West Virginia.

**Dr. Wilson** said that they heard a lack of risk communication from the public around the Croda facility, and saying everyone is fine without informing them of the health impacts is not a public health response; it is obfuscation. There is a lack of baseline data needed for decision-making, and Title VI is particularly missing from the discussion around the Rockwool facility. He also mentioned industrial chicken farming in Maryland, where they tried to pass a Community Healthy Air Act to have an outside scientific study done on exposure and health impacts of chicken farms. The memorandum of understanding between the state and the chicken council did not include public input, and none of the data was used for permitting or public health. Dr. Wilson wanted to know what Region 3 was doing to make sure that chicken farms in the Delmarva region would comply with the current regulatory schema. He also asked how the region was working with the Maryland Department of the Environment to hold them accountable for developing a good screening tool. Rather than adopting a totally peer to peer approach, they need EPA to come in and do more to hold the state agencies accountable.

**Dennis Randolph** said that while a peer to peer relationship sounds admirable, somebody needs to make sure that the states follow what Congress intended, and that is EPA's job. **Chair Moore** said that communities want to respect the staff and leadership of state environmental agencies, but when they do not receive respect or engagement from the EPA it becomes challenging. Members of the NEJAC need the ongoing support of regional administrators and the EPA, not to speak for grassroots folks, but to stand side by side to call for accountability from the state agencies. He asked Mr. Servidio to commit to visiting Delaware and meeting with the leadership of the grassroots groups there, and to include the EPA and OEJ staff. **Mr. Servidio** said that he was bound to that commitment to work with NEJAC and environmental justice communities, and that he would take all of the comments back to his office so that they can learn what they should be doing better.

## 2.2 Community Voices

**Chair Moore** said that the NEJAC has heard many frustrations from grassroots communities who are tired of being tired and who are wondering how many people have to die before changes are made. He also said that he had a discussion with a representative from Region 6 during the break, and she informed him that they will follow up with the community in Mossville, Louisiana. He turned to the vice chairs to introduce the panel.

**Vice-Chair Heaps** said that she had emailed the Council members two draft letters, one on ethylene oxide and one on the chemical disaster rule, and she welcomed any comments by the end of the day. She welcomed the Community Voices panelists: Jerome Shabazz, a member of NEJAC, and his colleague Alice Wright, both from the Overbrook Environmental Education Center and JASTECH Development Services, Inc.

**Mr. Shabazz** said that Overbrook works to connect people and help communities to help themselves. He identified four signature programs that they would discuss in their presentation: Lead Aware Philly; Farmacy Philly; the Overbrook Youth Environmental Stewards Program; and the Philly Green Ambassador Program, including the Did You Know subcomponent. In 1998, Overbrook began by embedding itself in a local West Philadelphia high school service learning community. They encouraged students to become more engaged with their environments, and after identifying the issue of trash in their neighborhoods, they worked together to transform a nearby Brownfield site into a viable, commercial space for workshops and community meetings. The community was involved in every aspect of the turnaround, and the site now has a greenhouse, orchards, and stormwater features. Several strategic partnerships came out of the project, including collaboration with Drexel University. They were able to identify environmental impacts by zip code, and with the persistent problem of lead they realized that they needed a community-centered approach. They developed a model of social architecture to be inclusive and equitable, so that communities could not only survive but thrive.

Lead Aware Philly had two components: one targeted to contractors and renovators to help them get their EPA RRP lead safety certifications, and one that reached out to impacted communities and talked to residents about their exposure to lead. They worked with several partners like EPA, the Philadelphia Water Department, and universities to educate communities and monitor lead in soil, water, paint, and dust. **Alice Wright** talked about how the Lead Aware program was able to reach grassroots community people in ways that agencies often cannot achieve. Pushing information into the communities will save a lot of young children's lives. Mr. Shabazz added that there are people who are being poisoned and do not even realize it. The goal is to reach out to communities and find creative ways to give people a reason to care.

The Philly Green Ambassadors program supports the natural leaders in Philadelphia communities and provides training on the local services that are available to keep people safe. Through an environmental grant they created the Did You Know campaign, which focuses on water quality, domestic toxins, and food inequity. After conducting surveys Overbrook realized that one out of every five people in the neighboring communities had a health disparity remediated by diet. The Farmacy project is guided by the idea that pathways to healthy foods and behaviors are multidimensional, and lack of access to food is not the only barrier to people living healthy lives.

The Overbrook Youth Environmental Stewards program gives young people a sense of involvement in preserving the built-in natural environments around them. In the 21-week program students come to the Overbrook Center to address issues of environmental justice and issues affecting their health. The underlying theme of the program is "environmental freedom is mine," encouraging young people to claim and own the freedom of environmental justice. Students learn about green stormwater infrastructure through the GSI program, and some are able to apply their knowledge and earn livable wages with local subcontractors. By giving them the skills to help maintain their neighborhoods, the program builds a sense of pride and dignity regarding their communities and the work that they do. Ms. Wright said that students come to the Center out of enthusiasm, curiosity, and also caution, because they live, work, and study in communities that are toxic. They talk to them about the intersection between environmental justice and other types of justice and

using their skills to become participants in economic development, rather than victims. When they learned what agencies do in terms of regulation, the students asked what the relationship was between legislators, campaign financing, voting, and the polluting industries in their communities. She said that she thought that was a good question to leave here at the EPA.

Mr. Shabazz said that they asked young people to stop thinking that environmentalism was something that they were going to do, and instead think about it as something that they were already doing. He presented a video called Environmental Just Us that was produced by the students and said that this was the kind of product that you could get from young people after giving them a sense of the issues and the questions, and giving them a connection to people making a difference in this space. These programs have helped over 14,000 people with marginal resources by making people feel that they are part of a community, and that there is hope and an opportunity to live a healthy life.

**Dr. Osborne Jelks** asked if the Center was able to track how these programs impacted young peoples' lives going forward, and **Mr. Shabazz** said that the initial work in schools began as a result of improved grades at Overbrook High School. After three years of programming led to continuous academic growth, they acquired the Brownfield site and built the Center from there. **Ms. McGee-Collier** asked whether the free lead removal training involved establishing small business owners. **Mr. Shabazz** said that of the four new contractors who have set up companies, three came through the Center's program. **Dr. Wilson** praised the comprehensive nature of the programs in providing critical environmental health literacy and workforce development. It speaks to the community-owned and managed research model developed by Omega Wilson, where the work is of the community, for the community, and by the community. **Mr. Shabazz** said that they helped young people to realize that you may be born into a community, but you can also help determine a community for yourself. When people are rewarded for efforts to become environmentally conscientious, it does something for the socialization around this work. **Mr. Youngerman** asked if they ever run into galvanized service lines, and Mr. Shabazz said that they do. Philadelphia has several programs that identify the alloys of metals, and the Center connects people with resources for testing their service lines.

### 2.3 Superfund Work Group

**Mr. Tejada** gave some context for the Superfund Work Group's charge. The Superfund task force was one of Administrator Pruitt's first priorities, and Mr. Tejada felt that it was very important for NEJAC to be included. He pulled together several of his colleagues' comments into one recommendation: EPA should develop a charge to a federal advisory committee to get feedback on what to do about Superfund. He suggested that NEJAC be the advisory committee to gather that information, since remediation and reuse of contaminated sites has always been central to environmental justice. Last year, the work group took comments and delivered a draft charge to the NEJAC. The process of refining the charge will take another year, but at this current stage, they are trying to show EPA leadership some draft ideas and inform their thinking about the Superfund process as soon as possible. He thanked staff members from OEJ and Superfund staff from Region 3 for their hard work in this area.

**Mr. Chase**, co-chair of Subgroup 1, introduced the Superfund Working Group's goal: to provide recommendations to the EPA Administrator that will identify barriers, solutions, and best practices to achieve cleanup and reuse of sites in a manner that takes central consideration of the unique burdens and vulnerabilities of EJ populations living in and around Superfund sites. Each subgroup had its own charge question to address. In order to answer these questions, all three subgroups

followed a similar process of identifying the guidelines and overarching ideas and then populating them with specific recommendations. The three subgroups' reports will be integrated into a single series of tangible recommendations, which the EPA should be able to make use of even before they are finalized a year from now.

For Subgroup 1, the charge question was: how should EPA Superfund build stronger and more strategic relationships with impacted populations and ensure that effective cleanup and site reuse support the impacted communities' needs and desires.

The subgroup developed guiding principles, among them:

- a. The issues that communities are worried about often have little or no relationship to the Superfund program's interests.
- b. The Superfund program must be clear about the limits of its ability, the communities' need for help beyond the issues that Superfund is showing up to address, and the possibility that the Superfund program can expand the aperture of the issues that it can act upon.
- c. The Superfund program and EPA must focus on developing and maintaining the trust within impacted communities. This became a dominant theme throughout the discussion.
- d. The program must ensure equitable and equal community engagement.
- e. The program must assist impacted communities in understanding the legal aspect of what is proposed and what is occurring at each site. They are to provide information in language that is accessible to all members of the community.
- f. Superfund must use best practices and seek innovative solutions to achieve the best results for impacted communities and their projects.
- g. The end use of Superfund projects must be kept in mind at all stages of the projects.

Mr. Chase then presented the subgroup's recommendations, not including the changes that were discussed at the recent Work Group meeting. Building trust in communities must be a preliminary step before cleanup. Trust must remain as a continued step throughout the Superfund project, and a core element of maintaining trust is engaging local companies in partnerships. They need to be able to educate the community and have the community educate EPA about Superfund, which means that they must communicate in accessible language. There must be an equitable and equal exchange that seeks out as many citizens as possible, and materials on testing, available research, and opportunities to perform more research must be available to communities as well.

When changes occur, and they will, the community must be kept informed in a timely fashion. There needs to be a more consistent application of policies across regions and across the agency, and to facilitate this, EPA's website and information sources must be kept up to date. The program needs to learn from failures as well as successes and make use of those lessons to make improvements. Finally, the Office of Environmental Justice should be part of all Superfund sites and should be included in review processes.

**Mr. Tilchin** introduced Subgroup 2, which focused on the decision-making process within Superfund. He said that the second half of the goal Mr. Chase read was to consider the long-term impacts of their recommendations and how they could affect Superfund five or ten years down the line. Mr. Tilchin said that they were looking to develop an actionable set of recommendations that collectively expand Superfund's core activities and functions. This meant making a critical review of existing guidance and determining what could be done to make Superfund a facilitator for integrating remediation and reuse and creating community-driven assets. Their recommendations included:

- a. Developing a decision-making engagement plan for the agency;

- b. Developing a training curriculum to support engagement from impacted populations;
- c. Adopting a concentric circle approach to stakeholder engagement;
- d. Using EPA resources like subject matter experts to create an innovation incubator within the agency;
- e. Exploring opportunities to expand or shift existing grant programs to assist communities;
- f. And utilizing health impact assessments both as a way of identifying community needs and as a business planning tool.

**Kelly Wright** led the discussion for Subgroup 3, where the charge question was: how should the Superfund program utilize tenets and best practices of risk communication in order to engage communities, particularly in underserved areas with long term stewardship issues. Their guiding principles and recommendations were very similar to the other subgroups' with some additions:

- a. EPA needs to acknowledge that Superfund sites could have been dealt with more effectively when they were Resource Conservation and Recovery Act (RCRA) sites;
- b. A text message service could be used to cast a wider net and communicate with as many communities as possible;
- c. There should be an explanation to the audience about why they need to be involved;
- d. Risk communication training should be mandatory and consistent, and messages need to be provided early, often, and in multiple forms that are tailored to the local and personal level;
- e. The existing Superfund toolkit should be revamped and should be consistent across regions.

**Vice-Chair Orduno** invited NEJAC members to ask questions. **Ms. Trevino-Sauceda** said that when they talk about educating the community, it's about educating themselves first. This includes listening as well as distributing information, and working within the cultural context of communities. **Mr. Wright** agreed that it is better to listen and be prepared to answer questions, and **Ms. Trevino-Sauceda** said that when you open up a dialogue you start engaging people, rather than just giving them information. **Dr. Ellerbrock** said that he thought the EPA had recently changed the National Priority List (NPL) criteria to focus more on the business world. **Mr. Tilchin** clarified that program is looking into creating community assets that become engines for economic development. They did not fundamentally shift the way that sites are ranked on the NPL. **Ms. Osborne Jelks** emphasized robust and redundant engagement with communities, which must begin early on in the process. She mentioned NEJAC's model plan for public participation, which contains core values and guiding principles, and suggested that some language could be pulled from that plan. She said that they can learn as much from communities as they can teach them, and this is key. **Mr. Chase** said that they were making sure that their recommendations fit within existing policies and statutes so that they could be actionable.

**Ms. McGee-Collier** said that in their recent meeting it was very helpful to have EPA and Superfund staff sitting in to provide input and information about current practices, and that should happen more often. She recommended transition training for RCRA people as well as Superfund people so that the change from a RCRA site to a Superfund site can be smoother. She said that Subgroup 1's earlier recommendation for a community ombudsman was interesting, and that if it was implemented, that ombudsman should be selected by the community. **Chair Moore** agreed that they should revisit the NEJAC public participation document, which was crucial. In this charge they also needed to speak to the fact that technical assistance grants were important for the engagement of grassroots groups, tribal groups, and others. He was concerned about the streamlining of some particular Superfund sites, and he said that this administration needs to make a commitment to look deeply at the recommendations coming out of the work group and from NEJAC collectively. **Ms. Rezendes** said that when an analysis is done for a Superfund site they should look at who it affects because it may not be the contiguous people living around it. Communications have to be open to

communities that are not necessarily right on the sites, but who might use the land around them. **Mr. Tejada** said that they were told to remove federal Superfunds from direct consideration, although they were still using some as examples. At the end of their current charge there will be an option to extend the charge if they would like to go into federal sites. He said that they were using the past NEJAC reports and recommendations and trying to translate them into the Superfund context, rather than starting all over.

## **2.4 Dialogue: Office of General Counsel**

**Chair Moore** introduced Arthur Ray, an original NEJAC council member, who was sitting in the audience.

**Charles Lee** introduced Lilian Sotolongo Dorka, the Director of EPA's External Civil Rights Compliance Office. He said that working on civil rights has always been a challenge for EPA, but the EJ 2020 Plan committed to greater coordination between the External Civil Rights program and the environmental justice program, and that has been happening.

### **2.4.1 Lilian Sotolongo Dorka, Director, External Civil Rights Compliance Office – U.S. EPA**

**Lilian Sotolongo Dorka** thanked the NEJAC for inviting her to discuss the substantial progress that the External Civil Rights Compliance Office (ECRCO) has made, including unprecedented levels of coordination with all of the regional and program offices. As a staff they are much better trained and more responsive to both recipients and complainants, and much better at communicating. At the end of 2016 over 60 cases were pending, and 24 were added in 2017. For the most part, these cases were overaged and had exceeded the allotted time period for resolution. As of April 2019, they had 15 cases pending concerning 11 complaints, and they have committed to resolving all 15 cases by the end of 2019.

In addition to resolving cases, the Office takes proactive steps to ensure that recipients understand their responsibilities and beneficiaries understand their rights. They work with recipients to develop their non-discrimination programs, which are required by law, and make sure that access to information is equitable and sufficient. The Office did competency assessments for their own staff, and these produced individual development plans to help staff members get the knowledge, skills, and resources that they need.

Ms. Sotolongo Dorka talked about the Office's strategic priorities and their strategic plan, which was adopted in its final form in 2017. Their first and primary goal was the docket management to address the chronic backlog of cases. They also issued a comprehensive case resolution manual that could be used to train staff and also to make the process transparent for the public. They are in the process of revising the manual to include updates, most significantly in light of performance management and the EPA Lean Management System (ELMS). They have a tracking form to keep tabs on cases during every step of the process and hold themselves accountable to their case resolution commitments. Some cases, like the Brandywine community in Maryland and the proposed power plant nearby, lend themselves better to informal resolution through alternative dispute resolution. Informal resolutions allow recipients to agree to certain commitments laid out by EPA to reasonably address the complaint issues. These yield good results because they allow the state entities to assume a leadership role and work with complainants to achieve change. For every complaint received, the Office takes the proactive step of ensuring that recipients have non-discrimination programs in place, even if that is not the focus of the complaint. She concluded her remarks by summarizing the investments that the Office has made in their staff, and she said that

though there is still much work to be done, she genuinely believed that the Office has made great progress.

**Mr. Randolph** said that an emphasis on process does not necessarily ensure quality. Checklists help you organize, but they don't always allow you to think about the problem and the people that you are serving. **Ms. Fritz** asked for clarity about informal resolution agreements, and **Ms. Sotolongo Dorka** said that they are written and signed by EPA and the entity. They contain commitments that are made voluntarily and without findings, and if those commitments are not fulfilled, the Office does not close the case.

**Dr. Wilson** said that in the CAFO complaint, the permitting process led to differential burden of industrial hog farms on communities of color. They reached a settlement agreement, but the settlement did not make the communities whole; it did not restore them to a state of health from before the facilities were built. That is a gap that needs to be addressed. In Uniontown, Pennsylvania, a landfill built on a plantation cemetery takes in trash from 33 other states and four million tons of coal ash waste from Kingston. EPA could not find causality between the landfill and health issues like neuropathy in the neighboring community, but the exposure data was missing. Rather than causality, EPA should be looking at differential exposure to inform their decision-making. **Ms. Sotolongo Dorka** said that a good part of making communities whole goes beyond the ECRCO's jurisdiction. In the Uniontown case, EPA did their best to consider all of the evidence, including a study conducted by citizen groups. They did not take it lightly, but ultimately they felt that they did not have sufficient evidence to make a finding of discrimination. They have to work within the confines of the civil rights laws and the analyses that apply to those specific cases.

## **2.5 Dialogue: Office of Enforcement and Compliance Assurance**

### **2.5.1 Susan Bodine, Assistant Administrator – U.S. EPA**

**Mr. Tejada** introduced Assistant Administrator Bodine and said that he counted her as a friend and champion for environmental justice at EPA. **Susan Bodine** gave a brief outline of her time at EPA and spoke about proposed national compliance initiatives and guidance work planning with states. In addition to her time at EPA, Ms. Bodine has been in private practice and on Capitol Hill, and throughout her career she has learned the importance of addressing issues up front and engaging communities. The Office of Enforcement and Compliance Assurance (OECA) works with all of the statutes and all of the programs, making sure that people comply with standards that protect human health and the environment. EPA established national enforcement initiatives to target where they spend their resources, and OECA rephrased these as compliance initiatives that targeted environmental problems. They aligned these initiatives with the strategic plan and introduced a particular focus on vulnerable populations. With these communities in mind they have proposed to continue their focus on: hazardous air pollutants; reducing toxic air emissions from RCRA facilities and reducing risk of accidental releases. They have also proposed to discontinue some initiatives in order to refocus their priorities.

The Office has also proposed two new national compliance initiatives: drinking water, where there has historically been a hands-off enforcement approach; and reducing children's exposure to lead, which would be a multi-media approach. A third initiative, proposed by commenters, was mobile source, including equipment manufacturers and aftermarket defeat devices. A number of regions are developing their own expertise in this area, with assistance from headquarters, and with this and other issues they are working on how they can be value-added to states. Ms. Bodine invited NEJAC members to give her feedback on where resources should be focused.

**Vice-Chair Heaps** said that as they talked about enforcement priorities, the bigger question was about EPA's enforcement overall. She cited recent research from the Environmental Data and Governance Initiative (EDGI) about the ten-year low of EPA's enforcement, including a drop in penalty amounts. She emphasized NEJAC's desire to see a turnaround to more enforcement and enforcement dollars going back into communities. **Ms. Bodine** said that EPA's numbers don't match EDGI's numbers, and EDGI did reach out to EPA staff to admit they made a mistake. EPA's enforcement numbers are down, but they have talked to the regions about the numbers and continue to emphasize the priority on enforcement. Penalty amounts are not necessarily the best way to judge EPA's enforcement because they vary depending on the case and the year.

**Mr. Wright** said that he was EPA's first UST tribal inspector and he has been trying to get his RCRA credentials. He asked why EPA could not set up a system of circuit rider inspectors in Indian country, which is an idea he previously suggested to Region 10. **Ms. Bodine** said that they received money for circuit riders in their 2019 operations plan. She said that she would have to get back to Mr. Wright about why his credential does not apply under multiple jurisdictions.

**Vice-Chair Orduno** asked about a point Ms. Bodine made concerning EPA being value-added to states. She said that she was trying to understand what value-added meant when they knew that some states had committed significant criminal violations related to drinking water. Vice-Chair Orduno's home state of Michigan was the perfect example of the consequences of EPA's hands-off enforcement approach, and people on the ground are still dealing with the ramifications of Flint as well as PFOS communities. She asked what work was being done around lead service lines in schools, where lead testing will occur specific to water for children, and who will be responsible. **Ms. Bodine** said that they do not have enforcement authority over fixtures inside the schools, but there was a program to authorize funding to schools to test their own lead fixtures, and in this past appropriation bill it was authorized. **Mr. Tejada** said that one of the OEJ staff members had been on detail to the Office of Water to help get that program stood up and make sure that the monies are prioritized for the most overburdened, disadvantaged communities. With respect to the term value-added, **Ms. Bodine** said that rather than just sitting back and directing the states, they are going out and taking action themselves. There is a memo coming out for public comment that will clarify the expectations about when EPA should intervene and how it should work with states to develop work plans. Vice-Chair Orduno said that states are under considerable stressors, and EPA has to go beyond having value-added conversations and introduce more stringent measures.

**Mr. Tilchin** said that there is perception in the nation that EPA does not care about enforcement as much as it used to, and at minimum it is a communication challenge that is important for OECA to address. **Ms. Bodine** agreed and said that the media decided that this administration did not care about enforcement, and that makes it more difficult to assure people that they are committed to enforcement.

## 2.6 Closing Comments & Announcements

**Chair Moore** asked for a show of hands from Council members who would be attending the business meeting the next day, where they would need to maintain quorum to vote on measures. **Vice-Chair Orduno** reminded the Council that Vice-Chair Heaps was looking for comments on the ethylene oxide letters. **Vice-Chair Heaps** said that she had been able to locate additional data, and the enforcement number from 2018 was \$69.47 million, compared to \$6.13 billion in 2016. The latter figure reflects the BP oil spill, but even if you subtract that case, \$430 million remains for



2016. She stood by her comment that penalty amounts was an important indicator that they should look at for EJ communities.

## **2.7 Adjournment**

The Council rose in adjournment.

## **3.0 Welcome & Day Two Recap**

On Thursday, May 2, 2019, **Chair Moore** welcomed everyone and reminded the Council that they would need a quorum for the business session that afternoon. **Vice-Chair Heaps** thanked members for their comments on the two letters. Ms. Rezentes and Mr. Chase requested that EPA consider that ethylene oxide is sometimes used to make spices. Ms. King helped Vice-Chair Heaps parse out how ETO relates to hydrochloric acid production; they come from sources that are co-located. Karen Martin encouraged NEJAC to ask for specific feedback from EPA on NEJAC's recommendations. Vice-Chair Heaps said that in the future it would be good for NEJAC to open their sessions by recognizing the indigenous lands upon which they are meeting.

### **3.1 Dialogue: Office of Land and Emergency Management**

**Mr. Tejada** briefly outlined the agenda for the day and introduced the panelists for the first session.

#### **3.1.1 Barry Breen, Acting Assistant Administrator, Office of Land and Emergency Management – U.S. EPA; Peter Wright, Special Counsel to the Administrator, Office of the Administrator – U.S. EPA; Ellen Manges, Office of Solid Waste and Emergency Response – U.S. EPA; Kent Benjamin, Acting Director, Office of Communications, Partnerships and Analysis, Office of Land and Emergency Management – U.S. EPA**

**Barry Breen** thanked the NEJAC and introduced staff members from the Office of Land and Emergency Management (OLEM). **Peter Wright** said that they would focus their talk on issues that concern the NEJAC and then welcome questions from NEJAC members. He talked about the Brownfields program, where EPA is able to invest in communities and see tremendous returns. The latest statistics show that every dollar spent by the EPA Brownfields program leverages \$17, and every \$100,000 leverages 8.9 jobs. Property values increase in the area of improved Brownfield sites, and the economic investment and activity provides greater tax revenue for communities. The BUILD Act not only reauthorized the Brownfields program, but it increased cleanup grants, created multipurpose grants, introduced eligibility for nonprofit organizations to obtain Brownfields grants, and included a provision to have five percent charged to active Brownfields grants.

One of the administration's major programs is infrastructure development in opportunity zones. There is a large overlap between Brownfields and opportunity zones, and they are exploring ways to streamline aspects of the Brownfield program to opportunity zones as well. He mentioned the Superfund Task Force, which places emphasis not only on cleanup but also on redevelopment. One critical element of redevelopment is the input of the community where the site is located. The task force will soon conclude its work and issue a report, but the intention is for communication and changes to continue into the future. He praised NEJAC's efforts to stand up a Superfund work group

and said that they hoped NEJAC would help identify some of the metrics that should continue to be tracked.

Other land-related programs involve recycling and food waste. During a recent summit EPA held to discuss America's recycling needs, many stakeholders raised the issue of the country's lack of adequate recycling infrastructure. After the summit they formed four task forces to look at: education and outreach, materials management infrastructure, secondary markets, and measurement. They will work to develop concrete actions and plans and report on these at the next summit in November 2019. Recycling and waste management are very much local level, quality of life issues, and in addition to environmental improvements there are also economic opportunities in this area. EPA recently held an event focused on food waste, which is the biggest source of municipal waste. In 2015 EPA and USDA announced ambitious goals to reduce food waste by 50 percent by 2030, and to help achieve this, EPA, USDA, and FDA have committed to working together on the Winning on Food Waste initiative. EPA has also released an action plan to address the current emerging contaminants PFOA and PFOS. The plan addressed the ways in which EPA is addressing these issues, including contamination of drinking water sources, and OLEM recently issued their PFAS groundwater guidance for public comment.

Barry Breen spoke about EPA's emergency management work and how it intersected with their land and sustainable materials management work. He then presented two hypotheses and asked for NEJAC's feedback. EPA and the Coast Guard run the National Response Center, which receives about 30,000 calls a year about spills over a reportable quantity. Most incidents do not need a federal response, but EPA does respond to spills about one percent of the time. Mr. Breen repeated what a senior medical doctor once told him: disasters seek out the poor. He said that it does feel like the places that are left for the poor to live are places where disasters are more likely to happen, and the people living there are among the least able to absorb the effects. He invited NEJAC to give him their thoughts on this hypothesis.

With the help of Henry Darwin, OREM has put in place a series of breakthrough metrics to measure their work. They have four key land clean-up programs: the Superfund remedial program, the Brownfields program, the RCRA corrective action program, and the leaking underground storage tank (UST) program. In each of the four programs there is a common theme for measuring their work, and that is making the land ready for its anticipated use, economically and ecologically. EPA gets the land ready, but the community decides what the anticipated use will be. In the same way that disasters seek out the poor, cleanup sites often do as well, as most of the communities around the site are the poorest. Following on from that, he said that he was willing to bet that disadvantaged communities were also more burdened by the problems that Mr. Wright had mentioned. Mr. Breen concluded his remarks by citing an example in Jacksonville, Florida, where EPA is currently replacing a wood treater with contaminated soil that was adjacent to schools, a daycare center, and a number of homes. He said that the wood treater was in operation from 1980 to 2010, which is a reminder that EPA addresses newer problems in addition to those that started decades ago. He posed two questions to NEJAC members: how can EPA do its work better, and how can they measure it.

**Dr. Ellerbrock** asked if they had diverted any resources from protecting public health at NPL sites and said that public health is more important than stimulating the business sector. **Mr. Wright** agreed that public health is more important, and that he was not aware of any resources being diverted. **Mr. Breen** said that for at least the last ten years, the agency has believed in synergy between protecting human health and making things available for human use. **Sandra Whitehead** encouraged EPA to build upon Dr. Carroll's study about children under the age of five living near Brownfield sites. They should measure not just economic and social empowerment, but the avoided human health outcomes and the monetary cost. **Ms. King** asked how the EPA warns families about where the Superfund sites are, and **Mr. Breen** said that he saw her point.

**Mr. Wright** said that he knew of a facility, the Eastern Michaud Flats, that was reused before it was cleaned up, and capping reactive waste that will be there for thousands of years does not count as cleaning up. The community needs to be involved and aware that it is not a clean-up, it is a cover-up. He asked how many other facilities have allowed reuse before cleanup has started. **Mr. Shabazz** said that when it comes to food waste, it seems like there is a systems issue. He asked how EPA was communicating waste diversion and conservation with institutions like schools that are large purveyors of food. **Mr. Wright** said that EPA has websites and outreach and they are helping to bring groups together. Mr. Shabazz asked if there was a program where schools could direct their sustainability people so that they can become part of the solution in reducing food waste. **Kent Benjamin** said that EPA has a number of partnerships and they have a Twitter account, @EPALand, where they talk about and promote those partnerships. **Mr. Shabazz** said that if the issue is so significant, it should raise up to a level of people looking at food waste who know who to connect with.

**Dr. Osborne Jelks** asked how they were trying to incentivize businesses that do not continue to bring unwanted environmental land uses into communities and make sure that there are benefits going directly into those communities. She said it sounded good in theory but she did not understand how it played out practically. **Mr. Breen** said that they have a program where they put funding onto a technical assistance grant managed by Groundwork USA. It is available to any community, and the purpose is to "incorporate equitable development and EJ approaches into Brownfield reuse projects." Dr. Osborne Jelks asked if this applies to areas that do not have a Groundwork trust in their area, and Mr. Breen said that it does. **Mr. Youngerman** asked if BUILD Act grants were available to communities to build better conventional and food waste recycling capacity. **Mr. Breen** said that they would have to have a sidebar and get back to him with a response.

**Mr. Tilchin** said that the federal government is not going to become the nation's recycler, but it will be tough for the private sector solely to invest in building that infrastructure. There are great federal incentives models, like the Water Infrastructure Finance and Innovation Act (WIFIA) model, that EPA could look to in a solid waste and materials management context. He suggested that NEJAC could help in looking at the pace of cleanup in disadvantaged communities compared to the program as a whole. He agreed that the reuse vision has to come from the community, and suggested thinking more about the quality and rigor of community engagement in disadvantaged communities.

**Ms. Rezendes** said that where she lives, there is a site in an industrial area with heavy lead contamination, but because it is under asphalt it was not given very much attention. There are probably other sites like that, and as time goes on and the use changes, someone will have to address them. She encouraged EPA to keep track of sites like those to prevent incidents in the future. **Vice-Chair Orduno** said she hoped that EPA was willing to conduct more critical analysis of PFAS issues. It is helpful to prevent overall issues, but there also needs to be deeper engagement. She disagreed with the doctor's statement about disaster seeking out the poor; it is a consequence, not a source. Disasters occur through greed and ignorance, especially man-made disasters. It is important to look at terminology and definitions because even words like redevelopment have a different meaning for industry than they do for EJ communities. While businesses see tracts of land around the sites as prime real estate, the community might just want to have some green space, and it would be good to incorporate that perspective so that they do not fall back into the same patterns of behavior around the Brownfields. She asked how Brownfield prevention and eradication was incorporated into the work, beyond simply cleaning up existing sites.

**Ms. McGee-Collier** echoed Vice-Chair Orduno's comments and said that there are two types of disasters, natural and man-made. The poor have a harder time recovering from natural disasters, and they feel the effects for much longer. They are the least able to move away from disasters created by bad actors, and they often do not fully understand the impact of living next to a disaster site. Industries move into these neighborhoods intending to make money, and not necessarily to be good neighbors. **Vice-Chair Heaps** said that on the recycling issue she would like to see more connection between the whole lifecycle of plastics. If the country does not rethink their packaging and provide ways to reuse products, it has serious impacts on communities that are near the facilities making the plastics. She also agreed with Vice-Chair Orduno that the federal response to PFAS has been completely inadequate.

**Chair Moore** thanked the panelists and said that he wanted to be frank with his comments and recommendations. Environmental justice cannot exist without economic justice, and vice versa. On the subject of disasters, it was disheartening to see the federal response to the hurricanes in Puerto Rico, and it should be an embarrassment to the U.S. government. Among EJ communities some people refer to opportunity zones as "opportunist zones," and this reflects the question of who the opportunity is for. NEJAC would like EPA leadership to help them in engaging the discussion and continuity around opportunity zones. He asked the panel for their commitment in several areas including: to send a letter to the Administrator supporting the NEJAC Superfund Work Group recommendations; to affirm that environmental and public health will not be compromised in order to advance redevelopment; and to support community engagement around site remediation through training programs, technical assistance, and funding.

### **3.2 Dialogue: Office of Water**

**Mr. Tejada** introduced the panelists and said that water was another topic that was critical to EJ issues and one that the NEJAC has worked on for a very long time.

#### **3.2.1 Jennifer McLain, Director, Office of Ground Water and Drinking Water – U.S. EPA; Andrew Sawyers, Director, Office of Waste Water Management – U.S. EPA**

**Andrew Sawyers** thanked NEJAC for their report on infrastructure funding and said that they looked forward to drilling down on those issues together. To Chair Moore's earlier point, he said that they could have a discussion about the work that the Office of Water (OW) is doing in Puerto Rico to help restructure their debt. All ten recommendations that NEJAC submitted are things that OW is either working on or planning to focus their attention on in the future, and he invited them to talk about those issues as well. He briefly outlined the OW structure and said that within his portfolio of the Office of Wastewater Management (OWM) there are two main areas of responsibility: the permitting process for the National Pollutant Discharge Elimination System (NPDES); and the financial side, including the Clean Water State Revolving Fund (SRF) and the WIFIA program.

One of NEJAC's comments to OW was the importance of understanding infrastructure needs in EJ communities. OWM recently received congressional funding for their Clean Water Needs Survey, which they have not done since 2012. As a part of this survey they will drill down on septic systems and decentralized systems, a significant number of which are failing and are in disenfranchised communities. They will also bring renewed focus to storm water systems and flood needs, especially in smaller communities. Another OWM resource, the Clean Water SRF, allocates funding to states and states in turn loan resources to communities across the country. Over the last 37 years, the money has gone towards important measures like centralized treatment and Combined Sewer Overflows (CSOs). The SRF is particularly helpful to small, lower income communities because of its interest rate, which last year was about 1.5 percent.

The American Water Infrastructure Act (AWIA), signed in 2018, created several new infrastructure programs across the country. This includes collaboration with nonprofits to address the issue of decentralized systems, and OWM has internal conversations about ways to provide even more SRF resources. EPA also has a memorandum of understanding (MOU) in progress with FEMA to streamline natural disaster recovery and respond more effectively and quickly to communities at risk.

WIFIA, which involves both OWM and the Office of Ground Water and Drinking Water (OGWDW), has completed eight loans worth about \$2 billion of federal funds over the last two years. Typically WIFIA is for larger communities, but Congress included a provision for smaller communities, and several have submitted letters of interest. In the most recent version of WIFIA, the priority areas include: aging infrastructure; innovative approaches to water reuse and recycling; and emerging contaminants. The Integrated Planning Framework, a new regulatory instrument for the agency, will work with local communities to prioritize their clean water obligations within their budgets. Congress also asked OW to create an Office of an Ombudsman, with that person working as a facilitator between the agency, communities, and stakeholders.

**Jennifer McLain** shared some information about her work with OGWDW. The Office has a number of priorities with both unregulated contaminants and rules that they have in place, particularly around protecting children from lead exposure. In May of this year they will be issuing a proposal on perchlorate for public comment, and they are in the midst of running the Unregulated Contaminant Monitoring Rule (UCMR) program to gain a better understanding of what is in our drinking water. Of interest in the latest UCMR round are harmful algal blooms and manganese

levels. Last year they asked for public nominations for the Contaminant Candidate List (CCL), and they are planning to publish preliminary regulatory determinations on the fourth and current CCL by the end of 2019. PFOA and PFAS will be included on this list. There are currently a number of water utilities and communities dealing with PFAS, and the EPA's PFAS Action Plan looks at the issue from a multi-program, multi-authority perspective. They also plan to include PFAS in the next UCMR round. Scientists are working to develop more methods of detecting PFAS in various media, and they have used information from communities that are impacted by PFAS.

When it comes to protecting children from lead, they are working on revisions to the Lead and Copper Rule, and they plan to issue a proposed rule for public comment this summer. The goal is to focus the rule's implementation on areas with high risk, and they want to develop a better understanding of where the 6.5 to 10 million lead service lines in the U.S. are located. They are also working to ensure that they have effective education and communication with communities where lead is found in drinking water. In a related rule, they are looking to finalize the regulatory changes to the definition of lead-free plumbing products. This will lead to new standards for lead content in plumbing materials that are used in new installations and repairs.

Recently OW announced the availability of \$87 million in funding under the Water Infrastructure Improvements for the Nation Act (WIIN) grants. This covers the Voluntary Lead Testing in Schools and Child Care grant program and the grant for Assistance for Small and Disadvantaged Communities. A third grant dedicated to reducing lead in drinking water systems will be announced this summer, and that will be a competitive process. These grants all focus on reducing lead exposure, and they fold in well with the other programs already in place, like the State Revolving Funds. OW is building on those programs through the new AWIA mandates, which give them more flexibilities and ways to support small and disadvantaged communities. The new AWIA requires a percentage of the funds to be used as subsidies for disadvantaged communities and extends the loan repayment period to 40 years. They also have an agency strategic measure in place to decrease the number of systems with health-based violations, which will tie into capacity development and the use of infrastructure and financing programs.

**Vice-Chair Heaps** summarized her thoughts on this topic as the Chair of the Water Infrastructure Report. She was glad to hear about the Needs Survey, since the last one was done in 2015 with 2012 data, and that is not frequent enough. There should be something in between that is quicker and supports small systems in getting better data. Her hometown of Buffalo is trying to do preventative lead service line replacement, but the drinking water SRF money is prioritized for systems that are already failing. It would be good to allocate money for preventative work as well. On PFAS, there are so many chemicals in a class that if you just look at PFAS and PFOS you are leaving things out. Among communities there is a desire to look at the whole because chemical companies tweak their formulas and create new chemicals that escape the regulatory process. On the Clean Water Act, it took a decade to get regulations that balanced the needs of different parties and got science involved. It is disappointing that that process is now getting rushed through a hurried comment period for purely political reasons. She said that she would be open to a discussion within NEJAC about the rollbacks and the ways that they narrow the scope of the Clean Water Act, which is so important to communities. The Water Infrastructure Report suggested regulating PFAS at a lower

level, and while they are seeing some states come in and do that regulation, it should not be piecemeal. Everyone should be protected at the same level, and it should be based on sound science.

**Vice-Chair Orduno** said she was glad that the presenters mentioned the need for principal forgiveness, which needs to be factored in more regularly in EJ communities. Rather than just hoping that the state will recognize this, it needs to come down from EPA as a recommendation. Related to full lead service line replacement, they want clarification from EPA that SRF money can be used for the private parts of the lines because some cities refuse to do full service line replacement if the private part of the line is not covered. Around school testing, there is not enough awareness about available funding for fixture and faucet replacements. In Michigan, only a tenth of the money that is allocated is being used by the schools, so there should be an education program from EPA to make sure schools and daycares understand what they need to do. Another problem is household affordability, and people misunderstanding that the 4.5 percent affordability standard for systems is applicable to household affordability levels. They also need to find out how to make drinking water enforcement and compliance a priority, since Director Bodine admitted that it has not been a priority in the past. They know that the Michigan Department of Environmental Quality (MDEQ) knew about PFAS and PFOS issues at least six years ago and allowed very serious public health issues to continue among communities. If the deaths in Flint or the cancer rates or the impacts on children were not enough to get results, what do they need to do to get the EPA and OW to understand the gravity of the situation?

**Mr. Tilchin** asked if communities were eligible and able to combine SRF and WIFIA loans, and whether criteria that focus on disadvantaged communities could be strengthened and those applications given additional weight. **Dr. Osborne Jelks** commented on the inadequacy of how states are able to determine the ways that water is managed when they do not have the motivation to address problems like combined sewers. **Dr. Wilson** said that it would be helpful to have some type of data visualization of where the needs are and where money has been invested. The Environmental Finance Centers are a resource that should be engaged around the issue of research and implementation.

**Ms. McLain** touched on some of the comments from NEJAC members. They agree that there is a priority to ensure that information is communicated about EPA resources and would appreciate NEJAC's input on effective methods of communication. There is a new fact sheet about lead service lines on the SRF website that explicitly states that the entire lead service line is eligible for SRF funding. PFAS is a priority that they want to examine through many lenses, and they are looking at all of the information they have to support their decision-making. **Mr. Sawyers** thanked NEJAC for their comments and said that they are in the process of revising their affordability guidance, which is both a clean water and drinking water issue. He said that SRF and WIFIA can be combined, and OW is actively thinking about a data-intensive exercise like the one that Dr. Wilson mentioned.

### **3.3 Dialogue: Office of Chemical Safety and Pollution Prevention**

**Vice-Chair Heaps** welcomed Alexandra Dunn, Assistant Administrator for the Office of Chemical Safety and Pollution Prevention. She said that NEJAC was excited to have a dialogue with her,

especially given the number of public comments they had received about ethylene oxide and the Chemical Disaster Rule.

### **3.3.1 Alexandra Dapolito Dunn, Assistant Administrator – U.S. EPA**

**Alexandra Dunn** thanked the NEJAC and introduced some staff members from her office. She said that she was passionate about environmental justice and community engagement, and she was always thinking about how to integrate those topics into her work. In her current position with the Office of Chemical Safety and Pollution Prevention (OCSPP), EJ issues are a natural focus because everything that OCSPP does directly impacts communities.

Speaking to the problem of lead, under TSCA OCSPP has authority over lead paint removal and protecting residents from exposure. An upcoming and more restrictive lead dust hazard standard will lower the trace amount of lead dust allowed on floors and windowsills and align OCSPP with HUD. Their Tribal Toxics Council has also done work around lead awareness in Indian country. They have a tribal lead education toolkit and a curriculum that they developed with the Oneida Nation and the Shoshone-Bannock Tribes. The curriculum has modules on understanding lead, cleaning techniques, personal hygiene and nutrition, and hiring lead professionals.

In 2016 the Toxic Substances Control Act was amended for the first time since 1976. Under the new law EPA must inventory the number of chemicals currently in commerce, and they have published a list that encompasses the 40,000 chemicals made, distributed, or used in the U.S. during the past ten years. The Chemical Data Reporting (CDR) Rule gives a tighter reference for chemicals that are in use today. OCSPP will work on full risk evaluations of every chemical on the list, starting with a group of ten that includes asbestos, 1,4-Dioxane, and HBCD. Rather than looking at every single way that they exist in the environment, they are looking at uses in manufacturing, distribution, or import today. The law also created a science advisory panel to look at EPA's work and asked OCSPP to identify twenty low-priority and twenty high-priority chemicals. In addition to the existing chemical universe, chemical companies and innovators are constantly finding new ways to alter formulas and create new compounds. EPA is the gateway between new chemicals and the market, and their risk assessment includes consideration of worker exposure.

OCSPP is in charge of implementing the Agricultural Worker Protection Standard, which is focused on reducing the risk of pesticide poisoning and injury among workers. The standard informs workers and handlers about the pesticides they're working with and explains exposures and mitigation. While EPA considered making changes to the standard, they have ultimately decided not to pursue those changes. They are looking at application exclusion zones (AEZs) and ways to work with property rights to extend those zones. They are also re-reviewing several pesticides and their risks, including paraquat, a very dangerous herbicide. In response to several tragic incidents involving paraquat, EPA has issued new training for manufacturers and applicators.

**Ms. Trevino-Sauceda** said that she came from a migrant family and she works with farmworker communities, and she has personally seen people die from exposure to pesticides. They can make laws and regulations, but if there is no monitoring, it is a big problem. They have learned from workers themselves that companies are not necessarily applying the chemicals that are registered.



There are still a lot of poisonings happening, and many companies still do not follow the regulations. She said that she was glad that EPA was not allowing children to apply chemicals; because the industry is not covered by the Fair Labor Standards Act, children as young as twelve can be hired to do agricultural work. The companies should also be looking at alternative application methods to spraying pesticides from planes, but they are not pursuing these methods because it will cost them more money.

**Ms. Dunn** said that EPA has been looking at changes around pesticide drift and buffer zones, as well as wind conditions and the size of spray droplets. They are also trying to expedite some of the newer, more targeted pesticides through the EPA process. The new Pesticide Registration Improvement Act (PRIA) was supported by pesticide companies and farmworker justice groups, and it requires the companies to pay a fee to EPA to cover the cost of testing. The EPA uses that money for worker education and protection. **Rick Keigwin** added that new application technologies are emerging that require spraying closer to the ground where the pest resides, which helps eliminate off-target movement of pesticides.

**Dr. Wilson** asked how EPA had integrated recommendations from the National Academy of Sciences Exposure in the 21<sup>st</sup> Century Report into their work, and how high throughput technology has worked for testing chemicals. He asked how they were improving the science in their work with TSCA, and when the EPA was going to integrate cumulative risk assessment and bring in other exposures. Vulnerability and susceptibility are two intersecting concepts that are highly relevant to this issue, and in areas with too many chemicals and vulnerable populations, there should be chemical-free zones where no new chemicals can be used. He asked about biomonitoring data when it comes to implementing TSCA.

**Mr. Tilchin** said that most of the issues that were raised during public comment fall within OCSPP. One dealt specifically with a risk review process that uses statutory exclusions, where risk is assumed to be zero if a chemical is regulated under another program. EPA's power is related to public trust, and if the fundamental methodology is flawed, they will sacrifice that trust. **Mr. Shabazz** asked if a business could be allowed not to disclose chemicals used in their process under the Chemicals in Commerce Act. **Ms. Rezendes** said that she was concerned about a sudden switch in the messaging around chlorpyrifos, where no explanation was provided as to why EPA changed its mind. **Vice-Chair Heaps** reminded EPA that NEJAC has weighed in twice on farmworker protection and reiterated their support for the application exclusion zones. They would like to see the safer chemicals program continue, and they requested that EPA undertake outreach about the next twenty high priority chemicals and talk to the communities that are most impacted.

**Chair Moore** said that many times when resources are put into the hands of states, there is no inclusion of grassroots EJ organizations. They would like some assurance that such inclusion will take place. He said that NEJAC was looking forward to working with Ms. Dunn in her new role. He spoke about the urgency around many of these environmental justice issues and the fact that people are getting sick and dying. The administration should be doing more to protect EJ communities instead of rolling back hard-won rules, funding, and programs. He summarized public comments that NEJAC has heard on topics including: safer chemical storage processes; better communication between facilities and fence-line communities through emergency management

plans; monitoring, reporting, and minimizing fence-line emissions; preventing the construction of new or expanded chemical facilities near homes and schools; requiring publicly accessible health impact assessments and mitigation plans around cumulative impact; strengthening enforcement of existing environmental workplace health and safety regulations, including for farmworkers; and updating regulatory and permitting processes to consider cumulative impacts of pollution.

**Ms. Dunn** agreed that the issues NEJAC raised went to life and death and that enforcement was essential to maintain integrity in the programs that EPA implements. To Mr. Tilchin's question about statutory exclusions, she said that if one of the 40,000 chemicals under consideration is on the HAP list, they do take that into consideration and prioritize other chemicals that might not be covered under other statutes. Some of the chemicals in commerce do have confidential names, but those companies have to file reports with EPA and resubstantiate their confidentiality. On chlorpyrifos, EPA was ordered by a court to respond to objections filed by an environmental group, so they are taking a very close look at that chemical. **Chair Moore** thanked Ms. Dunn and invited her to visit some of the EJ communities.

**Vice-Chair Heaps** said that the ETO letter and the chemical disaster safety rule letter were basically done, subject to some minor edits. She moved that the NEJAC approve in substance the ethylene oxide letter and the chemical disaster safety rule letter. The Council unanimously agreed to approve both letters.

**Ms. Martin** asked NEJAC members who were retiring off the Council to come to the front of the room to receive their commemorative plaques and take photos.

### **3.4 Dialogue: Office of Air and Radiation**

**Vice-Chair Heaps** welcomed Anne Idsal, Principal Deputy Assistant Administrator of the Office of Air and Radiation. She invited her to make some opening comments before taking questions from NEJAC members.

#### **3.4.1 Anne Idsal, Principal Deputy Assistant Administrator, Office of Air and Radiation – U.S. EPA**

**Anne Idsal** introduced herself and briefly summarized her background as the regional administrator for Region 6. She recognized that NEJAC has a significant role in shaping EPA's environmental justice legacy. As the Office of Air and Radiation (OAR) moves forward with implementing the Clean Air Act, they are committed to paying special attention to the vulnerable communities that NEJAC represents. She spoke about OAR's long-term progress on air quality, their priority actions, and successful collaborations with communities to solve local air quality concerns.

From 1970 to 2017, the combined emissions of the six criteria pollutants regulated under the National Ambient Air Quality Standards (NAAQS) dropped by 73 percent, and from 2000 and 2017 concentrations of fine particulate matter (PM) dropped by 40%. These air quality issues tend to hit EJ communities the hardest. Carbon dioxide (CO<sub>2</sub>) emissions fell 14 percent from 2005 to 2017, and CO<sub>2</sub> emissions from power plants have fallen about 20 percent since 2011. Sulfur dioxide and lead concentrations in air have also decreased significantly.

One area of focus for OAR is prioritizing improvements to the process of setting new NAAQS. They are also preparing to finalize the Affordable Clean Energy rule, which they anticipate will provide \$400 million in annual net benefits, reduce compliance burdens, and cut CO2 emissions. The Cleaner Trucks Initiative (CTI) is on track to come out in 2020, and OAR hopes that it will provide a significant opportunity to decrease nitrogen oxide (NOx) emissions from mobile sources. EJ communities are often areas with high truck traffic, so this should be particularly beneficial to them. OAR is currently developing the data and analyses needed to inform comprehensive rulemaking for the CTI, and as part of this they will be reaching out for public comment.

OAR's Office of Transportation and Air Quality (OTAQ) has been working with EOJ and regional offices to develop the Near-port Community Capacity Building Project. This project placed renewed attention on opportunities for environmental improvements in the port industry. Pilot partners have included a number of environmental justice groups and produced noteworthy outcomes and accomplishments. The Diesel Emissions Reduction Act (DERA) provides grant funding for projects that replace diesel engines with newer, cleaner engines, which is particularly important in impoverished communities with aging fleets. OAR also does indoor air quality work within EJ communities with efforts like their indoor air program. One of the ways that they can be most effective is through outreach and education, especially as it relates to asthma. They also collaborate with tribal stakeholders and organizations to educate people about funding and training opportunities, and they are working with the Tribal Air Monitoring System Center in Region 9 to support the change-out of wood stoves in Navajo Nation homes.

**Dr. Wilson** said that there were major concerns about cumulative impacts, which EPA needs to integrate into rulemaking, permitting, and enforcement. They have been using flawed science to inform permitting for Clean Air Act, and as a result it does not protect the most susceptible and vulnerable populations. Rather than adding greater burden to unhealthy communities, EPA should use an airshed approach around clusters of facilities. The current monitoring system is archaic, and instead EPA should have embedded sensor networks that constantly collect data on CAPs and HAPs in a smart cities framework. Current science is not keeping up with exposures, and there should be a moratorium on facilities until we get better science to inform rulemaking, enforcement, and compliance. He mentioned best practices in California, where AB-617 has introduced more community-driven monitoring. The Citizen Science Association wants to see citizen-collected data used in decision-making, and EPA should be using information from the indicator-grade sensors that it has studied. He said that the ports program is very good, and it would be useful to have that replicated and increased funding. Facilities should create community benefits agreements with host communities with resources for monitoring and mitigation.

**Mr. Chase** mentioned fracking and the rollbacks and variances that are being given for air quality issues. As of the past week, they no longer have to have air quality monitoring until after production begins. He also asked what EPA was looking at with respect to the massive dust storms moving across the western U.S. **Ms. Idsal** said that she would reach out to Region 8 about air monitoring and fracking efforts and to the Office of Atmospheric Programs about the dust storms. **Ms. Trevino-Sauceda** asked if OAR was connected to OCSPP, how they work together, and what kind of research they are producing, particularly around asthma. **Ms. Idsal** said that she would talk to Ms. Dunn to

find out what they were doing and how they could do more together. **Mr. Youngerman** spoke about the AB-617 law, which is specifically targeted toward stationary sources. He suggested building some mechanisms to separate out mobile sources from stationary so as to get data on mobile sources. **Ms. Drew** talked about forest fires, which often spread particulate matter. There is a lot of response to the fires but very little to no money put into fire mitigation, and she wondered if EPA could help find funding for smaller communities to work on mitigation. **Ms. Idsal** said that there has been recent interest among USDA, the Department of the Interior, and EPA in readdressing some partnership agreements between the three agencies. Ms. Idsal has approached those agreements asking about the real and perceived barriers that keep local communities from moving forward and coming up with their own mitigation plans going forward. She said that any information that NEJAC had about that topic would be helpful. Ms. Drew said that one of the big roles for EPA is communication and building relationships with partners at every level.

**Vice-Chair Heaps** said that the Hoosier Environmental Council is working heavily on outdoor wood boiler smoke in a rural context, and she summarized the two letters the NEJAC finalized earlier that day. Specifically, she requested confirmation from Ms. Idsal that EPA intends to continue using the best available science, such as the IRIS value on ETO. She said that NEJAC would also like more information about planned efforts to reduce ETO from industrial sources. They requested a written response back on those points, preferably within thirty days. **Dr. Wilson** spoke about enhanced monitoring in green zones and electrification to get dirty diesel vehicles off the road. **Ms. Idsal** thanked the NEJAC for their time and their feedback and said that OAR would get a written response to NEJAC within thirty days.

### **3.5 Dialogue: Office of Research and Development**

**Mr. Tejada** introduced Kacee Deener, Acting Director for the Office of Science Policy. She will be the point of contact for environmental justice at the Office of Research and Development (ORD).

#### **3.5.1 Kacee Deener, Acting Director, Office of Science Policy, Office of Research and Development – U.S. EPA**

**Kacee Deener** filled in for Jennifer Orme-Zavaleta, the Principal Deputy Assistant Administrator for Science at ORD, who sent her regrets that she could not attend the meeting. Ms. Deener gave a brief overview of ORD's organization and their work as the science arm of the EPA. Their work is divided into three main buckets: longer term research that is innovative and anticipatory, medium term research to meet EPA's statutory requirements and meet current environmental challenges, and technical and emergency support. They organize their research portfolios around six areas: air and energy, sustainable and healthy communities, safe and sustainable water resources, chemical safety for sustainability, human health risk assessment, and homeland security. They are in the process of updating their strategic research plans through partner engagement with program and regional offices, The Environmental Council of the States (ECOS) and state organizations, tribal groups, and public health groups. Research is implemented in EPA laboratories and used to develop a variety of methods in ORD including methods, models, tools, apps, and databases.

Ms. Deener expanded on specific research areas of interest to the NEJAC. Some of the research in the Sustainable and Healthy Communities Research Program is focused on site remediation, restoration, and revitalization (R to R to R). ORD does some of the science needed to evaluate the effectiveness of remediation and restoration actions. The community's goals and priorities are included up front in the design stage and throughout the entire process. By integrating this community engagement from the beginning, they ultimately drive improved human well-being from health, social, and economic perspectives.

ORD is also involved in conducting the research that is prioritized in the federal lead action plan. They are working on research areas including: the key drivers of blood lead levels in situations with multimedia exposures; generating data and mapping tools to help identify higher-exposed communities and locations; generating data to address critical gaps to reduce uncertainties; and approaches to prevent, mitigate, and communicate about lead exposures and risk. ORD does research to help advance the scientific understanding of PFAS, and they organize that research around understanding toxicity. They apply computational tools and conduct research on exposure and methods to accurately measure PFAS in different media, and they identify treatment and remediation actions.

In the area of drinking water, ORD recently created a consumer guide to help consumers identify point-of-use filters and what they are certified to remove. They also host a small drinking water systems monthly webinar series, which has attracted more than 44,000 attendees and provided more than 27,000 continuing education certificates. It provides information to local and state communities operating small systems, and it also helps EPA to understand the challenges facing small drinking water systems operators.

ORD has developed EnviroAtlas, which is a collection of interactive tools and resources that helps people understand more about the benefits that humans gain from ecosystem services. It can be scaled to different levels, and all of the data are publicly available. It can also map community assets and vulnerabilities and provide a better reflection of where people are actually living. In a health impact assessment process, EnviroAtlas can help with understanding baseline conditions and characterizing impacts of a proposed policy or project. It also contains demographic data and variables to help incorporate equity and vulnerable population dynamics. The eco-health relationship browser is embedded within EnviroAtlas and allows you to drill down into elements of the ecosystem and identify connections with human health.

ORD also considers the effects of wildfires, which produce air pollution and adversely affect the air quality in vulnerable populations in particular. To combat this issue, they have developed a number of tools and resources to educate the public about the risks from wildfire smoke exposure and ways to protect their health. They also created a wildfire smoke guide geared towards public health officials. The Particle Pollution and Your Patients' Health course was created for healthcare providers to educate them about the risks of wildfire smoke, and the online healthy heart toolkit gives the public resources around particle pollution and health effects. They developed an air sensor guidebook for people who are interested in low-cost sensor technology to educate them on how to use the sensors and collect good data. Ms. Deener also highlighted a section on

environmental justice research within the ORD research website. It has a compilation of resources and tools and a full bibliography of EJ research that EPA has published over the years.

**Ms. Fritz** asked about the competitive process for EPA scientists to get support for their research. **Ms. Deener** said that ORD's research is driven by their partners' needs, like the scientific gaps that other offices identify. **Mr. Chase** said there needs to be mechanisms for ORD to receive research information. He asked how they work with partners and other agencies to use their information rather than filling in gaps. Citizen science is growing rapidly out of a need for citizens to be able to participate in what's happening in their communities. He asked how EPA is helping to make citizen science a more valid tool. **Ms. Deener** said that they have a program where they bring together scientists from state organizations, regions, and ORD to work on common issues together. She said that she would be very interested in getting Mr. Chase's suggestions about citizen science in a further discussion. Mr. Chase said that he would be happy to share his ideas. He praised the smoke app that ORD developed and encouraged more development of similar immediate, direct information sources.

**Dr. Osborne Jelks** asked what has happened to the Community-Focused Exposure and Risk Screening Tool (C-FERST) and why it might be phased out before it was even fully implemented. **Ms. Deener** said that she would gather information and get back to her with an answer. **Mr. Tilchin** asked how the national research programs connect to the labs. He said that the Deputy Administrator made a point to talk about the restructuring of ORD labs and asked for clarification around that process. He also requested that EPA reach out to D.C.'s Department of Energy & Environment about the sediment remediation project on the Anacostia River. **Ms. Deener** said that the research programs set strategic direction for the research that is implemented in the labs. When it comes to lab reorganization, the labs will continue to do all of the important research that they already do.

**Vice-Chair Orduno** said that the science behind these issues matters a lot to grassroots groups who are often disregarded unless they can provide data. She said that she was glad more attention was being paid to PFAS, but in many communities the harm has already been done, and at this point they really need the scientists to step up. PFAS is not being addressed on military sites, and she cited public comment and a report from the Union of Concerned Scientists at the August 2018 NEJAC meeting. EPA needs to engage Department of Defense (DoD) scientists in conversation to produce recommendations. **Ms. McGee-Collier** asked whether EPA has a program that certifies and inspects labs that analyze wastewater. **Ms. Deener** said that ORD does not do that, but that she would try to get more information about what office in EPA, if any, does that kind of certification.

**Dr. Wilson** said that he liked ORD's tools that were designed for communities, and the Eco-Health tool goes to the point of salutogenesis and positive exposures. The vulnerability index is very valuable, but from an EJ standpoint there should be a resiliency index as well. He asked how EnviroAtlas was connected to EJSCREEN and how they can be used together; there should be an interface between the two to maximize utility for communities. They should also bring in more indicators, like indicators of burden as well as positive outcomes, and map and track them for data visualization. ORD needs to play a role when it comes to the science of cumulative impacts, and he asked how they were using the Exposure Science in the 21<sup>st</sup> Century report to update their

research. They should be engaging the Citizen Science Association because that group is engaged in citizen science and they should be focused on helping them get FEM quality sensors at the indicator-grade cost. Finally, he asked about ORD funding when it comes to environmental justice, and he requested a report back on how the children's health centers have addressed EJ issues. The environmental justice health disparities research centers collaboration between EPA and NIH was a travesty; not a single center in the south was funded, and some got funded even though they do not know anything about environmental justice. He asked about more funding for that mechanism and more NIH funding partnerships with institutions like historically black colleges and universities, tribal colleges, and Latinx universities. He requested a report out within 30 days about EJ funding and the impact of that funding over the last ten years.

**Ms. Rezendes** said that she went on to the EnviroAtlas website and the first things she saw was that it was only applicable to the 48 contiguous states. Hawaii and Alaska have been states since 1959, and they are tired of being left out of access to these tools. The 48 contiguous states wanted Alaska and Hawaii primarily for military purposes, and they need them, but they do not provide them the same kind of resources, and EJSCREEN is another example of this. Puerto Rico, Samoa, Guam, and Saipan are in the same situation. They should look at where their states are and what assets they have because there is a sovereignty movement in Hawaii, and many people would just as soon see the U.S. leave them alone completely. **Vice-Chair Heaps** said that she thought it might be worthwhile for NEJAC to take this issue up as a letter because resources should be available to everyone. She asked about how ORD looks at cancer outcomes as they are related to exposures from multiple sources. She also asked to what extent the companies who are developing and using PFAS chemicals pay for the research that is being done to figure out how dangerous they are and how to clean them up. **Ms. Deener** said that she appreciated all of the NEJAC members' comments and that she would take all of the information back to ORD.

### **3.6 NEJAC Business Meeting Reflection and Conversation**

**Mr. Tejada** outlined the items that NEJAC needed to cover in the business session: action items and follow-up items for NEJAC and EPA, letters that were in process and that NEJAC wanted to write, and potential future meeting locations. **Vice-Chair Heaps** said that they had initially talked about a TSCA letter, but she and Mr. Tilchin gave advice on that topic during the panels, so they do not need to write a letter. She suggested that they do a letter on the science that is not happening in Hawaii and Alaska, tribal areas, and Puerto Rico. **Vice-Chair Orduno** said that they had also talked about a PFAS letter; the response so far on PFAS is a good start, but the impacts are deeper than what has been acknowledged. They need to have something stronger than the actions that are already planned, and they need to address the really hard-impacted communities. This could also be an opportunity to push the conversations around DoD military bases, which is an issue that keeps coming up. A letter could help align the issues around smaller communities and military bases, and to encourage a more integrated approach with what a group in Congress is already doing. **Mr. Tejada** said that the letter around data availability and attention to areas like Alaska and Hawaii should be fairly straightforward. He asked who would be interested in pulling together to draft the PFOA/PFAS letter, and Vice-Chair Heaps, Vice-Chair Orduno, Mr. Shabazz, and Mr. Youngerman volunteered.

Anne Idsal committed to responding to the ETO letter in 30 days, but Mr. Tejada said he was unclear if she committed to responding to the RMP letter, which would go to the Office of Land and Emergency Management. He said that he would tell OLEM what Ms. Idsal committed to and ask them to respond to the RMP letter in 30 days. **Dr. Wilson** said that he had asked Kacee Deener for a report back on ORD funding for environmental justice-related projects over the last 10 years, specifically the EPA/NIH agreements. He would like an answer about what they have funded and what the impact has been, and how much is going to institutions that train students of color who can then go back to EJ communities and address problems. They need more commitment from EPA and NIH around this return on investment. Mr. Tejada said that he would work with the leadership of the relevant offices and the ORD leadership who could not attend this meeting, and for the next NEJAC teleconference he could prepare them to report out specifically on those funding issues. **Ms. McGee-Collier** said that in addition to a verbal report-out via teleconference, she wanted to see something in writing concerning the funding.

**Chair Moore** said that he had a request to OEJ that he hoped would not involve a letter. He asked OEJ to have something written and sent back to NEJAC on the \$87 million in the drinking water grants and how outreach has been done to community groups. He also wanted to know if EPA has been using any of the information around EJSCREEN when they are screening the grant applications. **Ms. Rezentes** added that for those geographic areas that have very little tool data, she wanted to know what methods they were using to analyze those grant requests because EJSCREEN is useless for some states and territories. Chair Moore rescinded the mention of EJSCREEN from his comment. He asked to move a recommendation that the request from NEJAC on the drinking water grants and Dr. Wilson's comments receive written responses, and Dr. Wilson agreed. **Mr. Tejada** said that the one on the water should be straightforward, and the other request may take some time because they're asking EPA to look back. He might reach out to Dr. Wilson and Dr. Osborne Jelks so that they can tell EPA exactly what they want. **Dr. Wilson** emphasized that his question about funding spoke to a larger point about indicators and impacts. **Ms. McGee-Collier** added that if the centers that got funded used the money to create reports, NEJAC would like to see those documents. **Mr. Tilchin** suggested a friendly amendment to add a forward-looking component. If they can articulate what they think should happen in the future, they should build that into the request.

**Mr. Tejada** said that he would work with Henry Darwin on a charge for the NEJAC, which would take several months. He would also start working on the request for NEJAC members to meet with Administrator Wheeler, and **Ms. Drew** said that they should try to do that on a regular basis. **Chair Moore** said that they had done that before. **Vice-Chair Orduno** said that she had a lot to say about enforcement and compliance, and she was not sure how to proceed on those issues. There were admissions from panelists during this meeting about the EPA's historically hands-off approach, and Ms. Bodine said that they are coming forward with new compliance initiatives, but she said that they were not compliance problems to the states, they were value-added. Vice-Chair Orduno said that she did not understand what value-added meant in that context. She wondered how to understand the next steps of where EPA is going and how to get responses from them. **Mr. Tejada** said that as NEJAC members, they can draft specific questions and hand them to OEJ staff to communicate to the agency. It is not a formal process, but EPA would likely draft written responses back. Vice-Chair Orduno brought up her earlier point about the differences between approaches to



man-made and natural disasters and where there is integration between EPA and FEMA. Mr. Tejada said that that is a huge, multi-part, multi-agency issue. They could devote a significant part of the next NEJAC meeting to having discussions with people from EPA, state and local organizations, and FEMA. He was thinking that their next meeting location should be somewhere with Superfund sites and communities to engage with, and they should also look for places with recent disaster response history.

Vice-Chair Orduno said that she was looking for clarity around NEJAC processes and how decisions are made and wondered if there was a way for NEJAC to understand more or have a role in that space. Mr. Tejada said that NEJAC's charter has a number of considerations to fulfill in terms of diversity and stakeholder groups. They have resisted designating categories to fill, but they try to be responsive to what NEJAC members and the public would like to see. **Ms. Martin** added that they would be releasing their new membership process because they are losing seven NEJAC members in August. **Vice-Chair Heaps** asked about opportunities to involve youth in a workgroup or have more formal youth participation in NEJAC. **Mr. Tejada** said that they have gotten some very strong applications from young people, but the ones that scored well in this last round were knocked out by geographic representation. **Vice-Chair Orduno** suggested conducting exit interviews with members that are leaving. She asked if it was possible to have a NEJAC Listserv, and Mr. Tejada said that they cannot create something inside the government firewall that members can access. **Ms. Trevino-Sauceda** said that if there is no agricultural labor representative in the future, they will be missing a lot because it is not the same to just have people come and share their comments. She noticed that being part of NEJAC has given more weight to her comments to agency representatives. She also suggested a youth farmworker representative. **Mr. Tejada** suggested that at a future NEJAC meeting, before charter renewal, they should have a more focused conversation and present what is in the charter to the NEJAC. **Vice-Chair Orduno** asked if there was a way to give weight to youth applications, and Mr. Tejada said that they could share their scoring rubric with NEJAC so that they could discuss it. **Ms. Drew** added that they need representation from rural communities which often suffer from environmental injustice. She asked about the status of NEJAC's water infrastructure report and the replacement of the word community with the word municipality, which eliminates rural areas. **Ms. Martin** said that the report was final and had been accepted by the Administrator. **Vice-Chair Heaps** said that she remembered Ms. Drew's comments being addressed in October of 2018.

**Mr. Tejada** asked if there was anything else NEJAC was expecting back from Henry Darwin. **Ms. McGee-Collier** said that she was not expecting anything back, but she asked about the draft EJ performance measures that he and Mr. Tejada were working on. Mr. Tejada said that they could release the draft document, but he wanted to have a conversation around it, which would have to occur in a public session. **Mr. Lee** said that the gist of it was something they were eager to share with NEJAC, but the exact language needed to go through the whole agency. Ms. McGee-Collier said that she wanted to know if what they have already put together will tie EJ populations to environmental programs. **Mr. Tejada** said that they have made those sorts of commitments in EJ 2020, and the measures they are working on will try to make those connections. **Ms. McGee-Collier** asked if Mr. Darwin had set a deadline, and Mr. Tejada said that it has just been a process. **Dr. Wilson** said that that conversation was important because it was an overlay for a lot of what NEJAC

had been talking about throughout the meeting. **Mr. Chase** said that they had a very strict metric process when they developed the CARE grants, and communities have already been doing this for a long time. **Mr. Tejada** said that they have reminded themselves and many of their colleagues at the agency that EPA is finally holding itself up to the same standards that they have been holding other people up to for a very long time. **Vice-Chair Orduno** asked if NEJAC's requests to Mr. Darwin needed to be in the form of a letter since they are requesting a written response, and Mr. Tejada said that they did not. He made a note that they were asking for a written response within 30 days for all four requests.

From Cosmo Servidio from Region 3, NEJAC requested written response on: follow-up on Local Emergency Planning Committee (LEPC)/EPCRA compliance for Croda in New Castle, Delaware; commitment to outreach to the Charleston community on the Rockwool facility; and commitment to doing some visits in Delaware with regional and OEJ staff. **Dr. Wilson** added that they would like some input on the chicken farm issue and the Community Healthy Air Act and providing guidance to MDE. There was also discussion about communication between regional staff and Region 3 commissions, and lessons learned from Brandywine around Title VI. **Mr. Tejada** said that the goal was to have the letters on NEPA, above ground storage tanks, and PFOA ready for Council consideration by the time of the public teleconference this summer. **Vice-Chair Heaps** asked how much time members felt they needed before the meetings to consider the letters, and the general consensus of the Council was that they needed at least one month. **Ms. Martin** said that in the next week they were going to try to lock in the actual dates. **Vice-Chair Orduno** asked about the reorganization and how it will affect the capacity for EJ coordination in the regions, and **Mr. Tejada** said that after the business portion of the meeting he would stay and answer any questions that members had about the reorganization. **Ms. Rezendes** said that part of the problem was finding information on the website that was consistent across regions. **Mr. Lee** said that they could create a list of all the key region contacts for environmental justice issues, and **Mr. Tejada** said that the realignments would help with that.

Mr. Tejada asked if there were any other outstanding requests for work action items. **Ms. Drew** said that she thought there might be an action item out of Dr. Wilson's requests about citizen science. **Dr. Wilson** said that he was not sure how that would manifest and asked if they should write a letter. **Mr. Tejada** said that he would encourage them not to do a letter on this topic because there is so much of that in so many different parts of the agency. It would be a huge input to put it in a letter, and he was not sure what they would get out of it that they couldn't get from requesting briefings or focused meetings about that issue. **Ms. Fritz** said that she was on the National Advisory Council for Environmental Policy and Technology (NACEPT), and she would be happy to take something back to them as well. Mr. Tejada encouraged NEJAC to devote a large part of a future meeting to this topic. **Dr. Wilson** said that he is on the Board of the Citizen Science Association, and he was thinking that the next year's meeting could be focused on citizen science. That meeting would be in College Park, Maryland, and that could be an opportunity to get some of the speakers to come to a NEJAC meeting.

**Mr. Chase** asked how they could get the Federal Register notice set up earlier. **Mr. Tejada** said that they have already told headquarters about that issue. **Rosalyn LaPier** said that in the public

comments from Boston and from this meeting a majority of commenters mentioned that EPA is not using science, and she wondered if there was a way to incorporate the use of sound science and scientific evidence in their communications to EPA. **Vice-Chair Heaps** said that the ETO letter directly addressed this issue. **Ms. Sprayberry** asked whether they could make the states aware that NEJAC has heard these comments from their citizens and facilitate dialogue between industry and states. **Mr. Tejada** said that they have already started to make some of those connections. Ms. Sprayberry also suggested putting old business on the agenda for the next meeting, and Mr. Tejada agreed that that was a good idea.

**Vice-Chair Orduno** said that several commenters had talked about public comments that were available, and she asked where those get listed. Mr. Tejada said that written and oral public comments are incorporated into the meeting summary, which is then posted online. **Vice-Chair Heaps** added that there is a whole docket for each regulatory process on regulations.gov. Due dates and public comment periods are on the Federal Register, but it is difficult to follow, so it is basically incumbent upon a couple of people and groups to watch daily for updates and then communicate that information to other people. **Vice-Chair Orduno** asked if there was a better way to do this, and **Mr. Tejada** said that the system does not work. **Vice-Chair Heaps** agreed and said that it was designed to benefit industries and groups that can pay people to watch for updates. Lawyers and activists could coordinate by figuring out a way to provide that information on a regular basis. **Ms. McGee-Collier** said that the document that Alex Dunn referred to with a deadline of June 22<sup>nd</sup> was the Lead Dust Hazard Standard. **Vice-Chair Orduno** pointed out that the dissemination of information was very much a justice issue and asked if there was a unit within EPA that is responsible for it. **Mr. Lee** said that each office is in charge of communication and dissemination of the rules that it manages. **Ms. Rezendes** said that on the Federal Register you can request a daily summary of all the federal government offices' publications. **Mr. Tilchin** said that the Michigan League of Conservation Voters is probably tracking that kind of information as well.

Looking ahead at the next meeting, **Mr. Tejada** reiterated the location criteria that he was thinking about: proximity to Superfund sites and recent disaster response/recovery. They have had several requests to hold a meeting in Puerto Rico, which would be difficult due to travel logistics and questions about the capacity and willingness of the island to host a U.S. government body. There have also been multiple requests for a meeting in Houston. **Vice-Chair Orduno** suggested Michigan, and **Marsha Minter** said that West Virginia came up in the public comments. **Mr. Youngerman** read out a list of the places mentioned during public comment: Lake Charles and Charleston, West Virginia were mentioned once; Mossville, Louisiana and Puerto Rico were mentioned twice; and Houston was mentioned four times. **Mr. Tejada** asked if anyone had strong feelings about the location because they needed to start planning ahead of time. **Ms. Rezendes** said that Puerto Rico would be difficult, and Houston has been mentioned at multiple meetings. Between the 52 miles of oil refineries where only EJ communities live and the recent chemical explosion, it would be a very appropriate place to hold a NEJAC meeting. **Dr. Wilson** added that Hurricane Harvey dropped 33 trillion gallons of rain on Houston. They need to support those EJ communities who are dealing with the combination of climate change disasters and the largest petrochemical corridor in the country. **Ms. Sprayberry** said that based on speakers that she saw at the National Environmental Justice Conference, they might have a lot of youth involvement in grassroots organizations, which

was also appealing to NEJAC. **Vice-Chair Orduno** said that a meeting in Michigan would allow them to bring in groups from rural and urban areas, and Michigan is facing several issues that were raised at this meeting like lead and PFAS.

Mr. Lee and Mr. Tejada led a brief discussion about EPA's regional realignment. **Mr. Lee** explained that in the past, EPA's culture was to have the regions organize themselves. Many regions organized themselves in a similar way, but each region decided the organization for itself. On the national level, the Office of Environmental Justice (OEJ) was housed in the Office of Enforcement and Compliance Assurance. About half of the regions followed that model and had their EJ programs in their regional enforcement offices, and the others developed their own models. When OEJ moved to the Office of Policy (OP) within the Office of the Administrator, EPA wanted to configure the regional offices along the lines of what was happening at headquarters. In the new model, the regional administrators' offices have a number of divisions that include programs like Environmental Justice, Children's Health, the Office of Community Revitalization, Environmental Education, and NEPA.

Before the realignment there was a great range of full time equivalent (FTE) levels. **Mr. Tejada** said that they get a line item from Congress that is just a dollar figure, and the Office of the Chief Financial Officer (OCFO) divides that and saves a pot for FTE salary. In a different universe, they have a number of employees that they are supposed to maintain. There should be a tight correlation between the amount of salary they have and the number of employees, but in reality they get set individually. Each part of EPA has an employee ceiling that is not necessarily tied to the amount of salary dollars that they have. When the EPA started to get cut, then-Administrator McCarthy negotiated with Congress to go down to about 14,500 and redistribute some employees to priority areas. At that time EJ got eight additional employees, and their ceiling number changed from 30 to 38. Five of the additional FTE went out to the regions, and although Mr. Tejada wanted to give them to individual regions, OCFO decided to give each region one half of an FTE. Thus, the EJ program went from 20 people in OEJ and 10 regional EJ coordinators to 23 in OEJ and 15 regional coordinators, with 1.5 regional coordinators in each region.

Mr. Lee added that when OEJ got started, there was no line item for grants, and grant funding fluctuated. Until the Obama administration, FTEs were only allocated to the OEJ office at headquarters, with no allocation for regional FTE. Mr. Tejada said that throughout the EPA, offices were struggling to track their FTE once they gave them away. There was no line of authority or accountability, and even though the regions each got 1.5 EJ FTE, some regions went years without a single EJ coordinator. With the regional realignment they should be able to know where EJ lives and who is responsible for it across all of the regions. That should help OEJ to be more consistent in communicating their needs and expectations to the regions and should help all of the agency's programs to manage the organization of EPA. **Mr. Chase** asked what authority OEJ has over those individual people, and **Mr. Tejada** said that they still do not report to him, and it is still the region's prerogative to hire and manage staff. **Mr. Lee** said that the regions are expected to be part of the national program, so that it is easier for OEJ to have an influence in setting national goals. Mr. Tejada said that they are trying to shift the paradigm to have a tighter relationship between

different parts of the EJ program. They have reset the deck and are trying to start off in a collaborative way, with OEJ in a different posture in the relationship.

**Vice-Chair Orduno** asked what they anticipate for report-back mechanisms, and **Mr. Tejada** said that the staff in the regions will be reporting directly up to him through the measurement systems. This will provide him with numbers to give clear expectations to the managers. **Mr. Lee** said that the vision behind this new structure is that the entire region is responsible for EJ, rather than having one EJ coordinator that does all the work. When it comes down to looking at what makes a difference in communities, it is not the singular FTE; it is the entire organization. **Vice-Chair Orduno** asked if the 1.3 FTE is just for the EJ coordinator, and **Mr. Tejada** said that it depended on the region. When he was first hired, there was an expectation from EPA leadership that each program would have an EJ coordinator, but that was not funded, and it eventually faded. Some programs still have a person in that role, while others have combined it with other coordination roles. **Vice-Chair Orduno** asked if they anticipated having something more formalized, and **Mr. Lee** said that they still needed to sort out the role of EJ in the programs.

### **3.7 Adjournment**

The Council rose in adjournment.

# **APPENDIX A**

## **AGENDA**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL PUBLIC MEETING  
APRIL 30 – MAY 02, 2019

HYATT REGENCY BETHESDA  
ONE BETHESDA METRO CENTER - 7400 WISCONSIN AVENUE - BETHESDA, MD 20814

**Day 1: TUESDAY APRIL 30, 2019 – REGENCY III/IV BALL ROOM**

4:00 pm – 9:00 pm	<b>REGISTRATION</b>
6:00 pm - 6:15 pm	<b>WELCOME &amp; OPENING REMARKS</b> <ul style="list-style-type: none"><li>○ <b>Matthew Tejada</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Karen L. Martin</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Richard Moore</b> – National Environmental Justice Advisory Council Chair</li><li>○ <b>Jill Witkowski Heaps</b> – National Environmental Justice Advisory Council Vice-Chair</li><li>○ <b>Sylvia Orduño</b> – National Environmental Justice Advisory Council Vice-Chair</li></ul>
6:15 pm – 8:15 pm	<b>PUBLIC COMMENT PERIOD</b> <i>Members of the public will be given seven (7) minutes to present comments on their issue or concern to the NEJAC.</i> <ul style="list-style-type: none"><li>○ <b>Matthew Tejada</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Karen L. Martin</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Richard Moore</b> – National Environmental Justice Advisory Council Chair</li><li>○ <b>Jill Witkowski Heaps</b> – National Environmental Justice Advisory Council Vice-Chair</li><li>○ <b>Sylvia Orduño</b> – National Environmental Justice Advisory Council Vice-Chair</li></ul>
8:15 pm – 8:30 pm	<b>BREAK</b>
8:30 pm – 11:00 pm	<b>PUBLIC COMMENT PERIOD CONTINUES</b>
11:00 pm	<b>CLOSING REMARKS &amp; ADJOURN</b>

## DAY 2: WEDNESDAY MAY 01, 2019 – REGENCY III/IV BALL ROOM

8:00 am – 5:00 pm	<b>REGISTRATION</b>
9:00 am – 9:30 am	<b>WELCOME, INTRODUCTIONS, DAY ONE RECAP &amp; OPENING REMARKS</b> <ul style="list-style-type: none"> <li>○ <b>Matthew Tejada</b> – U.S. EPA Designated Federal Officer</li> <li>○ <b>Karen L. Martin</b> – U.S. EPA Designated Federal Officer</li> <li>○ <b>Richard Moore</b> – National Environmental Justice Advisory Council Chair</li> <li>○ <b>Jill Witkowski Heaps</b> – National Environmental Justice Advisory Council Vice-Chair</li> <li>○ <b>Sylvia Orduño</b> – National Environmental Justice Advisory Council Vice-Chair</li> </ul>
9:30 am – 10:30 am	<b>WELCOME &amp; DIALOGUE: U. S. ENVIRONMENTAL PROTECTION AGENCY LEADERSHIP</b> <ul style="list-style-type: none"> <li>○ <b>Henry Darwin, Acting Deputy Administrator</b> – U.S. EPA</li> </ul>
10:30 am - 10:45 am	<b>BREAK</b>
10:45 am – 11:45 am	<b>WELCOME &amp; DIALOGUE: U. S. ENVIRONMENTAL PROTECTION AGENCY REGION 3 LEADERSHIP</b> <ul style="list-style-type: none"> <li>○ <b>Cosmo Servidio, Regional Administrator</b> – U.S. EPA</li> </ul>
11:45 am – 1:00 pm	<b>LUNCH</b>
1:00 pm – 2:00 pm	<b>COMMUNITY VOICES</b> <i>This session will highlight the work of Overbrook Environmental Education Center and JASTECH Development Services Inc. to ensure a more livable, sustainable, and equitable community in the city of Philadelphia and the preservation of our built and natural environments.</i> <ul style="list-style-type: none"> <li>○ <b>Jerome Shabazz, Executive Director</b> – Overbrook Environmental Education Center and JASTECH Development Services Inc.</li> <li>○ <b>Alice Wright, Environmental Justice Trainer</b> – Overbrook Environmental Education Center</li> </ul>



## DAY 2: WEDNESDAY MAY 01, 2019 – REGENCY III/IV BALL ROOM

2:00 pm – 3:00 pm	<p><b>NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL SUPERFUND TASK FORCE WORKGROUP UPDATE</b>  <i>This panel will provide an update on the charge issued by the Office of Land and Emergency Management as a result of the Superfund Task Force Report released in July 2017.</i></p> <ul style="list-style-type: none"> <li>• <b>Charles Chase, Workgroup Co-Chair</b> – <i>University of Colorado - Boulder</i></li> <li>• <b>Mike Tilchin, Workgroup Co-Chair</b> – <i>Jacobs Engineering</i></li> <li>• <b>Kelly Wright, Workgroup Co-Chair</b> – <i>Shoshone-Bannock Tribes</i></li> <li>• <b>Audrie Washington, Workgroup Designated Federal Officer</b> – <i>U.S. EPA</i></li> </ul>
3:00 pm – 3:15 pm	<b>BREAK</b>
3:15 pm – 4:15 pm	<p><b>DIALOGUE: OFFICE OF GENERAL COUNSEL</b></p> <ul style="list-style-type: none"> <li>○ <b>Lilian Sotolongo Dorka, Director, External Civil Rights Compliance Office</b> – <i>U. S. EPA</i></li> </ul>
4:15 pm – 4:45 pm	<p><b>DIALOGUE: OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE</b></p> <ul style="list-style-type: none"> <li>○ <b>Susan Bodine, Assistant Administrator</b> – <i>U. S. EPA</i></li> </ul>
4:45 pm– 5:30 pm	<p><b>CLOSING COMMENTS &amp; ANNOUNCEMENTS</b></p> <ul style="list-style-type: none"> <li>○ <b>Matthew Tejada</b> – <i>U.S. EPA Designated Federal Officer</i></li> <li>○ <b>Karen L. Martin</b> – <i>U.S. EPA Designated Federal Officer</i></li> <li>○ <b>Richard Moore</b> – <i>National Environmental Justice Advisory Council Chair</i></li> <li>○ <b>Jill Witkowski Heaps</b> – <i>National Environmental Justice Advisory Council Vice-Chair</i></li> <li>○ <b>Sylvia Orduño</b> – <i>National Environmental Justice Advisory Council Vice-Chair</i></li> </ul>
5:30 pm	<b>ADJOURN</b>

## DAY 3: THURSDAY May 02, 2019 – REGENCY III/IV BALL ROOM

8:00 am – 3:30 pm	<b>REGISTRATION</b>
9:00 am – 9:15 am	<b>WELCOME &amp; DAY TWO RECAP</b> <ul style="list-style-type: none"><li>○ <b>Matthew Tejada</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Karen L. Martin</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Richard Moore</b> – National Environmental Justice Advisory Council Chair</li><li>○ <b>Jill Witkowski Heaps</b> – National Environmental Justice Advisory Council Vice-Chair</li><li>○ <b>Sylvia Orduño</b> – National Environmental Justice Advisory Council Vice-Chair</li></ul>
9:15 am – 10:15 am	<b>DIALOGUE: OFFICE OF LAND AND EMERGENCY MANAGEMENT</b> <ul style="list-style-type: none"><li>○ <b>Barry Breen, Acting Assistant Administrator, Office of Land and Emergency Management</b> – U.S. EPA</li><li>○ <b>Peter Wright, Special Counsel to the Administrator, Office of the Administrator</b> – U.S. EPA</li></ul>
10:15 am – 11:15 am	<b>DIALOGUE: OFFICE OF WATER</b> <ul style="list-style-type: none"><li>○ <b>Jennifer McClain, Director, Office of Ground Water and Drinking Water</b> – U.S. EPA</li><li>○ <b>Andrew Sawyers, Director, Office of Waste Water Management</b> – U.S. EPA</li></ul>
11:15 am – 11:30 am	<b>BREAK</b>
11:30 am – 12:30 pm	<b>DIALOGUE: OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION</b> <ul style="list-style-type: none"><li>○ <b>Alexandra Dapolito Dunn, Assistant Administrator</b> – U.S. EPA</li></ul>
12:30 pm – 1:30 pm	<b>LUNCH</b>

## DAY 3: THURSDAY May 02, 2019 – REGENCY III/IV BALL ROOM

1:30 pm – 2:30 pm	<b>DIALOGUE: OFFICE OF AIR AND RADIATION</b> <ul style="list-style-type: none"><li>○ Anne Idsal, Principal Deputy Assistant Administrator, Office of Air and Radiation – U.S. EPA</li></ul>
2:30 pm – 3:30 pm	<b>DIALOGUE: OFFICE OF RESEARCH AND DEVELOPMENT</b> <ul style="list-style-type: none"><li>○ Jennifer Orme-Zavaleta, PhD, Principal Deputy Assistant Administrator for Science, Office of Research and Development – U.S. EPA</li></ul>
3:30 pm – 3:45 pm	<b>BREAK</b>
3:45 pm – 6:00 pm	<b>NEJAC BUSINESS MEETING REFLECTION AND CONVERSATION</b> <p><i>The NEJAC will use this time to reflect on the meeting proceedings of the last two days, develop action items and discuss new or emerging environmental justice issues across the United States and its territories.</i></p> <ul style="list-style-type: none"><li>○ <b>Matthew Tejada</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Karen L. Martin</b> – U.S. EPA Designated Federal Officer</li><li>○ <b>Richard Moore</b> – National Environmental Justice Advisory Council Chair</li><li>○ <b>Jill Witkowski Heaps</b> – National Environmental Justice Advisory Council Vice-Chair</li><li>○ <b>Sylvia Orduño</b> – National Environmental Justice Advisory Council Vice-Chair</li></ul>
6:00 pm	<b>ADJOURN</b>

**APPENDIX B**  
**MEETING ATTENDEES**

**Public Meeting In-Person Attendees**

<b>First Name</b>	<b>Last Name</b>	<b>Company</b>
Allison	Acevedo	PA Department of Environmental Protection
Samantha	Beers	U.S. EPA R3
Kent	Benjamin	U.S. EPA
Joseph	Bocchiaro III	Concerned Citizens Against Rockwool
Stan	Buzzelle	US EPA
Darlene	Byrd	US EPA
Sylvia	Carignan	Bloomberg Environment
Emma	Cheuse	Earthjustice
Corbin	Darling	EPA Region 8
David	Doyle	U.S. Environmental Protection Agency Region 7
Alyssa	Edwards	EPA
Lena	Epps-Price	US EPA
Monica	Espinosa	EPA Region 7
Ericka	Farrell	EPA/OEJ
Cynthia	Ferguson	Dept. of Justice / Environment and Natural Resources Division
Nicolette	Fertakis	U.S. EPA
Nicolette	Fertakis	U.S. EPA
Celeste	Flores	Faith in Place
Sarah	Froman	EPA
Shelley	Fudge	US EPA
Venu	Ghanta	Duke Energy
Danny	Gogal	USEPA
Running	Grass	U.S.EPA. Region 10
Kamita	Gray	BTB Coalition
Joseph	Greenblott	U.S. EPA
Jon	Grosshans	U.S. EPA
Reginald	Harris	US EPA Region III
Dona	Harris	USEPA/Tribal Affairs
Stephanie	Herron	Delaware Concerned Residents for Environmental Justice
Marcus	Holmes	EPA
Rebecca	Huff	EPA - OEJ
Shea	Jones-Johnson	EPA Region 4
Patricia	Juarez	UTEP-CIBS
Toshia	King	US EPA
Caroline	Klos	US EPA
Michele	Knorr	EPA
Chitra	Kumar	U.S. EPA
Samuel	Lambeth	Discover Technologies LLC

<b>Public Meeting In-Person Attendees</b>		
<b>First Name</b>	<b>First Name</b>	<b>First Name</b>
Charles	Lee	US EPA
Anthony	Lopez	self
Justine	Lundsted	EPA
Ellen	Manges	U.S. EPA
Karen	Martin	U.S. EPA
Ray	McAllister	CropLife America
Kathryn	Millard	EPA
Marsha	Minter	US EPA
Elisabeth	Mohle	Independent
Pinky	Myers	Liberia Agriculture Commodity Regulatory Authority
Loan	Nguyen	U.S. EPA
Jill	Nogi	US EPA
Abigail	Omojola	The Raben Group
Phil	Page	U.S. EPA
Quentin	Pair	
Arthur	Ray	City of Rockville, MD
Danielle	Ridley	EPA
Michelle	Roberts	Coming Clean
Victoria	Robinson	U.S. Environmental Protection Agency
LaKeshia	Robinson	U.S. EPA
Lorna	Rosenberg	US EPA Region 3
Alexis	Rourk	US EPA
S	Sabella	Coming Clean
Vicky	Salazar	US Environmental Protection Agency
David	Schultz	Bloomberg Environment
Stephanie	Schwartz	EDF
Stephanie	Schwarz	EDF
Scott	Stollman	EPA, Region 9
Elyse	Sutkus	US EPA
Patricia	Taylor	U.S. EPA
Tami	Thomas-Burton	EPA - R4
Kathy	Triantafillou	U.S. EPA
Fatima	Ty	U.S. EPA Region 9
Gloria	Vaughn	Environmental Protection Agency
Stephen	Watkins	EPA
Larry	Weinstock	EPA/OAR
Sharon	Wells	EPA
Michael	Wenstrom	USEPA - Region 8
Linda	Whitehead	Delaware Concerned Residents for Environmental Justice

**Public Meeting In-Person Attendees**

<b>First Name</b>	<b>First Name</b>	<b>First Name</b>
Dora	Williams	Route 9 Community
Alice	Wright	Overbook Environmental Education Center
Andrew	Wynne	US EPA
Lynne	Yas	FDA
Lih	Young	DR LIH YOUNG FOR U.S. SENATE

Public Meeting Teleconference Attendees

<b>First Name</b>	<b>Last Name</b>	<b>Company</b>
Christine	Amrhine	Greenfield Environmental Multistate Trust LLC
April	Baptiste	Colgate University
Sharon	Baxter	Virginia DEQ
Agatha	Benjamin, P.E.	USEPA
Ashley	Boles	CropLife America
John	Brakeall	Pennsylvania Department of Environmental Protection
Jessica	Brakora	OTAQ
Evelyn	Britton	U.S. General Services Administration Office of Civil Rights
Sharunda	Buchanan	CDC
Talia	Buford	ProPublica
DIANA	BURDETTE	Clean Power Lake County
Doris	Carter	The Environmental Justice Advisory
Valincia	Darby	DOI
Adesuwa	Erhunse	USEPA Region 4
Gabby	Fekete	US EPA OIG
Sandy	Germann	U.S. EPA
Kelly	Gravuer	AAAS Fellow at EPA
Rita	Harris	Sierra Club
Natasha	Henry	EPA OIG
Courtney	Johnson	Crag Law Center
Johanna	Johnson	U.S. EPA
Patricia	Juarez	UTEP-Center for Inter-American and Border Studies
chad	Kincheloe	EPA
Francesca	King	Chesapeake Bay Program
Marva	King	
Michele	Knorr	EPA
Brett	Korte	UCI ELC
Karen L	Martin	U.S. EPA
Rosa	Mendez	NYS DEC
Althea	Moses	US EPA Region 7
Julie	Narimatsu	USEPA
Daria	Neal	Department of Justice
Michael	Northridge	U.S. EPA
Leanne	Nurse	US EPA
Na'Taki	Osborne Jelks	West Atlanta Watershed Alliance and Proctor Creek Stewardship Council
Toney	Ott	EPA
Riche	Outlaw	NJDEP
Cynthia	Peurifoy	Environmental Justice Community



**Public Meeting Teleconference Attendees Continued**

<b>First Name</b>	<b>Last Name</b>	<b>Company</b>
Alli	Phillips	EPA
Chris	Pressnall	Illinois EPA
Katherine	Probst	Kate Probst Consulting
Walt	Raith	East Central WI RPC
Evelia	Rodriguez	DTSC
Stephanie	Schlea	Association of Metropolitan Water Agencies
Janie	Scott	Georgia WAND
Karen	Sprayberry	South Carolina Department of Environmental Quality
Kenneth	Warren	Warren Environmental Counsel LLC
Victor	Zertuche	LANWT
Liping	Zhang	Deere & Company

**APPENDIX C**  
**WRITTEN COMMENTS**

**Dr. Lih Young**

Date: December 1, 2018

FROM: Dr. LIH YOUNG, lyly2kj@gmail.com; P. O, BOX 10286, Rockville, Md 20849

TO: Montgomery County, County Executive Elect Listening Session (12-1-2018),  
[marcelrichtransition@montgomerycountymd.gov](mailto:marcelrichtransition@montgomerycountymd.gov)  
U.S. Commission on Civil Rights, enforcement@usccr.gov

SUBJECT: COMPLAINT-COMMENT-TESTIMONY; PROTECT PEOPLE; Eliminate "ROBBERISM" = "MURDER- FRAUD- CRIME- INJUSTICE NETWORKS" operation, Public Private Partnership; Evaluating Federal Civil Rights Enforcement; usccr Public Hearing (Nov 2, 2018);

Complainant: LIH YOUNG, Ph. D. economist; reformer, advocate, activist; TV programs speaker/producer (Series Citizen Times, Freedom Times; about 100 episodes each; 1 hour/episode); candidate for public offices since 1994; local- federal; U.S. Senate, Congress; Md Comptroller, Senate; Rockville Mayor; Concern about social issues & government function; **Civil Rights practically TOTALLY IGNORED, local- federal-global the system rigged !! elections rigged !!** The most urgent serious problems here/overseas: "ROBBERISM" = "MURDER- FRAUD- CRIME- INJUSTICE NETWORKS" operation = bad guy propaganda to benefit/promote among themselves; victimize others; not capitalism with justice, freedom, fairness, democracy as we were told; continuing, on-going; expanding; penetrating every segment of our lives, including civic non-profit, women, minorities, churches, nonsense studies, proposals, block grants, "think tanks", educational Institutions, etc.

Recently, Public Private Partnership (PPP, P3) has been propagandized like a new fashion; without addressing important issues; e.g., as to why ppp's are methodically necessary, or serious cost-benefit analyses. PPP's have been related to extremely serious fraud, crimes, abuses of power/resources, including MURDERS; causing serious social issues like RUBBERISM; e.g., Rockville Town Center Project, NASEM (National Academy of Science, Engineering, Medicine; Metropolitan Police, DOJ-justice). Society in vicious cycles as in need of revolution.

#### TOP PRIORITIES: WORK TO BE DONE; SOCIAL JUSTICE IN GREAT DANGER!

(I). Prosecute, eliminate "Official misconduct- government gang-MURDER- fraud- crime- injustice networks" = cruel tyranny= robbery machine = ROBBER-ISM; relaying, penetrating every segment of our lives; expanding; with threat, coercion, victimization, deprivation, discrimination, intimidation, humiliation; unjust practices, manipulation, influence, obstruction, destruction; bad/unjust legislative bills, hidden agenda; false/ misleading excuses; divert resources for private gains; e.g., private-public partnership (PPP, P3), econ development, housing, school, transportation, abandonment of properties, roads.

#### (II). ALERT TO THE PEOPLE= POWER TO THE PEOPLE:

Too much rhetoric, false, misleading, unjust manipulation! Meaningless!

Restore JUSTICE/FAIRNESS -fix "ROBBER-ISM" first; NOT to benefit "Official misconduct- government gang-MURDER-FRAUD-CRIME-INJUSTICE NETWORKS" operation.

The most urgent serious problems here and overseas: ROBBERISM" = "MURDER- FRAUD- CRIME- INJUSTICE NETWORKS" operation = bad guy propaganda to help/benefit/self-promotion among themselves; victimize others = destroying freedom, fairness, democracy, capitalism; continuing, on-going; expanding; penetrating every segment of our lives.

**OPPOSE PUBLIC FINANCE MATCHING SMALL DONORS FUND** - falsely named "Fair Election Act", "Government by the People"... whatever. It is simply "Government by Bad Guys".

Oppose Supreme Court decisions on Citizen-united, and on McClutcheon on election campaign, dark money or super PAC strategies.

Promote democracy, fair election, quality, competition, people input (policies, issues, officials, judges); televise public hearings, citizen/candidate forum/debate; maintain/disseminate meaningful accurate information/records. Objective screening; meaningful rigorous examinations/evaluations for quality, capability, endurance and public interest.

UNJUST killing: not just gun shooting; unjust/false imprisonment/ rehab/medication/injection/accidents/brutality, freezing, hungry... Many people are unjustly misdiagnosed, hospitalized/ imprisoned; as mentally ill, etc.; political prisoners; dissenters; victimized/abused; resources/properties/benefits (private, public; vet, Medicare, ssa, ...). Living wage=min. for survival in justice; but never enough in injustice: unlawful traffic tickets, fines, legal fees, other problems.

## **Nancy Gregory – Member Resist Rockwool-Organizer of Denmark Delegation-Citizen Organizer and Environmental Activist**

**From:** Nancy Gregory <[nsgorgioso@gmail.com](mailto:nsgorgioso@gmail.com)>

**Sent:** Tuesday, April 30, 2019 7:35 PM

**To:** Nejac <[Nejac@epa.gov](mailto:Nejac@epa.gov)>

**Subject:** Public comment

To Whom It May Concern,

I was unable to go to the NEJAC public meeting tonight. So, I am submitting my public comment as follows:

I am a member of a group called Resist Rockwool. I am also part of a larger group encompassing the majority of Jefferson County citizens who oppose the building of a Rockwool factory in our county in West Virginia. I will attempt to cover parts of the unjust story that may not have been presented at the meeting tonight.

The site of the proposed factory is on an old apple orchard surrounded by working family farms, small historic towns, residential areas, several schools and day care centers, and tourist attractions. In 2015, the site was planned for a new mixed use, walkable community—residential, green space, commercial, light industry and retail—and was zoned using funding from President Obama’s Sustainable Communities initiative. But after secret negotiations with Rockwool, in 2017 the municipal government quickly rezoned the site to the exclusive use of heavy industry and to accommodate Rockwool’s 213 foot tall smokestacks.

The Rockwool executives keep saying that the company was “invited here.” In truth, the company was “invited” in a secret process led by a public official 400 miles away in our state capital who is now doing millions of dollars of business with Rockwool and its subcontractors. Almost all of the local officials who “invited” Rockwool have lost their elections or resigned in disgrace. Rockwool was not invited by the citizens and Rockwool executives introduced Rockwool to the community by hosting informational open houses only after contractual agreements were signed.

Rockwool intends to burn large amounts of coal in its 24 hour, seven-day-a-week operations. Rockwool is doing this at the same time that the dirty fuel is being phased out in its home country of Denmark. Similarly, Rockwool plans to use in its binder and emit enormous amounts of the neurotoxin, formaldehyde. Formaldehyde is severely restricted in Denmark but not here in West Virginia or the U.S. where our environmental protection is substandard. Rockwool is building a plant here that it cannot build and operate in Denmark or the EU. The EU is taking climate change seriously, but the U.S. government is full of climate change deniers who don’t believe in science.

We are now being faced with a gas pipeline that is proposed to service Rockwool for the remainder of its energy needs. Instead of going in the direction of renewable energy, our state and country is doing the opposite. Our water, air, and land is slowly being poisoned as the earth keeps heating up to temperatures that eventually won't support our species.

The citizen opposition in Jefferson County is prepared to fight a multi-year political, legal, and media battle. We have a group who is working with the stock analysts to expose Rockwool's unethical and dishonest business practices. We have a delegation that went to Denmark where they attended Rockwool's annual shareholder meeting to present a resolution after buying Rockwool's stock. They also met with a member of parliament and representatives from other groups who are all helping our cause. Citizens have been arrested engaging in non-violent moral direct actions. The Jefferson County Board of Education is attempting to get the land where Rockwool intends to build by enacting the law of eminent domain. We have an architect here who is working with an architect in Denmark to expose Rockwool's green-washing of its product. We have any number of actions going on at any given time.

People changed their lives dramatically to devote themselves to fighting our government, this industry and the introduction of other heavy, fossil fuel-fired industry into our county. We are more organized and more determined than ever to save our county from the fate of other areas in West Virginia. This fight is bigger than us. Our government needs to stop exploiting our resources to the highest bidder. We need help. We need laws changed and regulation of industry instead of deregulation. Our country needs help to change its environmental policies. Our planet needs help.

Thank you for accepting this public comment.

Nancy Gregory, Family Nurse Practitioner, MSN, RN

394-886-1757

Charles Town, WV

Member Resist Rockwool

Organizer of Denmark Delegation

Citizen Organizer and Environmental Activist

## Virginia Ruiz – Farmworker Justice

April 28, 2019

Chair, National Environmental Justice Advisory Council  
Office of Environmental Justice  
U.S. Environmental Protection Agency [Mail Code 2201A]  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Submitted electronically via:  
Matthew Tejada, Designated Federal Officer  
Karen L. Martin, NEJAC Program Manager

Dear Chairman Moore and Members of the National Environmental Justice Advisory Council:

As farmworker and environmental advocacy organizations, we are writing to encourage the NEJAC to assist in protecting environmental justice communities of farmworkers and their families from exposure to toxic pesticides by supporting a robust implementation and enforcement of the Agricultural Worker Protection Standard (WPS) in its current form. We are concerned by current actions the Environmental Protection Agency (EPA) has taken to rescind portions of the WPS related to “Application Exclusion Zones.” The Agency has initiated formal rulemaking to revise these provisions that provide important protections for workers and bystanders. If implemented, EPA’s actions would have far-reaching health consequences for farmworkers and their families due to increased exposure to pesticides.

For more than 40 years, EPA has recognized and has tried unsuccessfully to prevent exposure to farmworkers from spray drift during pesticide applications. Between 1992-2017 the WPS included a provision prohibiting pesticide handlers from applying pesticides in a manner that would “contact, either directly or through drift, any worker or other person, other than an appropriately trained and equipped handler.”<sup>1</sup> Despite this prohibition and similar language on pesticide labels, poisoning incidents to workers and bystanders continued to occur at alarming rates. Federal and state health agencies, worker advocacy organizations, and even the news media have reported hundreds of injuries each year resulting from careless pesticide applications.

For this reason, EPA included stronger language in the 2016 revisions to the WPS, establishing the concept of “Application Exclusion Zones” to reduce the risk of continued exposures to workers and bystanders during pesticide applications. An AEZ is a relatively small (25-100-foot) area around the pesticide application equipment where no one is permitted to be when a pesticide is being sprayed. If a pesticide applicator sees a non-trained and unprotected person within this zone, they must suspend the application immediately and resume after the person leaves the area. The AEZ provisions establish clear guidelines for applicators to prevent immediate harm, unlike the vague “do not contact others” language. EPA’s own analysis found that the AEZ requirement would reduce a significant portion of poisoning incidents while imposing only negligible costs on employers.<sup>2</sup>

<sup>1</sup> 57 FR 38161

<sup>2</sup> Agricultural Worker Protection Standard, Preamble to the Final Rule, 80 FR 67,524-5, Nov. 2, 2015, and Economic Analysis of Agricultural Worker Protection Standard Revisions, September 2015, pp. 88-89.

Exposure from drift during applications is a serious and common public health problem in agricultural communities. Attempts to address the issue in the past have failed, at great cost to workers' health, and rescinding current protections without justification is misguided. In conformance with the NEJAC's mandate and on behalf of disproportionately affected farmworker environmental justice communities around the country, we urge you to recommend to the Administrator on behalf of the Council to preserve or strengthen the existing worker protections rather than weaken them.

Thank you very much.

Sincerely,

Farmworker Justice

Earthjustice

Farmworker Association of Florida