

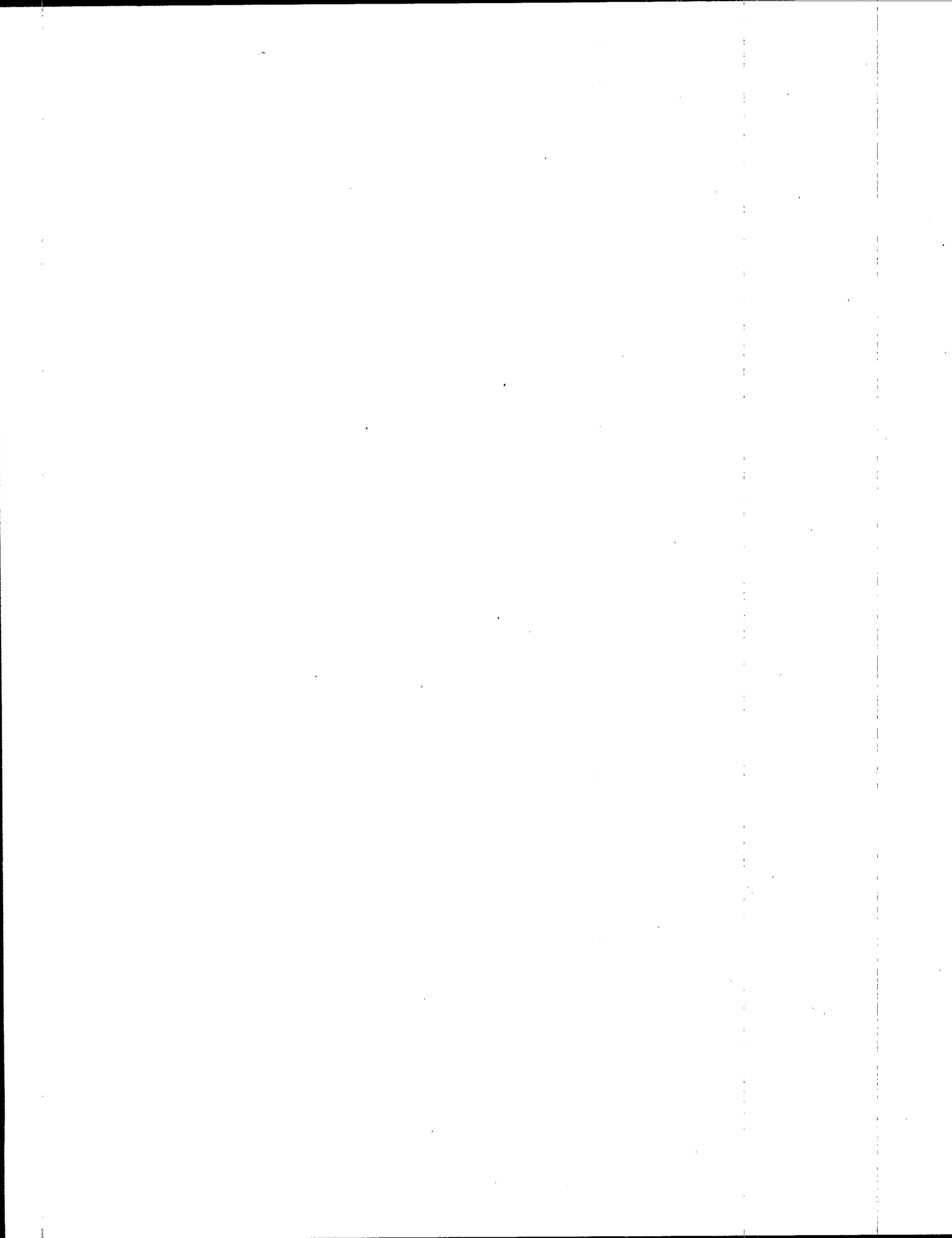
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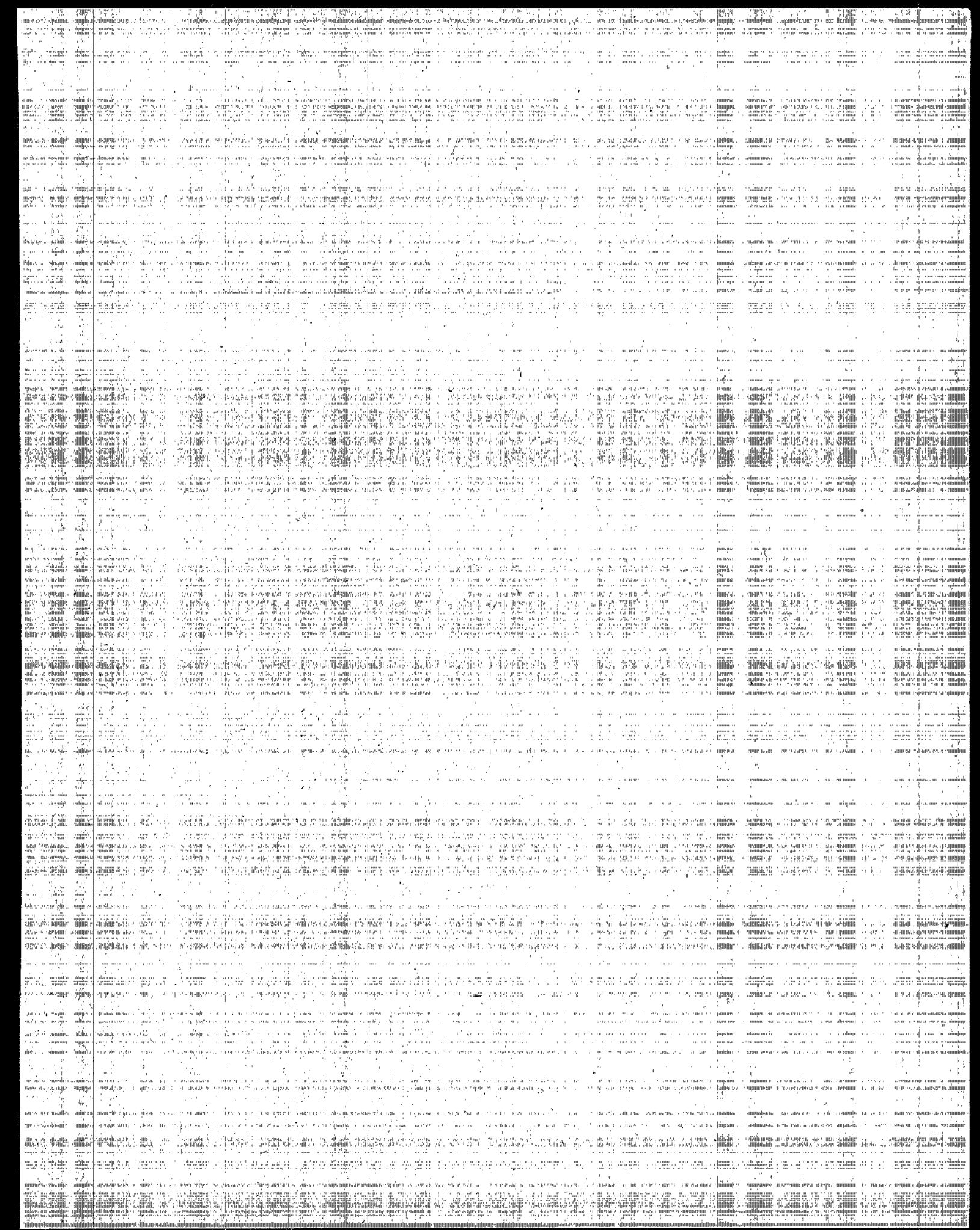


Meeting Summaries from the EPA/ICMA Relocation Stakeholder Forums



Contents

Preface	v
Meeting with Industry - <i>March 27, 1997</i>	1
Meeting with Local Government Representatives - <i>April 17, 1997</i>	21
Meeting with State Government Representatives - <i>April 18, 1997</i>	37
Meeting with Environmental and Public Health Organizations - <i>May 1, 1997</i>	49
Meeting with Other Federal Agencies - <i>September 4, 1997</i>	69
Meeting with Environmental Justice Representatives - <i>October 18, 1997</i>	83
Meeting with Native Peoples and Tribal Representatives - <i>October 22-23, 1997</i>	99
 Appendix A: Attendees List	 A-1



PREFACE

In 1995, a subcommittee of the National Environmental Justice Advisory Council (NEJAC) requested that the U.S. Environmental Protection Agency (EPA) look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for EPA's Office of Solid Waste and Emergency Response (OSWER), followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. Proceedings from this Roundtable are available through the Superfund Docket by calling (703) 603-9232 (ask for *Proceedings: Superfund Relocation Roundtable Meeting*, publication number EPA 540-K-96-010).

In 1997, EPA, in conjunction with the International City /County Management Association (ICMA), held a series of seven stakeholder forums on Superfund relocation provided additional opportunities for stakeholders to offer information and raise issues for consideration in the development of the relocation policy and corresponding guidance. From March to October of 1997, meetings were conducted with representatives of industry, state governments, local governments, environmental and public health organizations, tribes, and environmental justice groups. The summaries of these seven meetings comprise this document.

The summaries capture the major issues raised during the forums as participants discussed specific issues related to the relocation policy and shared their experiences with the relocation process both within and outside of the Superfund program. Key discussion topics included criteria and triggers for relocation, timeframes for relocation, community involvement, cooperation among stakeholders, and special circumstances, such as low-income or minority communities and relocations on tribal lands.



Superfund Relocation Discussion with Industry

March 27, 1997

ICMA

777 North Capitol Street, NE

Introduction, Welcomes, and Purpose of Discussion

Barbara Yuhas of the International City/County Management Association (ICMA) began the morning session. Under a cooperative agreement with EPA, ICMA is working with the Office of Emergency and Remedial Response's Community Involvement and Outreach Center in coordinating a series of discussions with a broad range of stakeholder groups (industry, state and local officials, public health organizations, environmental groups, tribal representatives, and environmental justice organizations) on the issue of Superfund relocations. ICMA is a professional and educational association of chief appointed administrators and assistant administrators serving cities, counties, regional councils, and other forms of local government.

Elaine Davies, Acting Deputy Director of EPA's Office of Emergency and Remedial Response (OERR), welcomed the participants and observers to the forum. She then outlined the history of the Superfund Relocation issue as context for this forum with industry representatives. In 1995, a subcommittee of the National Environmental Justice Advisory Committee (NEJAC) requested that EPA look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for OSWER, followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. The current series of forums on relocation provides additional opportunities for industry representatives and other stakeholders to offer information and raise issues for consideration in EPA's development of the relocation policy and corresponding guidance. Ms. Davies added that the Agency does not have specific preconceptions of what should be included in the policy.

Ms. Davies next presented some background information on Superfund relocations. The use of permanent relocations at Superfund sites has been limited, with only 16 cases in the history of the program. However, many temporary relocations have been implemented as part of both removal and remedial actions. Relocations are conducted within the context of EPA's two main goals at Superfund sites: (1) to protect human health and the environment; and (2) to make the land available for productive use. Generally, permanent relocations have been authorized in the past for two reasons: engineering and/or human health. She noted that the Agency takes the decision to relocate residents seriously, understanding that the decisions involved and the moving process are very stressful events for residents.

Regarding the purpose of the discussion, Ms. Davies stated that the Agency is specifically seeking input on the process of deciding whether or not to relocate, as well as how to conduct the relocation. This includes looking for other authorities and resources available for use in relocations. The feedback from the stakeholder forums will help to clarify how relocation fits in with the overall site management strategy. Ms. Davies expects a draft policy will be issued as a Federal Register notice in the summer or fall of this year. As part of that effort, the Agency will prepare a responsiveness summary. A public comment period and a public meeting will occur following this publication. A final policy is possible in 1998.

Review of Agenda and Ground Rules – Mary Skelton Roberts, Program for Community Problem Solving

Mary Skelton Roberts, the discussion facilitator, began by identifying overlapping interests for all stakeholders in relocations. These interests include the community, federal regulations, and land use. Local issues are also important for stakeholders directly involved in specific sites.

Ms. Skelton Roberts then listed the objectives for the discussion:

- Assist ICMA in informing their constituents about the issues associated with relocation;
- Gain insight and gather information from industry representatives on the important considerations regarding relocation issues; and
- Share experiences of current industry relocation practices and discuss the lessons learned from those experiences.

Each participant and observer then introduced themselves and stated his or her expectations for the day (a list of attendees is attached). Common expectations included sharing perspectives and concerns, listening to other's perspectives, sharing experiences/best practices with relocation, and gaining ideas to bring back to companies and communities. At the conclusion, Ms. Skelton Roberts reviewed the ground rules for the discussion.

Background on Superfund Relocations

JoAnn Griffith of EPA provided an overview of EPA's experience with relocation. She began with an introduction to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), which grants EPA the authority to clean up sites to protect human health and the environment, and the National Contingency Plan (NCP), which sets forth regulations to implement CERCLA provisions. Two types of response actions are identified in CERCLA: 1) removal actions are used when immediate action is required; and 2) remedial actions are used in longer-term, non-time-critical events.

Ms. Griffith explained how relocations fit within the context of CERCLA and the NCP -- relocations are one type of response action under these authorities. Temporary relocations may be conducted during removal and remedial actions, while permanent relocations are considered only under EPA's remedial authority.

Ms. Griffith next outlined the remedial response decision process and where relocation comes into the decision on a site. The first step is a remedial investigation to characterize site contamination. Next, a baseline risk assessment is done to determine if any further action is necessary at the site. Then a feasibility study of clean-up options is conducted, if necessary. In the feasibility study, relocation may be considered as an option. During the feasibility study, a comparative analysis of options is conducted in which tradeoffs among various clean-up activities are examined. In this analysis, EPA uses the nine criteria from the NCP to compare various clean-up options and select an alternative that is protective of the site and satisfies statutory requirements. The nine remedy selection criteria listed in the NCP are:

- Overall protection of human health and the environment;
- Compliance with applicable or relevant and appropriate standards (ARARs);
- Long-term effectiveness;

- Reduction of toxicity, mobility, or volume through treatment;
- Short-term effectiveness;
- Implementability;
- Cost;
- State acceptance; and
- Community acceptance.

Remedy selection also must follow CERCLA provisions requiring that the selected remedy be protective of human health and the environment, comply with ARARs, utilize permanent solutions to the maximum extent practicable, satisfy the preference for alternative treatments, and be cost effective. Ms. Griffith clarified that cost effectiveness involves evaluating overall tradeoffs between alternatives and cost. The evaluation of cleanup alternatives appears in the Record of Decision (ROD) for the site and public comment is solicited on the selection of a remedy.

Ms. Griffith then explained that EPA cannot simply buy out affected areas rather than clean them up, because CERCLA requires the Agency to select remedies that are protective of human health and the environment.

EPA has selected permanent relocation as part of the remedy in 16 Superfund cases. The two primary rationales behind this selection are health considerations (risks exist that could not be otherwise addressed in a timely manner without relocation) and engineering considerations (homes require demolition to properly implement the clean-up). Temporary relocations have been selected in many cases due to immediate or acute risk to human health or potential risk or danger during clean-up implementation (e.g. emissions, heavy equipment, concerns about liability for potential injury). Most temporary relocations are short-term, but some cases have eventually resulted in permanent relocations.

Regulations for implementing relocations are found in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), developed and overseen by the Department of Transportation. The purpose of these regulations is to ensure that people are treated fairly and equitably in cases of relocation. The URA covers property acquisition procedures and relocation benefits that are to be offered to residents. Ms. Griffith noted that the U.S. Army Corps of Engineers and the Bureau of Reclamation perform relocations for EPA.

Michael Lythcott asked how the URA approach to treating relocated individuals compares with the Federal Government's own employee relocation policy. Several EPA personnel responded that they were not familiar with the government's policy for comparison, but they indicated that this issue would be investigated.

Escambia Pilot Project

John Cunningham of EPA briefed participants on how the decision to relocate was made for the Relocation Pilot Project at the Escambia Woods Superfund site in Pensacola, Florida. He began by noting that CERCLA places certain restrictions on the use of permanent relocation as part of a remedy, adding that in drafting the law, Congress meant for this type of relocation to be uncommon. Both removal and remedial authorities were in use at the Escambia site. He also stated that neither a Remedial Investigation/Feasibility Study (RI/FS) nor a baseline risk assessment was completed at Escambia before the decision to relocate was made. However, the analysis did provide sufficient data to decide on

relocation. This decision involves a combination of several site-specific factors taken together to justify relocation. The factors identified in the ROD include:

- 1) chemical exposure to dioxin;
- 2) construction (the need to demolish homes to implement the remedy);
- 3) general welfare of residents;
- 4) future land use for industrial purposes; and
- 5) a discrete community of low-income residents within a primarily industrial area.

Questions to Mr. Cunningham:

• Sue Briggum asked who pays for the relocation.

Mr. Cunningham responded that no potentially responsible party (PRP) has been identified at Escambia.

• Larry Bone asked how a PRP would pay.

Mr. Cunningham indicated that relocation costs would be sought in a consent decree or during cost recovery.

• Michael Lythcott asked what kind of problems has EPA incurred for making this decision without a precedent.

Mr. Cunningham answered that EPA has not received much criticism, although many people have had questions in trying to understand the basis for the decision.

• Bernie Reilly inquired as to whether the community united in wanting relocation.

Mr. Cunningham responded that there was much unanimity and a strong consensus in favor of relocation.

• Mr. Reilly followed up by asking how much of a role that consensus should play in the decision of whether or not to relocate residents.

Mr. Cunningham answered that it was a factor in Escambia, but it was not the only reason.

• Michael Lythcott added that the community at Escambia was well organized and attracted much attention. It is a minority community with strong social ties.

• Kevin Cahill asked if the Agency is setting a precedent by circumventing the RI/FS process.

Mr. Cunningham responded that EPA used a combination of removal and remedial actions at Escambia. Much of the RI/FS will be completed. The Agency did have adequate data to make a decision.

• Leonard Shen asked whether it was difficult to decide who should and should not be relocated.

Mr. Cunningham responded by noting that Escambia was comprised of a discrete community, but a community across the street from the initial area was added to the relocation.

• John Rhodes asked whether the availability of alternative housing was considered in the decision, adding that one must have compassion and not just give money to people who have no place to go.

Mr. Cunningham responded that it was a major concern, especially with those living in subsidized housing. EPA is working with U.S. Department of Housing and Urban Development on this issue.

Case Studies

Del Amo, California – Larry Bone, Dow Chemical

Larry Bone began his case study presentation with background information on the Del Amo Superfund site. The site, located in South Los Angeles, housed a closed synthetic rubber plant that had operated until the 1970's. It is located next to the Montrose Superfund site. The Del Amo site consists of six styrene tar pits and evaporation ponds.

The contamination around the site was discovered after an Agency for Toxic Substances and Disease Registry (ATSDR) preliminary health assessment. Sampling in yards near the site revealed contamination by DDT. A temporary relocation was recommended after this finding. Despite extensive further sampling that showed the area was safe, the families demanded to be moved. Thirty families have been temporarily relocated for three years.

The remedy selected for the pits was placement of a cap; the ROD assumes that the property immediately adjacent to the pit site will be permanently closed.

A relocation agreement was developed among the PRPs at the site: Shell, Dow, and the U.S. Department of Justice (the U.S. Government had operated the rubber facility during World War II). The parties negotiated the purchase of 65 properties and the relocation of all residents immediately adjacent to the pits. As part of this process, Dow (at the request of the community) hired Michael Lythcott, an independent relocation consultant, to work for the community. Mr. Bone emphasized the "win/win" decision at this site: the most protective remedy is implemented, the long-term temporary relocation is ended, the relocated residents are made financially whole, and the remaining community has a better place to live. He noted that there were no real health reasons for the residents to permanently move and that they did so on a voluntary basis.

Mr. Bone emphasized two key points about the Del Amo relocation to be applied to a general approach for industry-led relocations. First, the relocation boundary and the reason for it must be firm. Second, a guiding principle for a policy must be to make people whole, starting from the beginning of the relocation process.

He then discussed the property appraisal process for the relocation. Mutually acceptable appraisers for the company and the residents were used. The appraisals were based on a comparable standard to similar properties rather than a direct assessment of the value of the property. This approach reduces the problems of residents not being able to afford a new residence, value deflation due to environmental factors, and the possible liability issues for the company in calculating lost property value due to property damage. Renters were offered a differential sum based on the rent currently paid and the length of time lived in that residence to account for the lesser increase normally experienced by long-term renters. The company set up a relocation center in an empty house in the community. Benefits provided to affected persons included rent loss to landlords, moving allowances, closing costs, property tax differential, and both a community and personal consulting allowance to hire legal or technical experts. For residents that did not relocate, the company provided funds for a panel to discuss future land use, funds to build a park in the area, and below market rate home improvement loans for the remaining properties.

Regarding health and risk issues, extensive data showed that no risk or health impact existed as a result of the Del Amo site. However, the community members either did not believe or determined that it was not in their interest to accept these findings. A health clinic was established for the community. A number of tort cases arose, as the relocation agreement did not provide against lawsuits. One important element in the success of this effort was the agreement that health effects would not be discussed while negotiating relocation.

Mr. Bone then raised two questions for the Agency to consider in developing its national relocation policy:

- 1) Under what circumstances should permanent relocation be used as part of a remedy?
- 2) What policies or guidelines should be followed to accomplish a fair and reasonable relocation?

He suggested that relocations should be used as a mandatory action based on health considerations with a firm line of inclusion. Other factors may also contribute to the decision, such as land-use considerations at the Del Amo site.

Lessons learned from negotiating relocation agreements at Del Amo include:

- Establish a rapport with residents so that they are comfortable with the company and their own leadership.
- Spend time with the community to understand their issues.
- Provide the community with a professional advocate (at the right time in the process).
- Negotiate with empowered people (avoid lawyers).

Questions and comments to Mr. Bone:

- A participant asked what the intent was for the houses of those permanently relocated.
They will be demolished.

- Suzanne Wells asked the presenter to explain how the line was drawn for who is relocated.

Mr. Bone answered that the assumption in the ROD is that those "in the shadow" of the pits (i.e., directly adjacent) will be relocated.

- JoAnn Griffith inquired about what happens if some residents want to stay.

Mr. Bone explained that in this case, an advisory panel will decide what to do with those residents.

Leonard Shen commented that in efforts to make people "whole," individuals may seek to use relocation to make a windfall profit. Residents are not always innocent victims and EPA needs to consider cases in which recipients of benefits may have contributed to the problem.

- Sue Briggum commented that a large challenge is ensuring that zoning laws and local land-use considerations are consistent with the remedy and remain consistent in the future.

- John Rhodes noted that a relocation agreement needs to be structured, but also must have the flexibility to deal with unique needs and be creative within that framework.

- Michael Lythcott added that a distinction needs to be made between relocation issues, which are about proximity to the site, and legal issues dealing with health and negligence.

Michael Lythcott

Mr. Lythcott discussed his overall experiences and recommendations for conducting effective relocations. One important factor is establishing credibility with the community. This includes gaining their trust and developing fluency between communities and corporations. He stated that industrial plants usually have a good community affairs program, but often have different attitudes towards the fence-line residents versus the general community. The plant's knowledge about these residents is poor, while the community views the plant's public affairs efforts as designed to protect the plant. The individual chosen to reach out to the community is important in the relationship.

These fence-line communities often share similar characteristics, such as poor and/or minority residents with marginal employment. Many of these areas started as residences for plant employees, but with the passage of time, these individuals move to the suburbs and the properties are then rented out to poorer families. Residents often feel trapped as well as resentful and fearful towards the company. The situation of these individuals may attract national environmental groups or lawyers, but the intentions and agenda of these outsiders is sometimes divergent from the community's needs and interests. To help remedy this problem, plants need to change their perceptions of those living on the fence-line.

Mr. Lythcott listed common reasons for relocation: release scenarios; remediation activities; response to community requests; and expansion of plant property. He noted that relocations allow the plant to develop altered relations with the new fence-line community. He also stated that communities would rather avoid litigation and work out relocation issues without lawyers.

Triggers for the community's desire to relocate may be fear of toxic exposure or uncertainty about what is happening, so they blame the facility. Mr. Lythcott related the needs of the residents to Maslow's Pyramid, a hierarchy of human needs. While most individuals are focused on simply maintaining their current status, those conducting the relocation must understand that these residents are operating at the level of basic human needs: immediate safety and security. This understanding helps in communicating with these residents. It must also be recognized that these communities are likely experiencing economic decline and even destruction of an economic base due to the association with a Superfund site.

Mr. Lythcott then recommended that the design of a relocation policy should rely on two guiding principles: separate community demands into what they must have and what they would like to have; and conduct the relocation in a manner that makes residents financially and socially whole. Other suggestions included:

- Realize that relocation is a family-centered activity with real estate issues;
- Use the company's employee relocation policy as a basis for the community relocation policy;
- Gain intelligence about the community and credibility with residents;
- Create a context for relations beyond the polluter versus victim relationship (e.g., allow residents to see corporate officers as family people and homeowners); and
- Use a facilitator who has credibility in both worlds.

Overall, a community-oriented policy that is based on the actual needs of people leads to a win/win outcome. This can be achieved by supporting consultants and local activists and including the community in the decision-making process. A community-oriented approach has significant benefits for

those conducting the relocation, including reduced consulting and legal fees, reduced mediation time, and reduced relocation expenses.

Questions and comments to Mr. Lythcott:

- Elaine Davies asked Mr. Lythcott whether the timing for bringing in a consultant is important.

Mr. Lythcott answered that the timing is critical. The relocation process must be examined before a consultant is introduced to the community. Early involvement is a critical factor in the success of a relocation program.

- Larry Bone commented that it is a challenge in that a third party can never be neutral.

- Jocelyn White added that there is no correct answer for the timing question. It is situation-specific and will be successful when the community asks for a consultant, rather than having one forced upon it.

Sue Briggum asked what advice Mr. Lythcott would have for EPA.

Mr. Lythcott responded that the Agency should look at the definition of health and welfare and find a way to bolster these definitions, study the cost comparison of temporary versus permanent relocations, and make the Army Corps of Engineers compete more for relocation business.

- Alexandra Dunn asked what are some thresholds for when to relocate.

Mr. Lythcott answered that health is important, especially genetic marker research.

However, the threshold is always changing. A rigid line may offend some communities, so the thresholds should be softened.

- Roxanna Mero asked how outsiders can break down the barrier of being viewed as the company's "lapdog."

Mr. Lythcott suggested to identify influential people and talk to them; look at what you do; and know how to enter the community.

Pompton Lakes, New Jersey – Bernie Reilly and Frances Gaines

Mr. Riley of Dupont began the case study by discussing the background of the Pompton Lakes site in New Jersey. The site is a closed explosive manufacturing facility that had been operating since the early 1900's. A site-wide clean up order was issued in 1988, which led to the discovery of contamination in nearby residential yards. It was determined that the migration of lead and mercury had occurred through repeated flooding of the residential area from a nearby stream. A temporary relocation was instituted while 140 yards of contaminated soil was removed. No immediate health risks were identified.

DuPont hired PHH as a consultant to plan the relocation of affected residents. Ms. Gaines of PHH then discussed general practices for conducting relocations. She began by comparing the Pompton Lakes site to a Kodak site in Rochester, New York, where 200 homes were affected by methyl chloride detected in the ground water. She noted common outrage by the residential communities at both sites even though neither situation was life-threatening. A major challenge in relocations is addressing neighborhoods' and residents' immediate concerns.

Ms. Gaines then outlined steps for planning the relocation. The first step is to listen, analyze, and formulate a plan. The next step is to communicate with stakeholders, the community, and the press. The final step is implementation of the plan.

She then presented principles to build into every step of the plan. They are:

- Stabilize the situation;
- Restore the community character as much as possible;
- Protect the community character;
- Promote freedom of choice; and
- Be aware of setting precedents – be prepared to offer benefits to communities before and after the current relocation.

PHH established a tiered program for relocation activities based on standardized criteria that set definite boundaries for who is and who is not eligible for certain benefits. The first tier consisted of residents whose properties would be bought out, the second tier consisted of allowances for residents not directly affected by contamination, and the third tier was made up of other residents who would be part of a Community Advisory Panel. The program covered both homeowners and renters. In addition, the program was oriented toward encouraging residents to stay in their homes.

Success in relocations involves building community relations through earned trust, open communication, and addressing health concerns. Success is not total avoidance of lawsuits. Other important elements include consideration of neighbor's needs and keeping promises.

Ms. Gaines identified common issues that arise with relocations based on her experience. These include indirectly affected parties wanting to be included and some people seeing the opportunity for windfall profits. Another common issue is that perception often becomes reality for residents. She noted that the perception is what really matters. Those conducting relocations should also expect the unexpected. Specific advice to EPA focused on earning trust. Elements of this goal include:

- Appoint a high level person to be directly responsible for relocation activities;
- Have an adequate budget;
- Maintain a continual presence in the community;
- The on-scene agency representative must be a good communicator;
- Have a clear vision of the project;
- Get things done on time; and
- Remember that the community is a stakeholder.

Questions and comments to the presenters:

- Suzanne Wells asked how the relocation was weighted towards having residents stay. *Ms. Gaines responded that the company offered benefits such as home improvement allowances and mortgage subsidies to encourage residents to stay.*
- Michael Lythcott noted that stabilizing property values is very important.
- Elaine Davies asked what criteria were used to distinguish between the need for temporary and permanent relocations. *Ms. Gaines answered that if the lawns had to be dug up, full benefits were offered. Those residents across the street from these properties were given an allowance.*
- Leonard Shen commented that toxic tort suits are common, but EPA may influence lawsuits by the way it conducts itself. Secondly, communities are not monoliths; upper classes may get undue advantage in litigation.

Ms. Gaines responded that in its communication, EPA may undermine what the corporation is trying to achieve. Therefore, communication between EPA and the company is important.

John Mitchell commented that perception often outweighs reality. Guidelines should be developed for the real estate process, including appraisers and bankers. Lenders sometimes "red line" the community due to appraisals with environmental concerns and hazards. He asked whether appraisers were educated as to the company's intentions. *Mr. Reilly responded that meetings were held to inform appraisers of the intent of the process. The company also indemnified lenders to secure loans for residents.* Michael Lythcott commented that EPA's role should be as a champion for the community. It is important to have an early and sustained community involvement effort. If the community feels that it can turn to EPA, litigation will be reduced.

Large Group Discussion

Following the case studies, the participants discussed a number of issues as a precursor to the more focused break-out groups.

The Role of EPA

John Oldham opened a discussion of EPA's role in relocations by commenting that the anxiety that exists in the community is reinforced by PRP's and EPA acting together during the investigation. This results in a "black hole" that attracts lawyers and activists, as well as residents blowing the problem out of proportion. EPA's job should be to educate the community and to explain the steps of the process, including schedules and deadlines.

John Rhodes added that the Agency needs to acknowledge and apply the existing DOT regulations in innovative ways that focus on people.

Jocelyn White emphasized that community relations are very important. It should be recognized that EPA is limited in what it can do. Therefore, the Agency should focus on how to do the best job it can within its limitations.

Sue Briggum suggested several other components of EPA's role, including facilitating the relocation agreement, providing information in a way that is constructive to the process, building trust, and communicating directly with fence-line residents.

Michael Lythcott noted that communities are not monolithic. Diversity exists in language, home ownership versus renting, and personalities. Solutions are found through focusing on common problems, which helps in negotiating agreements. He also suggested using insurance companies as a resource to help solve problems.

Alexandra Dunn inquired about the Agency's threshold for performing relocations: what kind of sites qualify and are health considerations always the main factor? Bernie Reilly responded that who is spending the money is the real issue.

Larry Bone commented that EPA's role is not to be the community's advocate. He believes the Agency should be sensitive to the community's needs, but remain above the fray. He also noted that lack of responsiveness and communication from Agency personnel during relocations is a large problem.

Thresholds for Relocation

The discussion then moved to factors in the Escambia relocation, beginning with Kelly Stynes' comment regarding criteria for permanent relocations when the message from Escambia seems to be that fear, rather than health risk, was the deciding factor. EPA staff responded that because Escambia was a pilot project, some flexibility was available in the decision to relocate. Michael Lythcott added that in addition to property damage, other factors were explored in the pilot, such as economic and social effects on families as well as stress effects.

Kevin Cahill raised the issues of risk communication and timing as significant problems in relocations. EPA deals with matters associated with the company, while in the meantime the community concern rises. EPA must seriously consider how to communicate risk because people do not understand the nature and effects of the contamination.

Dave Mentall asked about the success of other federal government relocation activities and how they compare with industry-led efforts. Suzanne Wells responded that the Department of Energy has had successful relocation projects working with its Center for Excellence. She added that EPA could learn from these projects. Sue Briggum commented that at sites such as Hipps road (which involved waste from the Navy), it is often difficult to get Federal Agencies involved. The government needs to find a way to operate in these situations with less contentiousness. Ms. White discussed a Department of Defense clean-up that resulted in the temporary relocation of residents in her own neighborhood in Washington D.C. She noted that the relocation was successful because it was done quickly and efficiently and the treatment of the community was very good.

Examining specific thresholds for relocations, Alexandra Dunn offered health risk and fear as two potential criteria. She also noted the need to distinguish among these factors for temporary versus permanent relocations. John Rhodes added that land use and zoning should be included in a relocation strategy, using the Brownfields concept as an example. Larry Bone commented that in establishing these criteria, distinct boundaries based on health and risk need to be established for when relocation is necessary. Mr. Rhodes offered two main categories for criteria are health and engineering, or the ability to produce viable property. Bernie Reilly added emotional factors as a consideration when making relocation decisions, but only after credible, science-based risks are established. Kelly Stynes questioned how emotional issues could be fairly defined to a PRP, noting that activists and lawyers often create fear among residents. Jocelyn White stated that emotional issues and community outrage need to be separated, as this outrage will influence the decision and the relocation strategy.

Leonard Shen then commented on liability issues in relocations. The Agency must keep in mind how relocation decisions fit within the liability provisions of CERCLA. If relocation costs are intangible (e.g., emotional factors, stress), fairness to FRPs may need to be examined. The liability system may need to be re-evaluated to weigh in other factors. Michael Lythcott provided an example of this situation in which the New York Supreme Court found that a utility was liable when homeowners' property values were affected by the perception of risk posed by electrical transmission lines, despite a lack of clear health effects.

Scope of EPA's Relocation Policy

Alexandra Dunn moved to a discussion of the scope of the relocation policy by seeking clarification on what sites are included, such as NPL sites, state sites, or Superfund sites. EPA personnel clarified that this policy applied to Superfund sites only, but several participants commented that the policy will have ramifications for any type of clean-up action, as well as on non-Superfund issues.

Break-out Groups

The participants were divided into three small groups and asked to discuss several issues in detail. Each group was given a policy- and a guidance-related topic related to relocation and asked to address this issue in the context of two major questions:

- (1) Under what circumstances should permanent relocation be used as a part of a remedy? and
- (2) What policies or guidelines should be followed to accomplish a fair and reasonable relocation?

The approach to this assignment taken by each of the three groups varied. A summary of each group's discussion and conclusions is provided below.

Group 1 – Risk Communication/Real Estate Issues

Risk Communication

The group began by acknowledging that no matter who says it or what is said, residents never believe there is no risk. The Agency needs to understand how to properly communicate risk. Jocelyn White noted that regional differences exist in acceptance of risk in the United States, with residents in the Northeast more tolerant in general. Keys to risk communication suggested by several participants are working early in the process and working closely with the community.

Participants noted that risk communication should build upon existing community relations and be directed to the fence-line residents. Ms. Skelton Roberts offered a model of collaboration that represents information-sharing among various groups. A primary group consists of those making and implementing the decision. This group is made up of actors who can support or thwart the process. A secondary group consists of nearby residents, while the tertiary group is composed of those in other communities. Ms. Skelton stressed that each group should be feeding information to all other groups through publications and the media in order to keep information flowing.

The break-out group indicated EPA has difficulty in helping all residents, both those relocating and those remaining. Participants suggested that a tiered program offering different benefits based on proximity to the site would better satisfy the community.

When communicating risk to residents, important considerations include choosing the right words to help residents understand and accept the information. Knowing and preparing for the audience as well as keeping aware of one's own behavior are other key strategies. EPA should coordinate with the PRP and a third party to develop and implement a communications strategy, agreeing on the message to the community well before the start of the relocation process. EPA should also continually articulate its role

and limitations to residents to clarify expectations. Timing of communication is also important; EPA needs to communicate the information first and engage in a partnership immediately.

In summary, the group identified several factors in determining when relocation should be used as part of a remedy, including immediate health effects, cost effectiveness, and disposition of property to be acquired. Several participants emphasized that decisions on when and how to communicate risk should be data-driven. The framework for this decision should be based on proper communication, sampling data, and the use of science in a way that is comfortable for residents.

Real Estate

In response to the second question, the group focused on real estate issues. Participants commented that the appraisers selected should have a high level of certification and experience with relocation. This aids in his or her ability to interact with residents who are being relocated. Appraisers should be considered and selected based on bedside manner and cultural factors. In addition, appraisers with the appropriate certification for residential properties should be used. Another suggestion was getting two appraisals (letting the community pick one appraiser and the government pick the other) to reduce the feeling of victimization among residents, as well as to ensure the inclusion of data from owners that affects the value of the home.

The appraiser should also be properly instructed. Some in the group felt it is better to give few instructions and integrate any necessary adjustments into the whole relocation program, rather than including adjustments for special circumstances in the appraisal itself. The appraisal method could be built into the policy to allow compensation to be put in where necessary. The special circumstances to be considered in appraising these properties center on acknowledging these properties are not for resale and the appraisal will not have an effect on other property values. Factors such as appraising as if no contamination were present and taking into account stoppage of maintenance on homes (once owners realize that resale is unlikely) were identified.

The appraisal policy at a specific site should be customized to consider the amount of available alternative housing and local economic conditions, including understanding of the real estate market. These steps help to protect the integrity of the appraisal process.

Group 2 – Public Welfare/Safety Nets

Public Welfare Impacts

The discussion began with a question on how the issue of welfare currently fits into the statutory framework for relocation. Although welfare is mentioned in CERCLA section 104, it is not considered later; furthermore, health effects are considered a separate issue. Much study has been done on defining health effects, but not as much thought has been given to the idea of public welfare. It is hard to compare the two ideas because welfare has not been adequately defined in the statute. Mr. Lythcott mentioned his company's approach to thinking of public welfare. At each site, they discuss and "brainstorm" the non-health related impacts on the community.

There does not appear to be a lot of flexibility in the statute to define welfare because the criteria for permanent relocation are so narrow; does there need to be a change to the statute to give EPA the authority to consider welfare more broadly? It was determined that there needs to be a legislative effort to

define welfare more clearly. Defining it will also eliminate welfare as a loophole currently being used by environmental activists.

A major issue raised was the current authority under the statute to use "welfare" to authorize relocation. It was discussed whether welfare should be a part of the relocation policy at all. The group decided to set aside the question of whether welfare should be included in the statute. Assuming that welfare is appropriate to guide relocation, the group decided to concentrate on how it should be incorporated into the policy and what principles should guide it.

Mr. Lythcott felt that, much like ATSDR, a team of sociologists should review the members of the community to characterize their social health and pathologies. A bright line could be established between those people with or without mental welfare concerns. The need for legitimacy in determining actual stress was noted. There will be discrepancies in people's emotions due to outside pressures from people who are not paying for the relocation, such as environmental groups. People often "feel" stress when presented with the possibility of obtaining compensation if they have stress. However, the issue was raised that the science was not there to legally evaluate psychological effects. An additional concern was how to make a national policy based on the specific concerns of a community.

Mr. Oldham raised the issue that you cannot base a policy on people's fears; everyone has different fears. Community members do need to be protected; therefore, health-based investigations are done. If real risks are found, then relocation should be considered. He felt that relocation should be an individual informed decision, not a decision made for individuals. He stressed the need to give people their options and let them address their fears by making their own choice: give the community members the option to stay or leave. People who are willing to stay should be compensated with something like a home improvement loan or property value guarantee. The homes left behind will be sold, but it shouldn't become a low-income community. The home should be priced at a fair market price with subsidy compensations: a property value protection program. People who are less concerned about the risk will move into these neighborhoods to replace those who decide to leave. Being a Superfund site does not necessarily mean property value loss; it depends on the PRP response.

The question was raised of how to incorporate into the policy this idea of allowing people to make personal decisions. Mr. Oldham remarked on his company's site in Mississippi. They have worked with the community to create solutions other than litigation to please activists and all involved parties. The members of the community did not trust the local government. They trusted the company to clean up and redevelop the site based on community input. It was expressed that relocation should be the very last resort; the money should go into rehabilitating the community instead.

Mr. Shen raised the issue of whether this was the right statute under which EPA should make these welfare decisions. Assuming that welfare is incorporated into the Superfund relocation program, it should be defined in a broad way given societal trade-offs. He raised the issue of retroactive joint and several liability. As an example, he noted that there is a difference in a knowing polluter from eight years ago who should be liable versus a polluter from eighty years ago who was following the law. Should the original PRP be liable now for any issues other than health or environmental threat, such as fear? EPA's discretion to apply welfare standards should be applied narrowly so as not affect a company in that situation. The status of the PRP should be included in welfare decisions. Thus, welfare issues should be tailored to the equities of the situation.

It was discussed that relocation should be triggered by economic harm to the homeowner, such as property value diminution. However, there is an equity issue involved -- who arrived first, the plant or the members of the community? Did property values decrease as a plant began operations in an existing community or did people move around an existing plant site? Often neighborhoods were built around the plant. Mr. Oldham noted that real estate always goes in cycles. Even these fence-line homes will have varying values.

Mr. Shen noted how common law has guided property value diminution claims. Non-statutory causes of action should not be forgotten as a means to help guide CERCLA in creating equitable standards. Specifically, tort law has contributory negligence issues. Under tort theory, full liability would not be assigned to a company that polluted 100 years ago if three years ago another developer knowingly converted the land to homes and sold it without telling the buyers. In this situation, all of the relocation costs should not go to the original polluter. The idea of welfare ties into this concept of loss of property value purchased under false pretenses.

The group considered whether relocation could be triggered by welfare that is just defined by loss of property value. There are many reasons for loss of property values, such as building a stadium, so why are property value decreases being discussed for Superfund, which is a statute to protect health and the environment. Why should it cover property values? Is the welfare issue just associated with loss of property value? It was decided that welfare should not be the sole trigger. It needs to be considered, and diminution of property value is just one part of that issue. It becomes a question of how much weight to give property value in evaluating public welfare.

It was pointed out that industry would be concerned by how welfare is defined or applied because it is a different issue than health effects and is very political. The entire relocation issue is very political and requires negotiations with the PRP and the community.

Safety Nets

Mr. Lythcott explained how his company provided independent, minimum appraisal values to assist community residents adjacent to a site in Louisiana. Another safety net was rent loss protection for landlords. This was a payment to landlords who have stopped renting their property for fear of contamination, or have had to reduce their rent to keep tenants. A rent differential was provided based on length of residence. A sweat equity safety net was also provided. This approach provides compensation to homeowners who have remodeled their property, thus increasing its value. Equity position protection puts homeowners in the same equity position in a comparable property with compensation for interest rates if they increase. The PRP should encourage banks to invest in the families moving to comparable homes. It must also be determined if the homeowner was responsible for any negative environmental effects to the property. If so, there should be a reduction in their benefits. A question was raised as to how to deal with relocated families who move to comparable housing, but have their property taxes increase. Mr. Lythcott explained that his company paid closing costs on the old and new properties. They also paid the difference in the tax bills for three years. It was suggested that the local government should handle this tax differential issue. He also mentioned a consulting allowance safety net to help compensate for divorce expenses or family counseling, which is often needed at these relocation sites.

Another issue raised is that people living in homes that were not decent, safe, and sanitary would be moving to homes that met this standard; improving their surroundings is a type of safety net.

Discussion then focused on mandatory versus voluntary relocation, the latter of which is much more flexible. A voluntary clean-up could utilize community input more effectively to create a better situation. Putting all decisions in the hands of EPA reduces the flexibility to come up with creative solutions. It is harder to negotiate a fair settlement with the community. With voluntary relocation, decisions can be made on a community-specific basis, addressing their particular concerns.

It was noted that a relocation guidance document should provide a high level of flexibility. However, there should be a consistent structure that can be used nationally. An important consistency feature is to start any relocation effort on the premise that information at the community level is needed, such as speaking with people door-to-door. It was recommended that a proactive approach be used to provide fair treatment to everybody involved.

Group 3 - Threshold Criteria/Stakeholder Skills Issues

Threshold Criteria

Elizabeth Zeller noted at the beginning of the discussion that CERCLA sets specific criteria for the selection of permanent relocation as part of the overall remedy. Under section 101(24), the definition of "remedy" or "remedial action" includes the costs of permanent relocation of residents and businesses where the President determines that relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off-site of hazardous substances, or may otherwise be necessary to protect the public health or welfare.

The group began by addressing the threshold issue (i.e., how should EPA determine a threshold that must be met for a permanent relocation to take place). First, the group recommended that EPA set criteria that must be met before a permanent relocation can take place. The criteria should be rigid and easily measurable so that EPA can make a definitive decision on whether a permanent relocation should or can take place. After the criteria are met, the group agreed that the location is a candidate for relocation and the stakeholders should consider other factors in determining the scope and size of the relocation.

The group agreed that the criterion or trigger for determining whether a permanent relocation can take place must be health or risk based. Fear is not easily measured and should not determine whether a relocation takes place. The group agreed that early and comprehensive communication with the community will minimize instances of unsubstantiated fear. Further, the group noted that EPA should focus on citizens who are genuinely at risk. Although economic issues such as property values should be addressed, economic issues should not trigger a permanent relocation. Before economic issues are addressed, EPA should determine whether a site has valid health risks based on a baseline risk assessment.

The group discussed the problem of how long it takes to determine whether there are valid health risks. For example, it may take one year to determine the health risks in a community. The group suggested EPA use less time-intensive methods to determine whether a site meets the threshold for becoming a relocation candidate. A test like EPA's soil screening levels could provide a faster response on whether a relocation is appropriate. However, a baseline risk assessment is the preferable tool for determining health risks. The group agreed that there is no reason baseline risk assessments must take so long. EPA should use baseline risk assessments to determine whether a site is a candidate for permanent relocation and should work with industry to ensure that the baseline risk assessment process is expedited.

If health risks are identified, EPA should only move residents in homes that are directly contaminated. For example, if a development has 130 homes of which three yards are directly contaminated, EPA should only require that the residents of the three homes be relocated. However, emotional and economic issues for neighbors that occur as a result of the directly contaminated properties should also be addressed. The group noted that EPA should not require that residents be relocated based on economic and emotional issues. The company or the PRP should determine along with the residents whether residents of properties other than those directly contaminated should be relocated. Further, engineering issues may arise that make it preferable to relocate residents of homes that are not directly contaminated.

The group agreed that EPA should establish a rigid, measurable, health-based threshold upon which it can require a permanent relocation. If the threshold criteria are not met, the site is not a candidate for relocation. However, if the threshold criteria are met, directly contaminated properties should be relocated. Further, EPA, the PRP, the community and other key players should work together to address economic, emotional, and engineering issues for other properties. Finally, the threshold criteria should be based on a baseline risk assessment. EPA and industry should commit to conducting and evaluating the baseline risk assessment in a timely manner.

Stakeholder Skills and Roles

The group discussed EPA's unique role in the relocation process and identified skills that EPA staff should possess. Foremost, the group agreed that EPA must provide staff who are empowered to make decisions. Further, EPA representatives should have community relations experience. The group noted that sending staff who do not possess these skills and authority will cause distrust in the community. Further, EPA should avoid waffling on issues, which will also cause distrust in the community.

The group agreed that EPA has the unique role of enforcing and implementing the law. Further, EPA communicates raw data to the community and is the "keeper of the science." EPA should also be the arbiter over conflicting data. EPA sets the standards under which a permanent relocation can occur. EPA staff should also provide technical support in the relocation process and get involved with the community. Finally, EPA acts as a facilitator to help bring the stakeholders together. The group also agreed that EPA should coordinate its efforts with other stakeholders in the relocation process.

The group agreed that industry's unique role in the relocation process is to conduct community relations, participate in community outreach efforts, and provide monetary resources for the relocation. The community's unique role in the relocation process is to communicate its values and concerns associated with the relocation and to select leadership. The community should also participate on a Community Advisory Panel or Group (CAP or CAG). The group noted that a third party should organize the CAP to ensure that a cross-section of community views are represented on the panel. The group noted that the third party should not be a member of the community or from industry. The third party should be a person or group that the community trusts.

Local government's unique role in the relocation process is potentially as a facilitator and a source for identifying land use issues.

Report-out to Large Group

Group 1 Recommendations:

Question 1 – Relocation Decision

- Based on data (e.g., sampling).
- Immediate health effects to the community.
- Cost-effectiveness.

Question 2 – Conducting Relocations

- EPA should get involved in all parties (company, community, etc.).
- Develop a team within EPA based on skills.
- Start early.
- Establish personal relationships.
- Know the language of the affected community.
- Use appropriate language (not technical).
- Define EPA's role before going to the community.

Group 2 Recommendations

Question 1 – Role of Welfare

- Question over whether the statute even allows welfare to be considered.
- Assuming that it is legal:
 - a) concerns over how to define welfare versus health/environment.
 - b) loss of property value.
 - c) many factors affect property value.
- Welfare is more political/social than health/environmental; equities should be especially important in deciding who gets how much of relocation benefits.
- Look to culpability on who pays and who is paid.
- Flexible guidance/community-specific analysis needed -- may not apply "welfare" nationally.
- Relocation should be a choice for individual to decide and/or have relocation covered by common law rather than CERCLA.

Question 2 – Fair and Reasonable Relocation

- "Decent, safe, and sanitary" conditions safety net.
- Use orphan share funding to reduce inequity of applying liability, especially if intervening non-environmental factors lead to relocation costs.
- Minimum appraisal values.
- "Sweat equity."
- Rent loss protection to landlord.
- Rent protection.
- Consider equities, culpability, and intervening factors besides pollution.

Other

- Have local governments contribute by handling property taxes and rezoning.
- Relocation should be a last resort since it discourages rehabilitation of neighborhood.
- EPA should distinguish between mandatory and voluntary relocation, consider guidance for diverse situations.

Group 3 Recommendations:

Question 1 – Threshold for Permanent Relocation

- Rigid, measurable, health-based thresholds should be established to determine whether a site is a candidate for permanent relocation.
- Thresholds can be determined using soil screening type data or preferably using an expedited baseline risk assessment.
- Industry should only be required to relocate residents with directly contaminated properties.
- After the threshold is met, stakeholders should determine the extent of the relocation based on economic, emotional, and engineering issues.

Question 2 – Skills and Roles of Key Players in Relocation Process

- EPA should act as a judge and the arbiter of conflicting data.
- EPA should set standards under which a relocation can occur.
- EPA may also act as a facilitator to bring all stakeholders together.
- EPA staff should be empowered to make decisions and experienced with community relations.
- Industry should participate in community outreach and provide monetary resources for the relocation process.
- The community should communicate its values and issues surrounding the relocation and select its leadership.
- A third party should organize the CAP or CAG to ensure that a cross-section of community views are represented.
- Local governments can act as the facilitator and should be consulted for land use issues.

Large Group Discussion

Recommendations were given on triggers for relocation. During the pre-remedy selection phase, triggers should be evaluated by staff with decision-making authority. It was also noted that legal notices alone are not effective. During the RI/FS process, the community should not be left out. Triggers used during remedy selection should take public welfare into account. Currently, the criteria is unclear and inconsistently applied. During the public comment period, public feedback needs to be obtained sooner. Triggers need to take into account proximity to the site during the remedy selection, ROD, and post-ROD period.

Recommendations for policy were also given. During the pre-remedy selection phase, an empowered team should be established based on skills. The RI/FS process should be data driven, be expedited, and involve the community. During the remedy selection process, EPA should consider the

same factors noted for triggers. Furthermore, "Gore factors" (as specified by the Vice President) need to be considered, and soil screening information should be used. It was noted that EPA should establish and adhere to criteria. For the proposed planning stage, the process should be expedited, and should take into account the site's proximity to its neighbors. The public needs to give input as partners. During the remedy selection, ROD, and post-ROD period, the policy should address decent, safe, and sanitary living conditions and safety nets such as rent loss protection.

Finally, the discussion group gave recommendations to EPA on forming partnerships. During the pre-remedy selection phase, skill sets should be developed across different agencies. A diverse stakeholder process would allow for input and advice. Partnerships should be formed with local governments to handle taxes during the remedy selection, ROD, and post-ROD phase.

Conclusion and Next Steps

Elaine Davies discussed next steps in taking the information from the forum and drafting the relocation policy. The first step will be for the workgroup to craft a draft policy. Suzanne Wells asked the industry representatives opinion on their willingness to participate further in the process, possibly through the involvement of representatives from each forum in collaborating to draft the policy. The policy could possibly then be sent back to the full groups for review and comment. The facilitator reminded the group that stakeholders were not monolithic. It was decided that the stakeholders would probably not reach consensus on issues, and that EPA would take all of the ideas into consideration in making the final decisions. The stakeholders would serve more of an advisory position. Anyone interested in volunteering as an advisor signed a paper. It was noted that EPA staff working on the policy should be diverse. EPA explained that the policy would undergo public comment.

Suggestions in moving forward include gathering a group of empowered staff at EPA with authority and the appropriate skills for policy development, including legal, enforcement, risk assessment, and Superfund remedy specialists. It was suggested that issue-specific meetings with multi-stakeholder groups be held. However, challenges with multi-stakeholder groups must be recognized beforehand.

Several industry participants cautioned against collapsing different views and ideas within stakeholder groups, noting that these groups are not monolithic. It was also asked that EPA not distribute information from this meeting to other forums so that the perspectives of other stakeholders will not be influenced by previous discussions.

Ms. Skelton Roberts reviewed the meeting with a brief summary of the major issues of the day, including establishing criteria for relocation, consistency in application, communication strategy/community relations, factoring perceived risk into risk communication, as well as sharing and learning from past experiences and learning from the case studies. Barbara Yuhas then thanked participants for taking the time to attend the forum, share their experiences, and provide input to the relocation policy.

Superfund Relocation Discussion with Local Government Representatives

April 17, 1997

ICMA

777 North Capitol Street, NE

Introduction, Welcomes, and Purpose of Discussion

Barbara Yuhas of the International City/County Management Association (ICMA) began the morning session. ICMA is a professional and educational association of chief appointed administrators and assistant administrators serving cities, counties, regional councils, and other forms of local government. Under a cooperative agreement with EPA, ICMA is working with the Office of Emergency and Remedial Response's Community Involvement and Outreach Center in coordinating a series of discussions with a broad range of stakeholder groups (industry, State and local officials, public health organizations, environmental groups, tribal representatives, and environmental justice organizations) on the issue of Superfund relocations.

Elaine Davies, Acting Deputy Director of EPA's Office of Emergency and Remedial Response (OERR), welcomed the participants and observers to the forum. She then outlined the history of the Superfund Relocation issue as context for this forum with industry representatives. In 1995, a subcommittee of the National Environmental Justice Advisory Committee (NEJAC) requested that EPA look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for OSWER, followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. The current series of forums on relocation provides additional opportunities for industry representatives and other stakeholders to offer information and raise issues for consideration in EPA's development of the relocation policy and corresponding guidance. Ms. Davies added that the Agency does not have specific preconceptions of what should be included in the policy.

Ms. Davies next presented some background information on Superfund relocations. The use of permanent relocations at Superfund sites has been limited, with only 16 cases in the history of the program. However, many temporary relocations have been implemented as part of both removal and remedial actions. Relocations are conducted within the context of EPA's two main goals at Superfund sites: (1) to protect human health and the environment and (2) to make the land available for productive use. Generally, permanent relocations have been authorized in the past for two reasons: engineering and/or human health. She noted that the Agency takes the decision to relocate residents seriously, understanding that the decisions involved and the moving process are very stressful events for residents.

Regarding the purpose of the discussion, Ms. Davies stated that the Agency is specifically seeking input on making the decision whether or not to relocate, as well as how to conduct the relocation. This includes looking for other authorities and resources available for use in relocations. The feedback from the stakeholder forums will help to clarify how relocation fits in with the overall site management strategy. Ms. Davies expects a draft policy will be issued as a Federal Register notice in the summer or fall of this year. As part of that effort, the Agency will prepare a responsiveness summary. A public comment period and a public meeting will occur following this publication. A final policy is possible in 1998.

Review of Agenda and Ground Rules – Mary Skelton-Roberts, Program for Community Problem Solving

Mary Skelton Roberts, the discussion facilitator, began by identifying overlapping interests for all stakeholders in relocations. These interests include the community, Federal regulations, and land use. Local issues are also important for stakeholders directly involved with specific sites.

Ms. Skelton Roberts then listed the objectives for the discussion:

- To assist ICMA and EPA in engaging and informing local and State government officials and their communities in understanding the issues associated with relocation;
- To gain insight and gather information from local government representatives on the important considerations associated with relocation; and
- To share the experiences of local government representatives who have dealt with relocation issues and discuss how the lessons learned may be applied to the Superfund guidance.

The participants and observers then introduced themselves and stated their expectations for the day. A list of attendees is attached. Common expectations included:

- Understanding government coordination;
- Receiving ideas from other attendees;
- Sharing ideas with other attendees;
- Assisting EPA in developing community protocols;
- Stressing health aspects of relocation and how it relates to children and the elderly;
- Communicating with people around or near relocated communities;
- Encouraging honesty and openness in discussion;
- Providing the local perspective;
- Hearing local needs, resources, and concerns;
- Gaining an understanding of how the law is interpreted; and
- Recognizing existing regulations.

At the conclusion, Ms. Skelton Roberts reviewed the ground rules for the discussion.

Background on Superfund Relocations

JoAnn Griffith of EPA provided an overview of EPA's experience with relocation. She began with an introduction to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), which grants EPA the authority to clean up sites to protect human health and the environment, and the National Contingency Plan (NCP), which sets forth regulations to implement CERCLA provisions. Two types of response actions are identified in CERCLA: 1) removal actions are used when immediate action is required; and 2) remedial actions are used in longer-term, non-time-critical events.

Ms. Griffith explained how relocations fit within the context of CERCLA and the NCP: relocations are one type of response action under these authorities. Temporary relocations may be conducted during removal and remedial actions, while permanent relocations are considered only under EPA's remedial authority.

Ms. Griffith next outlined the remedial response decision process and when relocation comes into the decision on a site. The first step is a remedial investigation to characterize site contamination. Next, a baseline risk assessment is done to determine if any further action is necessary at the site; next, a feasibility study of clean-up options is conducted, if necessary. In the feasibility study, relocation may be considered as an option. During the feasibility study, a comparative analysis of options is conducted in which tradeoffs among various clean-up activities are examined. In this analysis, EPA uses the nine criteria from the NCP to compare various clean-up options and select an alternative that is protective of the site and satisfies statutory requirements. The nine remedy selection criteria listed in the NCP are:

- Overall protection of human health and the environment;
- Compliance with applicable or relevant and appropriate standards (ARARs);
- Long-term effectiveness;
- Reduction of toxicity, mobility, or volume through treatment;
- Short-term effectiveness;
- Implementability;
- Cost;
- State acceptance; and
- Community acceptance.

Remedy selection also must follow CERCLA provisions requiring that the selected remedy be protective of human health and the environment, comply with ARARs, utilize permanent solutions to the maximum extent practicable, satisfy the preference for alternative treatments, and be cost effective. Ms. Griffith clarified that cost effectiveness involves evaluating overall tradeoffs between alternatives and cost. The evaluation of clean-up alternatives appears in the Record of Decision (ROD) for the site and public comment is solicited on the selection of a remedy.

Ms. Griffith then explained that EPA cannot simply buy out affected areas rather than clean them up; because CERCLA requires the Agency to select remedies that are protective of human health and the environment.

EPA has selected permanent relocation as part of the remedy in 16 Superfund cases. The two primary rationales behind this selection are health considerations (risks exist that could not be otherwise addressed in a timely manner without relocation) and engineering considerations (homes require demolition to properly implement the clean-up). Temporary relocations have been selected in many cases due to immediate or acute risk to human health or potential risk or danger during clean-up implementation (e.g. emissions, heavy equipment, concerns about liability for potential injury). Most temporary relocations are short-term, but some cases have eventually resulted in permanent relocations.

Regulations for implementing relocations are found in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), developed and overseen by the Department of Transportation. The purpose of these regulations is to ensure that people are treated fairly and equitably in cases of relocation. The URA covers property acquisition procedures and relocation benefits that are to be offered to residents. Ms. Griffith noted that the U.S. Army Corps of Engineers and the Bureau of Reclamation perform relocations for EPA.

Case Studies

Three case studies were presented by forum participants who have extensive relocation experience. The first two case studies focused on Superfund relocation. The third case study focused on flood relocation.

Escambia Pilot Project - Al Coby, City Manager for Pensacola, Florida

Al Coby, City Manager for Pensacola, Florida, began by providing some background on the Escambia Treating Company (ETC) Site. The ETC site was first operated in 1942 as a manufacturing facility for the treatment of wood products with creosote, which was replaced by No. 6 diesel fuel treated with PCP in 1963. Contaminated wastewater and runoff from the former treatment area were the primary wastes managed at the facility. In the early years of operation, all wastewater was sent to an unlined impoundment located in the northeastern part of the site.

The ETC site is located approximately seven miles from the Pensacola Bay and one-half mile from Agrico, another Superfund site; the plume from Escambia is currently moving towards Agrico. The Rosewood Terrace subdivision, the Escambia Arms apartments, the Oak Park subdivision, and the Gouling subdivision are residential complexes located on the fence line of the ETC that house approximately 358 households.

In 1980, for the first time, the facility was required to report on its processes and file a notice of its hazardous waste activity. Before this submittal and the passage of the Resource Conservation and Recovery Act (RCRA), little available documentation was generated regarding compliance and non-compliance with Federal, State, and county rules and regulations. In 1985, EPA issued a warning letter to ETC regarding violation of the RCRA financial requirements. The warning letter was followed by a Notice of Violation in September 1985, resulting from the facility's failure to respond to the warning letter.

From 1985 to 1989 various violations were noted at the facility, and enforcement actions were taken by EPA and the Florida Department of Environmental Protection. In 1991, the owners of Escambia completed bankruptcy proceedings and abandoned the site. The Environmental Response Team was activated to perform a preliminary assessment of the site. The information obtained during this investigation indicated that a removal action was needed to address contamination at the site. Therefore, in October 1991, EPA began a removal action to excavate all materials of concern and to estimate the amount of material to be dealt with in future phases. The removal action was completed in 1992. The excavated material (225,000 cubic yards) is currently stockpiled under secure cover on-site. Original removal funding was \$1 million; however, in 1992, EPA Region IV requested that authorized funding be increased to \$4,436,000. In 1994, the Escambia site was listed on the NPL.

In June 1995, EPA nominated the Escambia site as a part of a National Relocation Evaluation Pilot. In addition to providing for early consideration of relocation at the Escambia site, the pilot efforts were intended to assist EPA in its development of a national relocation policy.

Mr. Coby stated that throughout the clean-up and relocation process, contention between EPA and the community surrounding the ETC site grew. In part, this was due to the fact that EPA continually waffled on the necessary relocation actions. Initially, it was decided that residents of Rosewood Terrace would not be permanently relocated. However, the decision was changed when it was determined that the

area required additional removal actions, including excavation. It was then determined that residents of Oak Park, Goulding, and Escambia Arms would also have to be permanently relocated. Furthermore, the majority of residents within a one-mile radius of the site were minority. Additionally, 30-70 percent of the residents did not possess a high school degree. As a result, most of the residents were not prepared to tackle this battle or understand the highly technical data provided by EPA. In response, those affected by the ETC joined with those from Agrico to form Citizens Against Toxic Exposure (CATE). CATE works to express and resolve community concerns such as health problems that may have resulted from removal activities, loss of property value, relocation of residents, and disposal of excavated soil. CATE successfully petitioned the Pensacola City Council for total relocation of Escambia Arms, Oak Park, Rosewood Terrace, and the Goulding subdivision.

Questions to Mr. Coby:

- Suzanne Wells asked if Mr. Coby could identify what EPA did right or wrong.
Mr. Coby stated that EPA significantly underestimated the magnitude of the situation (e.g., size and cost of the project) and corresponding actions necessary to clean up the site. As a result, EPA continually changed its position regarding relocation; first stating no relocation was necessary, then partial relocation, and finally full relocation. This created contradictory expectations between EPA and the residents/public, as well as a lack of trust towards EPA and its efforts. Mr. Coby also stated that EPA attempted to communicate with the residents by assembling a Community Working Group at the ETC site. The goals for this working group were to improve communication and build trust between EPA and the community, as well as provide the community with a meaningful role in EPA's decision-making process at the site. Additionally, informational newsletters/fact sheets were published and distributed to interested parties to keep residents and the public informed of response activities. However, despite these efforts, no bond was developed with the residents and EPA; therefore, the residents never gained any substantial trust in the efforts being undertaken by EPA. Mr. Coby also stated that it would have been very beneficial to have more involvement from the local officials. However, Mr. Coby stated that, in response to the lack of trust, EPA brought in a doctor from the Agency of Toxic Substances Disease Registry who was readily accepted by the community. Additionally, the Community Action/Working Groups were successful in providing information to the residents. Finally, EPA did make an effort to be aware of the cultural/racial issues involved within the community and attempted to address them.
- Mr. Erdman asked for further explanation regarding why EPA-developed teams were not successful.
Mr. Coby stated that by the time the working groups/teams became involved, the residents had reached a heightened frustration level. Although they were receptive to the information provided, they had already determined that the ETC site posed a significant hazard and they needed to relocate.
- Nancy Skinner questioned whether there have been any offers to build at the site.
Mr. Coby stated that the city has been approached by numerous developers; however, most have been interested in obtaining financial assistance for their development projects.

Texarkana, Texas - Dave Hall

Mr. Hall stated that Texarkana is a community of approximately 60,000 residents located on the extreme northeast corner of Texas where it borders with Arkansas. Texarkana has three Superfund sites, one of which is Carver Terrace. Carver Terrace is a middle-income community composed of 78 homes and 300 residents, all of whom are African American. Additionally, the property of Carver Terrace is located on a 100-year flood plain that creates concerns regarding the movement of hazardous waste into the neighborhood. Mr. Hall stated that Carver Terrace is unique in that it is the only buy-out mandated by Congress. Mr. Hall provided the chronology of Carver Terrace leading up to the relocation of its residents, as follows:

- 1910-1938: Koppers Texarkana site operated as a natural lumber treating plant using creosote in its processes.
- 1961: Site closed.
- 1964: Carver Terrace Inc. purchased the property and began construction of a housing complex.
- 1967: First residents moved into Carver Terrace.
- 1972: Children began forming rashes and respiratory problems, such as asthma.
- 1978: Three dogs died on the site for unknown reasons.
- 1979: Koppers Texarkana Superfund site received an inquiry from the State regarding the sand/gravel site.
- 1981: EPA became involved.
- 1984: Site added to the NPL.
- 1987: Several residents filed a lawsuit against Koppers and were defeated.
- 1988: Beazers purchased Koppers. Shortly following, residents formed an action group, which joined with other environmental groups. The group traveled to Dallas to picket and EPA refused to meet with representatives or answer any questions.
- 1990: Congressman Chapman visited the site and subsequently signed an appropriations bill mandating the buy-out of Carver Terrace.
- 1992: Funding was released and the U.S. Army Corps of Engineers became involved.
- 1993: Buy-out was completed.

Mr. Hall explained that because the community was located in a flood plain it flooded frequently, producing water that contained a sheen. Additionally, creosote and vapors bubbled out of the ground on several occasions. In response, EPA denied any risk of danger yet installed a dirt barrier around the homes for protection and wore protective clothing when performing actions on site. As a result, fear and distrust of EPA grew. Furthermore, there were environmental justice issues involved. The minority population felt that no one was listening to their concerns and, therefore, appealed to the city council. Additionally, the facility had a series of four site managers, which made the residents feel as if they had no point of contact. However, in 1989, Ursula Lennox was appointed as the sole site manager. The residents were also provided extremely technical data from EPA, which was difficult to understand.

To improve the coordination between the residents and local government, a liaison was appointed between the city and the community. As a result, the community had a point of contact to answer their questions and a rapport was developed. Media coverage was also a large problem. As the community groups held more local meetings, the situation became a media event, producing many unanswerable

questions. As a result, the media decided something was being covered up. Beyond the EPA Region VI Regional Director, who was often unavailable, there was no point of contact at EPA; as a result, a bad relationship developed between EPA and the media.

Mr. Hall summarized the lessons learned:

- Determine what the land use of the site is intended to be in the future;
- Designate a community liaison with the city;
- Designate a media coordinator;
- Select one project manager who remains the point of contact through resolution. This person should visit the community and attempt to understand their concerns;
- If relocation is decided as the course of action, develop a contingency plan;
- Address property maintenance concerns;
- Establish a good repository for information provided by EPA (e.g., at the local library);
- Develop community action groups; and
- Address environmental justice issues.

Questions to Mr. Hall:

- Nancy Skinner asked where the residents relocated to.
Mr. Hall responded that most of residents stayed within the city limits. However, following the relocation, many filed a lawsuit against EPA claiming they were not provided the resources needed to relocate (e.g., moving expenses).
- Elaine Davies questioned if there was anything already established within the community that could have served as a community action group.
Mr. Hall stated that the issue was never discussed. However, in retrospect, there were groups that could have served that purpose.
- Linda Wilson questioned whether there is anything that requires EPA to participate with the city government.
Ms. Griffith stated that the NCP identifies the State role. However, there is no statutory provision to address how EPA must interact with local governments. She noted that the State and local governments should act as partners and the State government should not bypass the local government. However, State and Federal governments often underestimate the abilities of the local government and, therefore, do not request their input or assistance.

Nancy Skinner - Daybreak International

Ms. Skinner presented how, following the Great Flood of '93, a group of professionals assembled to help communities rebuilding from disaster take advantage of the unique opportunity to use the Federal and State funding provided to redevelop their towns in a sustainable manner. Sustainable development is "development that meets the needs of present generations without jeopardizing the needs of future generations." It is an innovative framework of thinking that includes: economic considerations; environmental factors, and; social/quality of life aspects to produce an outcome that benefits all three aspects of community life.

Forty national experts in sustainable development gathered to design a process to assist the flood-stricken communities in the Midwest rebuild in a sustainable fashion. The resulting recommendation was that, to facilitate significant value-based change and the adoption of new technologies and design techniques, communities would need a facilitated participatory process. Through this approach, a multi-disciplinary team would help them to identify their core values and vision for the future, introduce sustainable technologies and design techniques, and help local planning and design professionals incorporate the ideas the community wished to pursue into the planning process. To begin the initiative, a sustainable redevelopment team was formed consisting of three sectors: 1) a Federal government Interagency Task Force, consisting of representatives from EPA, DOE, DOI, HUD, and other Federal Agencies; 2) A State Task Force, composed of State agencies; and 3) Local citizens committees each of which pursued a different issue. Ms. Skinner noted that the local citizens committees were extremely empowering because the residents were the decision-makers. Each segment communicated often and received input from other levels of the team. Several issues were dealt with by the sustainable redevelopment team, including land use, pedestrian friendly neighborhoods, preserving a wildlife corridor, infrastructure, energy sources, increasing resource use, and economic development. As a result, Ms. Skinner stated that the residents forgot they were flood victims because they became integrated in designing their new community.

Several innovative ideas were presented to the residents as alternative approaches (e.g., solar energy options, street layout, wind breaks, alternative roofing materials) for achieving a sustainable community. The residents were extremely concerned with preserving the sense of community that existed in their former town. Ms. Skinner stated that those towns who refused to relocate did so because they thought the sense of community would be lost. Those towns who agreed to the process were convinced that this could be preserved through planning (e.g., narrow streets, homes positioned close to the road).

Pattonsburg, Missouri, was the first community that the team was able to work with from the beginning of its planning process, and was, therefore, an excellent pilot for the experiment. The team conducted a series of three community-wide workshops: a workshop with the children of the town, and follow-up sessions with community leaders and the town's local planning and design professionals. The first workshop was a visioning workshop, in which residents were led through a facilitated process to identify the "treasures" within the town and the community's hopes and interest for its future. Design team members also made several presentations to the community about alternatives to conventional development schemes. The second workshop, called a design charrette, allowed community members to interact directly with designers and specialists during the process of designing a plan for the community over the three day period. The final plan was based on the residents' ideas and vision generated in the first workshop, and integrated many of the sustainable development ideas that the community wished to pursue.

Among those who attended the conference was the mayor of Valmeyer, Illinois, the first community in the Midwest to decide formally to relocate out of the floodplain and rebuild on higher ground. Also in attendance at the conference was the Energy Director for the Illinois Department of Energy and Natural Resources (IL ENR). IL ENR committed its support to assisting Valmeyer to rebuild using sustainable development principles and technologies. A Design Assistance Team was assembled to help solve local design problems. The Team conducted a series of workshops to assist residents to understand the concepts and help their planning officials implement them. The workshops created tremendous excitement among the citizens, but by the time the Design Team arrived, Valmeyer had already made several crucial decisions. Ms. Skinner stated that the project taught a crucial lesson: for maximum benefit, sustainable development must be considered early in the planning process.

Ms. Skinner then provided brief excerpts of a video that showed the residents of Valmeyer, as well as the government representatives involved in the process of designing the new sustainable community. Following the video, the group discussed lessons learned from the case studies and listed principles that the lessons learned apply, including:

- Providing flexibility at the local level;
- Implementing at the level closest to the community;
- Considering land use;
- Providing available and consistent contact people;
- Stabilizing the housing market;
- Opening lines of communication;
- Empowering the residents; and
- EPA/local governments playing facilitator role.

Questions to Ms. Skinner:

- Mr. Coby asked whether there was any mandate requiring relocation or did the residents have a choice and were there any negative economic implications to relocating?
Ms. Skinner stated that the relocation was 100 percent voluntary; however, almost 100 percent of each community chose to relocate; there was one household in each town that chose not to relocate. Additionally, the residents benefit because they received Federal funding to rebuild a better community.
- Ms. Frey asked Ms. Skinner to provide more detail regarding the households that chose not to relocate.
Ms. Skinner stated that the residents are still located in their respective communities; however, the homes located on the old site were demolished. Ms. Skinner explained that this situation creates a problem for the utility companies, who are then required to maintain dual utilities in two communities.
- Ms. Wells asked Ms. Skinner if any consideration was given to the fact that, because the two case studies provided were minority communities, moving the residents together to another location could continue to promote segregation.
Ms. Skinner noted that the residents of each community chose to relocate together as a whole community; additionally, a priority for their new neighborhood was preserving the same sense of community that existed prior to the relocation.

Break-out Groups

The participants were divided into two small groups and asked to develop a set of recommendations articulating how the lessons learned can be applied to the Superfund guidance. Additionally, the following questions were explored:

- 1) What criteria should be developed if we are to meet the principles set forth in the earlier discussion? How should these criteria factor into the decision between temporary versus permanent relocation?

- 2) How can local government, State government, and EPA work together in addressing relocation implementation issues? What kind of Federal/State/local flexibility should be considered in the policy?

The approach to this assignment taken by the two groups varied. A summary of each group's discussion and conclusions is provided below.

Group 1 – Small Group Discussion

The group was asked to consider the different approaches taken by EPA, State government, local government, and the community when addressing relocation. Approaches that have worked in the past were addressed, followed by a discussion of areas in the relocation process that need to be changed and principles of collaboration that should be adhered to in the future.

What Works

The group began by stating that approaches that work for one state may not work for another; therefore, a national checklist will be difficult to create. The facilitator agreed, but asked that all group participants use what they have in common to discuss the relocation issue. Mandatory guidelines should encompass all differences in State approaches, while maintaining a uniform principle of collaboration.

Community Action Groups (CAGs) were identified as beneficial in the relocation process because they address issues of communication and collaboration among stakeholders. Those who were familiar with CAGs informed the group that these small group meetings of stakeholders did not slow the process down, but accelerated it by producing open lines of communication. Stakeholders perceive their role as an active one in the decision-making process when participating in small groups, which generally speeds up the relocation process. Consensus is reached fairly quickly on issues such as land use when the community feels it is playing an active role in determining the future of the site. Many times CAGs produce three alternatives with associated price tags, which force stakeholders to consider all aspects of the relocation with a certain sense of reality.

Another group participant stated that CAGs present a certain degree of difficulty during the selection process, for they must remain small to be effective. An appropriate size is thought to be no greater than 25 participants, which could be difficult if many stakeholders are involved. Therefore, criteria on who should participate in a CAG is essential to the selection process and the group's eventual success. State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) were mentioned as possible resources, but some participants argued that SERCs and LEPCs address issues within the framework of developing emergency responses. Many times, Superfund relocations are not considered emergencies, and therefore SERCs and LEPCs would not be appropriate as CAG members.

Providing stakeholders with a range of options during the relocation process was recognized as another process that currently works. All group participants agreed that the relocation process moves more quickly and easily when stakeholders feel that they are making the decisions. Allowing stakeholders to prioritize issues, and eventually choose what they feel is the best option, accelerates decision-making and resolution.

Group participants stressed open lines of communication as being essential in the relocation process. In instances where EPA has involved locals from the very beginning, the process has proceeded

more smoothly. It is important for EPA to continue these open lines of communication throughout the process.

Risk needs to be accurately and openly communicated from the start to avoid misunderstanding or misconception among stakeholders. Relocation is a much smoother process if stakeholders are aware of the risk involved and have been educated and informed on the important issues. This also allows stakeholders to make better decisions throughout the process.

The political issues associated with Superfund relocations must be addressed head on. Public employees who are updated throughout the process are better equipped to answer the community's questions and address the media. Public employees should know how to answer questions, or know to whom citizens should be referred. When public employees offer guidance, but not opinions, the relocation process is smoother. One participant stressed that there is never one "correct" solution to a problem in relocation situations. Therefore, a process outlining specific people to contact and questions to ask is essential to correctly informing public employees. Within a large bureaucracy, it is often difficult to know who to contact or where resources may lie. Relationships between different levels of government that are well established allow public employees to be well informed and better equipped to address the community and the media. Another participant indicated that it is often beneficial to have the local government acting as an advocate, as opposed to a neutral participant. In this way, there can be a point person involved in the relocation who has a relationship with the local community. Participants all agreed that involving the media from the very beginning is beneficial to the process. Being open and honest with the media allows them to accurately inform the community. One group participant indicated that having a member of the media on a CAG is very effective in achieving this goal.

In summary, the group identified several approaches that have worked in the past, and should continue to be utilized in Superfund relocations. Open lines of communication, whether among all stakeholders, between EPA and local government, between citizens and public employees, or between government and the media, was emphasized by all participants as an essential part of the relocation process.

Areas for Change

The group concentrated on four major issues when asked what areas of Superfund relocation needed to be changed. All agreed that while much change needs to be accomplished, these were the important areas that should be focussed on initially.

One of the problems associated with relocation is the lack of a streamlined process or set of rules for the community. One participant stated that in a previous relocation effort, different members of the community were permitted to do different things with their property and personal items. To avoid citizen frustration or misconception, it is important to create a list of rules for community members at the beginning of the relocation process. In this way, all community members will be following the same set of rules from the start.

While communication was mentioned during the "What Works" part of the discussion, it was also focussed on here. Participants indicated that the local government's expectations of EPA should be outlined at the beginning of the process. In this way, there will be no misconceptions throughout the process as to what is to be accomplished. Maintaining the same site manager throughout the process also facilitates open communication, while maintaining a certain level of expertise at the site.

Group participants stressed that an open-minded approach must always be used in a relocation process. Community perceptions of risk and land-use issues need to be approached with multiple options that allow all stakeholders to voice an opinion. EPA also needs to be more open-minded about potential options. This will make every relocation process faster and easier.

Group participants believe that proper education of all stakeholders regarding expectations, risk levels, and possible options creates an open process of decision-making. Education also eliminates the "fear factor," which oftentimes creates problems during a Superfund relocation.

In summary, group participants stressed streamlining the relocation process, improving lines of communication between all stakeholders, taking an open-minded approach, and educating all stakeholders as productive changes for the Superfund relocation program.

Principles of Collaboration

The facilitator asked group participants to think about principles of collaboration that should guide the relocation process in the future. Participants agreed that all stakeholders should be part of the collaboration process, including Federal government, State government, local government, citizen's groups, and the community. To improve this collaboration process, the participants suggested a number of improvements.

Again, communication was stressed as being essential to a successful relocation effort. Communication is important to eliminate the common thread of miscommunication that can run through all levels. Good communication includes sharing ideas, being open-minded, and educating early in the process. All stakeholders need to discuss roles, expectations, and responsibilities at the beginning of the process. Issues of zoning and land use should be addressed early on. With EPA and all other stakeholders acting as partners from the start of the process, all stakeholders will be equally informed of the issues and activities regarding the site.

Participants believe that there is a need for indemnities by EPA to potentially responsible parties (PRPs), in addition to indemnities on a local level. [Note: A clarification of the indemnity issue needs to be added]. Additionally, liability issues need to be equal for all stakeholders. Education and guidance on the local level creates an understanding of liability issues across the board.

All group participants agreed that the pace of Superfund clean up needs to be improved. The process currently takes too long, making it especially difficult in cases where relocation is an option. If the process were faster, citizens would not wait so long for a remedy to be selected, or be removed from their homes for clean-up. One participant stated that speeding up the risk assessment process would greatly improve the entire process. Participants agreed that all stakeholders need to work together to define public welfare and how it should be considered in the relocation process. Joint discussions about what constitutes public welfare should be held in the beginning of the relocation process.

The development of adequate emergency planning programs was mentioned as a necessary improvement. In this way, SERCs would understand their roles and responsibilities in a relocation effort. If emergency programs address relocation issues that are within their parameter of responsibility, there will be no confusion over who should do what. Group participants mentioned outside resources that could be helpful in a relocation effort and should be utilized whenever possible. Some suggestions included the Red Cross, industry, and voluntary private buy-outs.

Group 2 - Small Group Discussion

Group 2 was tasked to discuss how to ensure that the principles decided upon by the large group (see above) are incorporated into the National Relocation Policy guidance.

Principle: Communication at the Local Level

The group began by discussing how best to facilitate communication among EPA and local governments through the relocation process. It was noted that there are various levels of responsibility at the local level for each issue involved (e.g., land use issues). The group agreed that EPA should first relate/communicate at the administrative levels within the local government. In other words, the first point of contact should not necessarily be political appointees or appointed officials, such as the mayor, but rather the city/county managers or administrators who gather and collect available information for distribution to the political representatives and the community. It was also noted that the local health officials are often the first to be notified of a potential situation; it is important that this information is relayed to EPA, and that communication continues to flow in both directions. It was suggested that EPA develop and provide training or guidance to clarify the appropriate points of contact and information flow.

The group agreed that communication between the Federal and local governments should be institutionalized in the guidance. It was noted that, currently the laws establish communication routes between the Federal government and the State governments, but not with local governments. As a result, and because of the large number of localities within a State, information is often not communicated from the Federal level to the local level. EPA, CDC, ATSDR, and others, have established additional relationships with States through various contracts, such as cooperative agreements and grants, which have proven very successful. Therefore, the group agreed that similar relationships between EPA and city/county levels should be explored and initiated.

Principle: Considering Land Use

It was noted that EPA often makes land use assumptions for NPL sites without consulting the local community or considering its interests. Therefore, the group agreed that it is important to institutionalize the local community's involvement in defining optimal land use, which should be driven by their interest and not necessarily EPA's anticipated future land use. It was suggested that all remedy options, from the most restrictive to the least restrictive, should be presented to the community/local government as a realm of possibilities. This preliminary list of options should be generated prior to the application of the nine criteria. Therefore, if a local community has an interest in a particular piece of property that is listed on the NPL, its use, whether it be a less restrictive use or a more restrictive use, would be provided to EPA. EPA could then use the information in their risk assessment to incorporate the local interest into the potential technical solutions.

The group agreed that communities are not monolithic and often solutions that are acceptable to one community are unacceptable to another. Therefore, there must be a set of criteria that defines the thresholds and limits as to what is acceptable for all communities. The criteria should incorporate health effects, especially as they relate to sensitive populations. Additionally, if a community disagrees among with itself or among the political bodies of the community regarding what is acceptable, a process for dispute resolution must be established and included in the guidance to facilitate consensus and allow EPA to conduct the necessary technical assessments.

Principle: Stabilizing the Housing Market

The group also discussed how to stabilize a community and land values following a relocation. The group agreed that relevant economic factors should be reviewed to determine their role in the decision-making process. It was noted that not all factors will be relevant. For example, stabilizing land values may not be an important issue in communities where there is an excess of land available. However, where land is limited and expensive, stabilizing the land value may be a critical factor to consider. Additionally, it was noted that in areas that are not remediated or remediated to a lesser degree than other areas, the residents often feel slighted. Therefore, the group agreed that incentives should be provided to citizens remaining in such a community. Suggestions from the group included below market loans to residents from the responsible party to do home repair, funding to build parks, household exemptions, and funding for lead removals.

In summary, the group stressed the need for local community involvement in the entire relocation process. If allowed, local governments have valuable information and guidance that will expedite the process and benefit everyone involved. In order to ensure this, the group stressed the need for good communication between the Federal and local governments.

Report-out to Large Group

Each small group had a member report out on their discussions:

Group 1 Discussion

What Works

- Utilizing Community Action Groups (CAGs).
- Presenting the community with a range of options.
- Communicating openly from the start.
- Avoiding inaccurate risk perception.
- Addressing political issues.
- Involving the media.

Areas of Change

- EPA should streamline the relocation process.
- All stakeholders need to be committed to open lines of communication.
- The process needs to involve an open-minded approach.
- Education of community members needs to occur early.

Principles of Collaboration

- Open lines of communication should be stressed from the start of the process.
- Liability issues need to be openly discussed.
- The pace of clean up needs to be made as rapid and efficient as possible.
- Public welfare issues should be considered and addressed.
- Emergency planning should be considered as an appropriate resource.

- Any available outside resources should be used to facilitate the relocation process.

Group 2 Discussion

Principle: Communication at the Local Level

- Start at the administrative/managerial level (e.g., mayor or city manager).
- Clarify information flow.
- Institutionalize local government (city and county) involvement in the national policy.
- Explore local involvement through EPA's collaborative agreements with States.

Principle: Considering Land Use

- EPA makes land use assumptions and cleans up to anticipated land use.
- Institutionalize local community's involvement in defining optimal land use.
- Focus on satisfying conditions to remove from NPL site.
- Lay out least to most restrictive options for communities.
- Provide options prior to applying nine criteria.
- EPA must/should maintain some final decision-making authority.
- Communities are not monolithic.
- Develop criteria (environmental, industry, health) through workgroups/community groups.
- Include dispute resolution process in national policy to address conflicts.

Principle: Stabilizing the Housing Market

- Review economics.
- Involve community realtors, public officials, and other leaders.
- Provide incentives to remaining citizens.
 - Low market rate loans.
 - Home repair funding.
 - Funding to build parks.
 - Letters to realtors articulating clean-up and stating land has been cleaned.
 - Homestead exemptions.

Conclusion and Next Steps

Ms. Davies thanked the attendees for their participation and outlined the next steps in the development of the National Policy. Following completion of all stakeholder forums, the information received will be incorporated into the document, which will then be published in the *Federal Register*. After public comments are addressed, the document will be finalized and available for distribution to all interested parties.

Superfund Relocation Discussion with State Government

April 18, 1997

ICMA

777 North Capitol Street, NE

Introduction, Welcomes, and Purpose of Discussion

Barbara Yuhas of the International City/County Management Association (ICMA) began the morning session. ICMA is a professional and educational association of chief appointed administrators and assistant administrators serving cities, counties, regional councils, and other forms of local government. Under a cooperative agreement with EPA, ICMA is working with the Office of Emergency and Remedial Response's Community Involvement and Outreach Center in coordinating a series of discussions with a broad range of stakeholder groups (industry, state and local officials, public health organizations, environmental groups, tribal representatives, and environmental justice organizations) on the issue of Superfund relocations.

Elaine Davies, Acting Deputy Director of EPA's Office of Emergency and Remedial Response (OERR), welcomed the participants and observers to the forum. She then outlined the history of the Superfund Relocation issue as context for this forum with industry representatives. In 1995, a subcommittee of the National Environmental Justice Advisory Committee (NEJAC) requested that EPA look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for OSWER, followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. The current series of forums on relocation provides additional opportunities for industry representatives and other stakeholders to offer information and raise issues for consideration in EPA's development of the relocation policy and corresponding guidance. Ms. Davies added that the Agency does not have specific preconceptions of what should be included in the policy.

Ms. Davies next presented some background information on Superfund relocations. The use of permanent relocations at Superfund sites has been limited, with only 16 cases in the history of the program. However, many temporary relocations have been implemented as part of both removal and remedial actions. Relocations are conducted within the context of EPA's two main goals at Superfund sites: (1) to protect human health and the environment; and (2) to make the land available for productive use. Generally, permanent relocations have been authorized in the past for two reasons: engineering and/or human health. She noted that the Agency takes the decision to relocate residents seriously, understanding that the decisions involved and the moving process are very stressful events for residents.

Regarding the purpose of the discussion, Ms. Davies stated that the Agency is specifically seeking input on the process of deciding whether or not to relocate, as well as how to conduct the relocation. This includes looking for other authorities and resources available for use in relocations. The feedback from the stakeholder forums will help to clarify how relocation fits within the overall site management strategy. Ms. Davies expects a draft policy will be issued as a Federal Register notice in the summer or fall of this year. As part of that effort, the Agency will prepare a responsiveness summary. A public comment period and a public meeting will occur following this publication. A final policy may be available in 1998.

Review of Agenda and Ground Rules – Mary Skelton Roberts, Program for Community Problem Solving

Mary Skelton Roberts, the discussion facilitator, began by identifying overlapping interests for all stakeholders in relocations. These interests include the community, federal regulations, and land use. Local issues are also important for stakeholders directly involved in specific sites.

Ms. Skelton Roberts then listed the objectives for the discussion:

- Assist ICMA in informing their constituents about the issues associated with relocation;
- Gain insight and gather information from industry representatives on the important considerations regarding relocation issues; and
- Share experiences of current industry relocation practices and discuss the lessons learned from those experiences.

Each participant and observer then introduced themselves and stated their expectations for the day (a list of attendees is attached). Common expectations included sharing perspectives and concerns, listening to other's perspectives, sharing experiences/best practices with relocation, and gaining ideas to bring back to companies and communities. At the conclusion, Ms. Skelton Roberts reviewed the ground rules for the discussion.

Overview of CERCLA and URA

Sharon Frey of EPA provided an overview/introduction to Superfund and Superfund relocations. Ms. Frey explained that Superfund is another name for the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which is the law that grants EPA the authority to address hazardous waste sites. The regulations that EPA follows when implementing CERCLA are found in the National Contingency Plan (NCP). Two types of response authorities are provided under CERCLA:

- 1) Removal authority, which includes quick responses to a release or threat of release (e.g., leaking drums); and
- 2) Remedial authority, which involves clean-ups that are more long-term in nature (e.g., ground-water pumping and treatment, large-scale soil clean-ups).

Ms. Frey stated that the National Priorities List (NPL) is a list of potentially contaminated sites needing further evaluation; currently, there are approximately 1,200 sites on the NPL. Sites are placed on the NPL after they have undergone a preliminary assessment/site investigation (PA/SI). Preliminary assessment is the first phase of investigation whereby existing information is reviewed. Site investigation is the second phase involving some sampling to determine the substance(s) at the site. The Hazard Ranking System uses PA/SI information to score a site for possible inclusion on the NPL. Once a site has been placed on the NPL, a remedial investigation (RI) is begun. The purpose of the RI is to characterize the site by determining what is contaminated, what substances are at the site, and the extent of contamination. The results of the RI then feed into the baseline risk assessment, which is a quantitative analysis performed to estimate risks posed by the site. The baseline risk assessment identifies both current and potential risks, who is being exposed, how they are being exposed, what they are being exposed to, and the non-cancer/cancer risks resulting from those exposures. The results of the baseline risk assessment allow EPA to determine if further action is necessary at the site.

A feasibility study is then conducted to identify potential clean-up alternatives to address current and potential risks identified in the baseline risk assessment. Following the feasibility study, a comparative analysis is initiated using the NCP's "nine criteria" to compare advantages and disadvantages among the alternatives. The nine remedy selection criteria listed in the NCP are:

- Overall protection of human health and the environment;
- Compliance with ARARs;
- Long-term effectiveness and permanence;
- Reduction of toxicity, mobility, and volume through treatment;
- Short-term effectiveness;
- Implementability;
- Cost;
- State acceptance; and
- Community acceptance.

Ms. Frey explained that the first two criteria are "threshold criteria" that every remedy must meet. Additionally, all remedies are required to be cost effective under CERCLA, which means selecting the best overall remedy (e.g, protectiveness provided) for the money spent, not the least expensive.

EPA's clean-up decision is then outlined in a proposed plan that compares EPA's preferred alternative with other alternatives based on the "nine criteria". Public comments must be considered and the final remedy decision is issued in the Record of Decision (ROD). The remedy must meet CERCLA section 121 requirements, which include: protection of human health and the environment, compliance with ARARs; utilization of permanent solutions and alternative treatment technologies to the maximum extent practicable; satisfying the preference for treatment; and cost-effectiveness.

Ms. Frey explained that relocation is an alternative that may be evaluated during the feasibility study using the remedy selection criteria. Generally, relocation cannot take the place of a clean-up. Relocation, in lieu of clean up, does not ensure the remedy is protective, nor would it necessarily be a permanent solution to the contamination problem. EPA has selected permanent relocation at 16 sites, which is approximately one percent of all sites on the NPL. Relocation has been chosen when risks could not otherwise be addressed in a timely manner and/or when implementation of clean-up required homes to be demolished. Generally, EPA has used temporary relocation in response to acute health risk from uncontrolled exposure and/or potential risk or danger during clean-up.

In conclusion, Ms. Frey noted that regulations for implementing relocations are found in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), developed and maintained by the Department of Transportation. The purpose of these regulations is to ensure that people are treated fairly and equitably in cases of relocation. The URA covers property acquisition procedures and relocation benefits that are to be offered to residents. Ms. Frey noted that the U.S. Army Corps of Engineers performs relocations for EPA.

Following this presentation, several issues were discussed by the stakeholders:

- The Department of Health should play a key role in helping to provide information.
- EPA can begin relocation actions by asking state public health officials about the structure of communities and local contacts and finding the communities' "natural leaders."

- Community Coordinators and other liaisons' experience in communicating with the public varies; some will be more skilled than others. Training could be provided.
- Community members go through a process, beginning with anger and distrust, when they first learn of a relocation. An advisory committee can serve as a liaison.

Case Studies

Florida DEP-Don Harris, Escambia Treating Company Site

Don Harris stated that he has been involved with the Relocation Pilot Project at the Escambia site from its beginning. He explained that the press has always described the site as an example of a regulatory failure. Mr. Harris discussed the history of the Escambia Treating Company Site, located in Pensacola, Florida, which was a wood preserving facility that began operations in 1942. Contaminated wastewater and runoff were the primary wastes managed, with dioxin being the contaminant of greatest concern. In the early years of operation, wastewater was sent to an unlined impoundment. The nearby property is also a Superfund site, and earlier investigations there led to Escambia being discovered.

In 1988, a RCRA Facility Assessment was performed. A site excavation was started in 1991. The excavation was based on only a visual inspection, therefore, the extent of contamination was severely underestimated. During this excavation, the residents of the community were not informed of the reason for the disruption. It was not until March 1992 that the first public meeting was held. By that point, citizens were confused, distraught, and angry. Citizens blamed the site for their health problems and for the forty deaths that occurred in the community since the excavation began. (No direct correlations have been proven.) The construction mound was referred to as "Mount Dioxin." EPA continued to receive very negative press. In March, CATE (Citizens Against Toxic Exposure) was formed. The second and third public meetings were held that year as well.

During the next two years, public resentment grew. The citizens declined to participate in any health studies proposed by EPA, believing that the studies were inherently inconclusive and would be used by EPA to avoid taking action at the site. CATE became a stronger citizens movement, and by June 1994, Escambia became a significant environmental justice site. Many community members wanted to relocate. It was not until November 1994 that the first meeting was held by a Community Working Group to establish meaningful relationships and communication with the citizens. Mr. Harris noted that this meeting, held three years after excavation began, was far too late to be useful.

Mr. Harris continued the site history by explaining that in November 1995, sampling was conducted and EPA established clean-up levels. On an interim action, sixty-six of the three hundred and fifty-eight households near Escambia were selected for relocation. In May 1996, a Relocation Roundtable was conducted, where CATE expressed its belief that every citizen (all 358 homes) should be relocated. In August 1996, an addendum to the earlier April Proposed Plan was issued, stating that 101 households would be relocated. An additional thirty-five added due to welfare reasons. By October, EPA stated that all three hundred and fifty-eight homes would be relocated. A public meeting was held informing the community members that it would take three years to conduct the relocation. In February 1997, the Interim Action ROD was signed.

In conclusion, Mr. Harris noted the following problems presented at the Escambia site:

- The community's "us against them" attitude;

- Poor EPA public relations planning;
- Public meeting should not have moved from the school to a church; and
- With no agenda for the public meetings, EPA lost control to CATE.

Questions to Mr. Harris:

- Virginia Wood asked if EPA relocated the entire town based on welfare issues.
Mr. Harris responded that welfare was the reason.
- Anita Gabalski inquired about the citizens who did not want to relocate.
Mr. Harris explained that 99 percent of the community wanted to relocate.
- Ms. Gabalski raised the issue of citizens' personal belongings.
Mr. Harris answered that the issue has not come up yet.
- Mr. Anderson asked about a PRP.
Mr. Harris explained that the company filed for bankruptcy.
- Ed Putman inquired about the construction dirt.
Mr. Harris responded that the dirt is stockpiled on site.
- Ms. Wood asked what caused the citizens stress.
Mr. Harris explained that stress was primarily due to citizens' lack of knowledge about the situation and perceived connection of the site to their diseases.
- Lavern Ajanaku asked if air monitoring was conducted.
Mr. Harris responded that it was but the validity is questionable.

Nancy Skinner - Daybreak International

Nancy Skinner described how, following the Great Flood of 1993, a group of professionals assembled to help rebuilding communities take advantage of the unique opportunity to use the federal and state funding provided to redevelop their towns in a sustainable manner. Sustainable development can be defined as "development that meets the needs of present generations without jeopardizing the needs of future generations." It is an innovative framework of thinking that includes: economic considerations; environmental factors; and social/quality of life aspects to produce an outcome that provides benefits under all three considerations.

To begin the initiative, forty national experts in sustainable development gathered at the Wingspread Conference to design a process to assist the flood-stricken communities rebuild in a sustainable fashion. The resulting recommendation was that, to facilitate significant value-based change and the adoption of new technologies and design techniques, communities would need a facilitated participatory process. Through this approach, a multi-disciplinary team would help them to identify their core values and vision for the future, introduce sustainable technologies and design techniques, and help local planning and design professionals incorporate the ideas the community wished to pursue into the planning process. Therefore, a sustainable redevelopment team was formed consisting of three segments: 1) a Federal government Interagency Task Force, consisting of representatives from EPA, DOE, DOI, HUD, etc.; 2) a State Task Force, composed of state agencies; and 3) local citizens committees, each of which pursued a different issue. Ms. Skinner noted that the local citizens committees were extremely empowering because the residents were the decision-makers. Each segment communicated often and received input from other levels of the team. Several issues were dealt with by the sustainable redevelopment team, including land use, pedestrian-friendly neighborhoods, preserving a wildlife corridor, infrastructure, energy sources, increasing resource use, and economic development. As a result, Ms.

Skinner stated that the residents forgot they were flood victims because they became integrated in the process of designing their new community.

The city of Valmeyer, Illinois, agreed to be a pilot project. A Design Assistance Team was assembled and a series of workshops was conducted. First, the workshops conducted a "visioning process" in which the residents designed their new community (e.g., things they wanted to keep and things they wanted to eliminate). The second workshop involved a design charrette, which investigated land use options and any additional factors involved with creating a new town. Several innovative ideas were presented to the residents as alternative approaches (e.g., solar energy options, constructed wetlands, alternative roofing materials) for achieving a sustainable community. Residents conducted inventories that would set the standards for their new community; inventories included energy, economic development, quality of life, and a physical characteristics inventory. Then the residents were presented with a plan to review and critique.

Ms. Skinner described several lessons learned at the Valmeyer project. She explained that communities are interested in sustainable development. Also, Design Assistance Teams are very helpful in guiding community members and providing early assistance. Ms. Skinner also explained how the multi-disciplinary approach is integral to the process. She noted that remaining issues include having an RIFS conducted, working out liability issues, and meeting adequate housing issues.

In conclusion, Ms. Skinner explained the following transferable principles from flood relocations to Superfund relocations:

- Turn negative situations into positive ones;
- Organize effectively;
- Utilize a visioning process;
- Accomplish multiple policy objectives (e.g., energy, environment, economic); and
- Use monies in a positive way and obtaining positive press.

Questions to Ms. Skinner:

- Ms. Roberts asked if local planning agencies were involved.
Ms. Skinner answered yes, they were involved early in the process.
- Larry Bryant asked about the population and if this process would be effective for a larger community.
Ms. Skinner noted that the pilot project town has a population of 1000. She noted that sustainable development ideas could benefit any size population.
- Andres Carlson remarked that flood scenarios are different from Superfund relocations because there is a definitive starting point. Furthermore, Superfund does not have the same resources available that flood victims do.
Ms. Skinner responded that the Superfund relocations need to look to multiple government agencies for resources.
- Mr. Anderson asked how the land for the new site is selected.
Ms. Skinner answered that soils, winds, and agricultural sites were considered.

NY Department of Health-Anita Gabalski and Andres Carlson, Forest Glen, New York

Andres Carlson gave a background description of the New York Department of Health. It has a staff of 35 with a case load of 900 inactive sites. They have a cooperative agreement with the New York Department of Environmental Conservation, and many investigations are performed through contractors. The Department of Health primarily samples drinking water. Anita Gabalski described her Community Outreach program. It is not a public relations center. Ms. Gabalski's program teaches public interaction skills to people with more technical experience. The program teaches the following principles:

- Recognize the human connection - every action affects someone;
- Communicate effectively;
- Remain flexible;
- Involve the community;
- Consider welfare issues and psychological impacts; and
- Utilize health studies.

Mr. Carlson described the history of the Forest Glen site in Niagara Falls, New York. It is an older community of trailer parks on a twenty-one acre subdivision. There are fifty-one trailers and two permanent homes sited on top of a filled-in wetland. During the 1980's, sitings of hazardous waste were reported. Samples taken were inconsistent and not definitive. The problem stemmed from the fact that, although there was obvious contamination, it could not be defined and the solutions were not clear. Forest Glen became a Class 3 site because the data did not prove overwhelming evidence of contamination. The County Health Department objected, and the site was listed as a higher priority Class 2. At this point, funding was provided and samples were taken. Tentatively identified compounds (TICs) connected the contamination to the rubber industry. A sampling survey showed that residents living in the northern section of the site experienced more illness. In July 1989, a preliminary risk assessment was conducted by ATSDR. In November of that year, Forest Glen was listed on the NPL and a temporary relocation started.

Ms. Gabalski then described the community living at Forest Glen. She sought to provide a resolution to community members' psychological impacts, and mentioned how ASTDR staff also noted community stress. Their stress had been compounded because the Forest Glen site is located just three miles from Love Canal. Many organizations that had been involved in Love Canal bombarded the residents of Forest Glen, adding to their stress. When even these citizens' groups lost credibility, the residents felt alienated. Ms. Gabalski described one individual who did aid the residents and became their spokesperson. She described how a FEMA representative had become trusted by going door-to-door, but he left when remediation started; the new FEMA representatives were not trusted. Residents were frightened when they were told not to grow gardens or let their children play in the yard. She discussed negative counseling and housing issues caused by FEMA. As a result, Ms. Gabalski recommended that, when approaching residents, there is a need for honesty, good listeners, and immediate information. Additionally, Ms. Gabalski explained the stress felt by those, like herself, who worked there. Everyone had to organize to fight feelings of change, isolation, social rejection, misinformation, and lack of communication. Forest Glen's first struggle was internal, with debate over leadership and power. The second struggle was against the negative media attention.

Questions for Ms. Gabalski and Mr. Carlson:

- Mr. Anderson asked how the Forest Glen site was concluded.

Ms. Gabalski responded that it had intended to serve as a model, but was not. The site became involved in a capacity assurance plan that caused many problems.

Large Group Discussion

Community Relations

The facilitator began the large group discussion by asking participants what the case studies had taught them about the relocation process. A key point raised is that EPA and all other stakeholders need to be involved early in the process. Consistency is important, especially among different government entities. Discussion also focused on the community involvement people; they are essential to relocation, and should be given more credit and power throughout the process. Community involvement people should also work directly with remedial project managers. Stakeholders must not lose sight of the fact that relocation involves a "community in crisis."

Stakeholders discussed how trust and credibility should be strived for from the start in order to establish the foundation for teamwork among stakeholders. Communication among all stakeholders is essential. Interdisciplinary teams that report back to one another could increase communication across all levels. Creative methods of communication with the involved community need to be utilized as well, such as small groups or availability sessions in lieu of general public meetings. An important point is that the community's concerns should never be overlooked or forgotten.

Participants agreed that state and local entities should develop a living community relations plan that is used in vision and implementation. These plans are currently unread and unhelpful in the relocation process. The process needs to be humanized. It was also noted that approachability is important; government entities need to be trustworthy and honest, especially when entering in at the middle of a relocation process. It was suggested that the state cost share provisions in CERCLA Section 104 must be changed to eliminate cost share for relocation costs. Also, redefining the Section 104 of the law (Acquisition of Property) to read "State or political subdivision" would allow local entities to become actively involved. However, this removal or transfer to local entities could prove to be problematic with respect to the cost share option, because Superfund would have to be reauthorized to achieve this change.

Permanent Versus Temporary Relocation

The group then moved on to discuss what criteria would result in a temporary relocation becoming a permanent one. An important criteria noted is when the actual level of contamination is greater than originally thought (i.e., constituent concentrations are higher than risk-based numbers). Also, sensitive populations would require a permanent relocation.

A further criterion was when the time frame for a temporary relocation becomes longer than originally planned, or is estimated to be unreasonable. One participant said that a temporary relocation becomes too long when it continues one day longer than what the residents were originally told. Social considerations oftentimes make a temporary relocation too long. Another issue to advocate a permanent relocation is when the cost of a temporary relocation is unreasonably high, making a permanent relocation an economically better option, or if the land on-site is needed in the remediation process.

At this time Larry Bryant shared his experience of a temporary relocation situation that became permanent. Continual postponement of certain clean-up measures had continued to delay final clean-up at

the site. Ambient air quality monitoring was not adequate enough, and after six months residents were still out of their homes. Finally, it was decided that permanent relocation would be a more timely option. The community was permanently relocated and the apartment building on the site was demolished. The daytime relocation option had been considered in this case, so that residents would be away from their homes while clean-up activities occurred. However, the media were involved in this case and the fear factor among residents was too great. In addition, there were too many children in the area to feasibly allow daytime relocation.

This led the group into a discussion of safety issues, such as how to secure a site during clean-up activities. Many mentioned that barriers and 24-hour security are necessities during clean-up procedures. Alarm systems were also mentioned as possible security measures at a site.

Threshold Criteria

The facilitator then asked the group to think about what the threshold criteria should be for a relocation. The group suggested a number of criteria that should spark the relocation process:

- Physical safety. Potential danger and fear must be eliminated. This criteria will be very site-specific; therefore, flexibility is essential when responding to the events at the site.
- Human Health. Data on human health risk and the contamination at the site need to be thoroughly evaluated. These data can then be backed up by other criteria, such as personal emotional welfare or community stress level.
- Noise.
- Physical proximity to contamination. When contamination exists within the actual residence, relocation is a must.
- Length of clean-up. If the length of clean-up is estimated to exceed a certain amount of time, temporary relocation is necessary. Most participants agreed that a temporary relocation that exceeds six months should become a permanent one.
- Quality of life. When relocation would be a smaller burden than remaining on-site during clean-up, it is clearly a better option.

Quality of life, and how it should be defined, was then discussed by participants. First, participants discussed holistic health and how it could define an aspect of quality of life. Virginia Evans defined holistic health as any area that would negatively impact the physical, psychological, and social lifestyle of an individual to the extent that health would be jeopardized. Holistic health would be measured by beginning with definitives such as urine sampling and air sampling to prove the existence of a health issue. Ms. Evans stated that there is documented evidence that emotional responses are just as important as existing contamination when evaluating quality of life. Many of the "hard scientists" found this entire idea problematic. Bill Perry stated that if a foundation is laid with health science and hard scientific evidence, this type of holistic health evaluation could work. However, it is important to be careful not to set a precedent that would allow communities to relocate simply because they do not like where they are living. Escambia was mentioned as an example of how relocation can end up being too inclusive.

Stress was considered another important aspect in the evaluation of quality of life. Participants agreed that stress is not specifically identified under risk within the definition of a Superfund response, but instead can be included as part of welfare. All participants agreed that stress should indeed fall under public welfare. Stress was thought to encompass three areas: stress of the contamination at the site;

economic stress; and social stress. When addressing stress, it is important to consider all these areas of possible stress. One participant reminded the group that community members are much less stressed about relocation when they are alone; when the community meets as a whole they feed off of each other to escalate the situation. Ways to avoid this situation should be determined as well. Another participant mentioned community stress counseling. ATSDR has done this sort of counseling in the past through a collaborative effort with local clinics. One-on-one counseling is not covered by the Fund, but local occupational environmental clinics that are affiliated with nearby universities are another possible resource. Funding for this is usually through individual community members' insurance policies. Graduate students and the Red Cross were also mentioned as possible resources for stress reduction activities. But whatever the method employed, empowering the community as a whole from the beginning of the relocation process is a preventative approach to reducing stress.

Natural Versus Social Sciences

The group then discussed the differences between natural science and psychiatry. One participant stated that EPA and many State Department of Health programs do not have the experience or expertise to evaluate things like quality of life. In addition, once data such as this is measured, how should the results be compared with natural science data? A participant suggested that utilizing parameters in psycho-social assessments to back up hard science would indeed improve the community's quality of life. Using work-related stress and behavioral response documentation from natural disasters would aid in the study of this issue. Because a Superfund site is a lightning rod for all other socio-economic issues, all these issues tend to be expressed at once. Relocation needs to be based on hard science and issues such as quality of life that are a part of the political arena that the site is in.

Participants expressed concern over placing too much weight on community welfare and quality of life, for citizens will never respond in an identical fashion to Superfund issues, and some people lack the capacity to handle anything well. In cases such as these it is difficult to determine whether the presence of a Superfund site is causing specific behaviors, or whether they existed all along. One participant mentioned that at some point EPA must also take responsibility for the health and psychological effects caused by its own negligence. EPA staff should be trained to better handle relocation problems and better respond to community members.

Some participants did not see psychological or sociological evidence of distress within a community as adequate justification for a relocation. These participants argued that while "soft science" can piggy back onto hard scientific evidence, the "hard science" is obligatory. Other participants believed that if the psychological or sociological evidence of distress within a community was strong enough, this should be adequate reason to support a relocation. The group came to no conclusion on this issue, except that "hard and soft sciences" would continue to be a universal point of disagreement.

The facilitator then asked the group what a successful relocation "toolbox" would contain. The following items were suggested:

- Creation of realistic expectations before interacting with the community;
- On-Scene Coordinators who are well-informed and able to interact with the community;
- Adequate funding;
- Communication among all stakeholders, but especially between EPA and the community;
- Utilization of outside resources when the clean-up involves non-CERCLA hazardous substances;

- Stress reduction efforts for all stakeholders;
- Collaboration between EPA and state and local governments;
- Crisis intervention training for community involvement specialists;
- Multi-agency group training and team building in order to better coordinate when sharing funding, people, information, and resources;
- Utilization of local resources, including community members;
- Definition of each stakeholder's role in the process before it begins; and
- Communication of successes to other regions through guidance documents or models. (However, participants agreed this would be problematic since there is little consistency across regions and little time to study other regions' activities).

Recommendations

At this time, the group reviewed all they had discussed, and concluded with four basic recommendations:

- **TRAINING.** EPA staff as well as all other stakeholders need training so that stressful situations can be approached using normal communication and helpful forms of interaction.
- **CONGRESS.** A recommendation has to be made to Congress regarding the nine criteria, and community involvement should be more heavily weighted. If possible, the cost share option should be removed from CERCLA.
- **START EARLY AND LEAVE QUICKLY.** The process should begin at the site as soon as possible, and all efforts should be made to come to a resolution as soon as possible. Realistic expectations and schedules should be followed, but ambiguity should be avoided at all cost.
- **COMMUNICATION.** At all points in the process and among all stakeholders, opencommunication is essential.

Conclusion and Next Steps

Suzanne Wells discussed next steps in taking the information from the forum and drafting the relocation policy. The first step will be for the workgroup to craft a draft policy. She asked the state government representatives' opinion on their willingness to participate further in the process, possibly through the involvement of representatives from each forum in collaborating to draft the policy. It was suggested that the state and local government representatives meet to work out issues specific to them, and many of the stakeholders agreed that would be a positive step. A state and local government representatives forum would also allow issues other than relocation to be addressed, benefiting the Agency overall. Finally, Shannon Flanagan explained that the next meeting would include public health officials. She asked for suggestions on people who should be invited to attend and indicated that anyone who has a suggestion should contact her.

48

Superfund Relocation Discussion with Environmental and Public Health Representatives

May 1, 1997

ICMA

777 North Capitol Street, NE

Introduction, Welcomes, and Purpose of Discussion

Barbara Yuhas of the International City/County Management Association (ICMA) began the morning session. ICMA is a professional and educational association of chief appointed administrators and assistant administrators serving cities, counties, regional councils, and other forms of local government. Under a cooperative agreement with EPA, ICMA is working with the Office of Emergency and Remedial Response's Community Involvement and Outreach Center in coordinating a series of discussions with a broad range of stakeholder groups (industry, state and local officials, public health organizations, environmental groups, tribal representatives, and environmental justice organizations) on the issues of Superfund relocations.

Suzanne Wells, Director of the Superfund Community Involvement and Outreach Center, welcomed the participants and observers to the forum. She first outlined the history of the Superfund Relocation issue as a context for this forum. In 1995, a subcommittee of the National Environmental Justice Advisory Committee (NEJAC) requested that EPA look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for OSWER, followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. The current series of forums on relocation provides additional opportunities for different groups of stakeholders to offer information and raise issues for consideration in EPA's development of the relocation policy and corresponding guidance. Forums for industry, state government, and local government representatives have already taken place and two additional meetings for environmental justice and tribal representatives are in the planning process. The Agency is seeking a national perspective from the forums to apply while drafting the relocation policy.

Ms. Wells next presented some background information on Superfund relocations. The use of permanent relocations at Superfund sites has been limited, with only 16 cases in the history of the program. However, many temporary relocations have been implemented as part of both removal and remedial actions. Permanent relocations have been authorized in the past for two reasons: engineering and/or human health. The goal in cleaning up the sites is to restore the land to its intended use, therefore the Agency tries to restore residential property to residential clean-up standards.

Currently, 1300 sites are listed on the National Priorities list (NPL), many of which are near residential areas. Ms. Wells explained that permanent relocation is not feasible for all sites for a variety of reasons: relocation is a serious event that is disruptive and can destroy the social fabric of a community, and temporary relocations can be used with successful clean-ups where residents are able to return to their homes. Relocation is a last resort option. However, permanent relocations may be considered in cases when it is more cost effective to clean up the area to industrial standards and relocate the residents or when citizens express the strong desire to be permanently relocated.

Ms. Wells concluded by noting that relocation is a very visible issue for the Agency, making stakeholder input critical to policy formulation. She then outlined the Agency's plan for developing the relocation policy, emphasizing that the Agency has no preconceived notion of its content. A draft policy will be developed based on the input from this series of forums. A group of stakeholder representatives will be convened to engage in a dialogue about difficult issues that arise during this process. A draft policy will be published as a Federal Register notice and a public meeting will occur following this publication.

Review of Agenda and Ground Rules – Mary Skelton Roberts, Program for Community Problem Solving

Mary Skelton Roberts, the discussion facilitator, began by identifying overlapping interests for all stakeholders in relocations. These interests include the community, federal regulations, and land use. Local issues are also important for stakeholders directly involved in specific sites.

Ms. Roberts then listed some of the objectives for the discussion, including getting input from stakeholders early in the policy development process, learning what is important from a variety of perspectives, and bringing expertise. She added that the focus of the discussion should apply to criteria and factors in deciding whether to conduct a relocation. Finally, the ground rules for the forum were then reviewed [see attachment].

The participants and observers then introduced themselves and stated their expectations for the day. [the attendee list will be attached]. Common expectations included listening to others' perspectives, sharing experiences and insight, and addressing public health considerations, such as sociological and psychological affects.

Overview of CERCLA and the URA

JoAnn Griffith of EPA provided an overview of EPA's experience with relocation. She began with an introduction to the Comprehensive Emergency Response, Compensation, and Liability Act (CERCLA), which grants EPA the authority to clean up sites to protect human health and the environment, and the National Contingency Plan (NCP), which sets forth regulations to implement CERCLA provisions. Two types of response actions are identified in CERCLA: 1) removal actions are used when immediate action is required; and 2) remedial actions are used in longer-term, non-time-critical events.

Ms. Griffith explained how relocations fit within the context of CERCLA and the NCP: relocations are one type of response action under these authorities. Temporary relocations may be conducted during removal and remedial actions, while permanent relocations are considered only under EPA's remedial authority.

Sites that may require these actions are first listed on the National Priorities List (NPL), a list of potentially contaminated sites. A site is placed on the NPL after a preliminary assessment, site investigation, and hazard ranking classification are conducted that demonstrates the potential pathways and types of contamination. A governor's letter is also required for a site to be put on the NPL.

Once a site is placed on the NPL, the remedial response decision process begins. It is at this point when relocation comes into the decision-making process on a site. The first step is a remedial investigation to characterize site contamination and determine any long-term threats. Next, a baseline risk assessment and a feasibility study of clean-up options (if the risk is unacceptable) are conducted. The baseline risk assessment is a quantitative analysis of both current and future risks to determine cancer risks. During the feasibility study, a comparative analysis of options is conducted in which tradeoffs among various clean-up activities are examined. Relocation may be considered as an option at this point. In this analysis, EPA uses a set of nine criteria to compare various clean-up options and select alternatives that are protective of the site and satisfy cost considerations. The nine remedy selection criteria listed in the NCP are:

- Overall protection of human health and the environment;
- Compliance with ARARs;
- Long-term effectiveness;
- Reduction of toxicity, mobility, or volume through treatment;
- Short-term effectiveness;
- Implementability;
- Cost;
- State acceptance; and
- Community acceptance.

Ms. Griffith noted that implementability factors are carefully considered in relocation, including availability of housing.

After the initial assessment of clean-up alternatives, a proposed plan is released and community comment on the selected alternative is solicited. The evaluation of clean-up alternatives appears in the Record of Decision (ROD) for the site. Remedy selection also must follow CERCLA provisions requiring that the selected remedy be protective of human health and the environment, comply with ARARs, utilize permanent solutions to the maximum extent practicable, satisfy the preference for alternative treatments, and be cost effective. Ms. Griffith clarified that cost effectiveness involves evaluating overall tradeoffs in cost versus additional benefits associated with higher costs.

EPA has selected permanent relocation as part of the remedy in 16 Superfund cases. The two primary rationales behind this selection are health considerations (risks exist that could not be otherwise addressed in a timely manner without relocation) and engineering considerations (homes require demolition to properly implement the clean-up). Temporary relocations have been selected in many cases due to immediate or acute risk to human health or potential risk or danger during clean up implementation (e.g. emissions, heavy equipment, concerns about liability for potential injury). Most temporary relocations are short-term, but some cases have resulted in permanent relocations. Examples of successful clean-ups and temporary relocations include Lorraine County, OH; Glen Ridge, NJ; United Creosote in Texas; and Ralph Grey Trucking in California.

Regulations for implementing relocations under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) have been developed by the Department of Transportation. The purpose of these regulations is to ensure that people are treated fairly and equitably in cases of relocation. The URA covers property acquisition procedures and relocation benefits that are to be offered to residents. Ms. Griffith noted that the U.S. Army Corps of Engineers performs relocations for EPA.

Questions:

• Dr. Couch asked what kind of data are used in the baseline risk assessment.

The data includes the extent of contamination, calculations based on soil concentrations and length of exposure to determine the potential increase in cancer risk. Actual health data is not used. ATSDR health assessments are more qualitative and involve sensitivity considerations and site-specific factors. The ideal assessment would mesh these two methods.

• Another participant asked what happens after EPA makes the decision to relocate.

The Army Corps of Engineers implements the relocation through an Inter-Agency Agreement because EPA does not have property acquisition authority. EPA does maintain control, but the exact roles of each agency are determined on a site-specific basis. The Bureau of Reclamation is also involved in conducting relocations in the Western U.S.

Case Studies

Dr. Stephen Couch – Centralia, PA

Dr. Stephen Couch of Penn State University presented a case study of the Centralia, PA, coal mine fire. His presentation focused on his research on community response to Chronic Technology Disaster (CTD). In some cases of disaster, such as in Centralia, a break-down of the community occurs as opposed to community members supporting each other in dealing with the incident. He emphasized that understanding the general characteristics of a community's response to contamination is important to consider in relocation decisions.

Dr. Couch first presented several quotes from affected individuals to illustrate the differences in helpful behavior and animosity among community members following a disaster. He then outlined the key characteristics of Chronic Technical Disasters:

- Long-lasting.
 - High level of human/technical disasters.
 - Environmental contamination that involves changes individuals' relationship with nature.
- Examples of CTD include chemical contamination, radiation leaks, and coal mine fires.

Dr. Couch then gave a history of the Centralia community and the mine fire. The coal mine fire was discovered in 1962 and was thought to have started from an illegal garbage dump in the mine outside the town. The fire spread underground, moving under one-third of the town by the early 1980's. At that time, steam and dead vegetation brought the problem to citizens' attention and complaints were raised. A citizens' group, organized in 1981, pushed for government involvement and relocation. Conflict then developed between this group and those who did not want relocation. Eventually, seven grassroots groups developed among the 1000 citizens of Centralia. Severe conflict arose among the different groups, up to the point of physical violence and threats. In 1983, a government-sponsored study was released that stated the fire would eventually burn under the whole town and pose a danger to the health and safety of the residents. Government action was undertaken that year in the form of a voluntary relocation plan and Congress authorized \$42 million for the relocation of 1000 citizens and some businesses. The relocation was made mandatory in 1992 by the State of Pennsylvania. The relocation is still ongoing, with fifty families remaining in the town, although the State now owns the property.

Dr. Couch stated that, in general, communities affected by CTDs share several characteristics. These communities are more likely to consist of low socio-economic status, racial or ethnic minorities, and be located in rural areas. Centralia, for example, is a working-class coal mining community.

He stressed that physical effects of CTDs are often ambiguous, leading to different interpretations of the severity. The effects can be invisible as well. Examples of ambiguous evidence are the Escambia, Three Mile Island, and Kennedy Heights sites. He added that Centralia is an example of invisible effects because evidence changes depending on the weather. He also noted that in comparison to natural disasters in which human/biospheric relations are not changed, these relations are damaged in CTD.

Social effects of CTDs include: (1) Reality dysfunction in which differences in perceptions of reality make communication difficult; (2) Chronic instability in the community caused by the domination of new social patterns; and (3) Social conflict within the community and among communities. It can be a major accomplishment to simply get citizens to gather and discuss issues due to these effects. Dr. Couch added that the social effects transcend cultures, as they can be seen in a variety of communities throughout the world.

Dr. Couch then described the "culture of distress" that grows out of a disaster. This culture leads to the breakdown of the community and a loss of social support. Factors of this culture include:

- Severe uncertainty.
- Feelings of powerlessness.
- Pervasive fear.
- Constant vigilance (everything is linked to contamination).
- Stigmas on individuals and the community.
- Social isolation.
- Disillusionment with the system.
- Anomia (norms by which they live do not get people what they want).
- Alienation from neighbors, government, and institutions.
- Anger.
- Blame.
- Mistrust.
- Social conflict.
- Pre-occupation with contamination.
- Change in perception of "home."
- Problem seems endless.

Psychological effects include:

- Increased anxiety.
- Increased physical (somatic) complaints.
- Intrusion/hypervigilance.
- Avoidance/denial.
- Depression.

Next, Dr. Couch presented a model of the stages of natural disasters and CTDs. He noted that with natural disasters, communities tend to move through several stages from warning to recovery, while

with CTDs, communities do not move beyond the initial stages of warning, threat, and impact to get to the recovery stage. He suggests that this is due to disagreement from ambiguous evidence.

He described the outcomes of CTDs as a continuum between a technological solution (e.g., remediation) and relocation. Usually the outcome is a combination of both. He also noted that with Superfund, the technical solution must be completed when relocation occurs. Problems with technical solutions may result because, with ambiguous evidence and the resulting mistrust, not everyone is convinced that the problem is solved. In addition, relocation may lead to the community "dying." In Centralia, most of the community was moved and their homes torn down, but the government promised to continue to support the community. After several efforts to maintain the area, wildflowers were planted where the houses used to stand.

Questions to Dr. Couch:

- What was the value of the homes in Centralia?
They were estimated at \$20,000 to \$50,000
- How much money were the residents given to relocate?
Their homes were assessed at fair replacement value without depreciation for the mine fire, and relocation costs were covered. The support was good for most people. Most of the residents moved to adjacent towns or a new development in the area.
- Where did the money come from?
Congress authorized the money, which was distributed through the County Redevelopment Authority.
- Was conflict between the hypervigilance and denial of individuals the cause for the social disorder?
It tends to be correlated, but it is not the only cause. Some people did not fall in either category.

Dr. Couch then presented "Ten Things Not to Do" in a relocation:

- 10) Have different agencies give out conflicting information.
- 9) Make the relocation decision and then change the decision.
- 8) Change the relocation policy after some have been relocated (e.g., property value assessment).
- 7) Develop a policy that is too rigid or too flexible.
- 6) Commit too little or too much money.
- 5) Do a health study to help determine the relocation decision after the decision has been made.
- 4) Send inappropriate experts to community meetings who are not prepared to deal with their issues.
- 3) Ask the community what they want, and then ignore what they said.
- 2) Change the action based on the community's wishes when the wishes did not change.
- 1) Tell the community you will do what they want, then tell them they made the wrong decision.

In reference to number 5, Suzanne Wells commented that the community is sometimes unwilling to let a study be conducted because they are afraid it will jeopardize their position. Dr. Couch responded that, in Centralia, political infighting occurred among agencies over whether to do a health study.

Dr. Couch next presented lessons learned in the relocation decision process. Lessons include: (1) Involve the community early on and seriously in the process; (2) How the decision is made is very important; (3) Build trust through being honest and forthright; (4) Recognize social justice issues; and (5) Consider whether the community can recover.

Questions:

- Terri Johnson asked where the Bhopal, India, incident falls in the disaster models.
The incident had both acute and chronic characteristics, evolving into a CTD over time. This event is similar to Three Mile Island and Chernobyl.
- Randy Merchant asked what signs are visible when a community is falling apart.
Signs can be found by going to meetings of different groups, informants, and talking to both official and unofficial leaders.
- Shannon Flanagan asked how the perspectives of different factions or groups are balanced in research.
The people are told that the researchers do not represent a position and that it is their goal to see the community healed. In the Centralia case, one researcher moved into the community while one remained outside to balance the research.
- Suzanne Wells thanked Dr. Couch for his insight on the progression of a disaster model as well as the list of things not to do. She commented, however, that often not much information is known about sites, so how is #9 (avoiding changing the relocation decision) avoided as more data are gathered over time?
Involve the community early on and do not say more than is known. Also, make it clear to the community that decisions may change over time based on further information.
- Barbara Yuhas asked whether communities can fully recover and commented that this is a good question to ask during the decision-making process.
It should be more centrally considered in the process. If it cannot recover, the community lives with a fractured community. If residents are not relocated, this can lead to hatred and animosity.
- Is age of residents of the community a factor in community reactions?
Yes, age is important. In Centralia, a correlation existed between residents' age and their desire to stay or relocate. Older residents were more likely to want to stay than younger residents.

Dr. Deborah White – Red Wing Carriers Site

Dr. Deborah White of ATSDR presented a case study of the relocation of 160 apartment residents near the Red Wing Carriers Site in Alabama. The area was the site of a Red Wing Carriers truck depot from 1961 to 1971, where wastewater from washing the trucks seeped into the soil. The HUD-subsidized apartment complex was built near the site in 1973. Dr. White characterized the residents, mostly single mothers, as a very close community. In 1977 a tar-like substance began percolating to the surface of the soil. From 1977 to 1995, local, state, and federal response actions were initiated to address potential exposures to contaminants in the tar-like substance. These included investigations, ATSDR public health assessments, and public meetings. During this time, exposure to the substance was limited due to the fact that the tar-like seeps were picked up and disposed of by Redwing Carriers. In 1995, Redwing Carriers discontinued the practice of removing the seeps. Health concerns were associated with the seeps because children played in the substance and traced it into the apartments. However, studies showed no apparent health risk.

In September of 1996, EPA initiated a temporary relocation due to the need to bring in heavy equipment and shut off utilities to commence site clean-up. The relocation began in October, with the expectation that residents would be back home by the holidays. In November, however, EPA informed tenants that re-occupancy of their apartments would be delayed due to the unanticipated scope of the removal and discovery of the tar-like substance under the apartment buildings. Involvement of a well-

known activist, as well as news of the relocation of a Superfund community in a neighboring state, sparked discussions of permanent relocation among the tenants.

Permanent relocation was discussed in detail at a December public meeting. Pros for making the relocation permanent included that fact that all the soil, including the soil underneath the buildings, could never be fully recovered. However, no definitive health reasons existed to justify a permanent move, and EPA cannot relocate without this evidence or a clear welfare reason. Another complication was that no other HUD housing was present in the area.

The next step was to conduct indoor air monitoring in January 1997, which led to the discovery of high levels of benzene in some apartments. In February 1997, EPA began the permanent relocation of the tenants into permanent housing in and around the Saraland and Mobile, Alabama area. The U.S. Army Corps of Engineers (USACOE) and Department of Housing and Urban Development (HUD) assisted EPA with the permanent relocation.

At EPA's request, ATSDR offered a relocation stress workshop for the relocation. Three sessions with small groups of individuals were held to discuss problems and issues of relocating. Overall responses in these sessions demonstrated that out of this group, none were happy about permanent relocation. Dr. White noted that some had romanticized the idea of relocating to a new home but had problems once the reality of moving, changing schools, and starting over again in a new community set in.

Dr. White then listed the questions asked of participants in these stress assistance workshops and some of their responses. The first question was "What does relocation mean to you?" Responses included being in limbo, loss of control, don't know where I am going, splitting up from friends, and loss of stability. In response to the second question, "How did you feel when you were told of the relocation?" some residents said they felt shocked. Dr. White noted that some of the residents reported that they had supported permanent relocation because they thought they would continue receiving the financial stipend they had received during their temporary relocation. When asked about their current worries concerning relocation, residents listed difficulty in making new friends, not being able to sleep at night in their new residence, crime in the city of Mobile, moving into HUD housing or the "projects" in mobile, money and expenses, safety, transportation to work and schools, and being placed in a new residence that would not accept pets.

They were also asked how the relocation affected their kids. Responses included that their children showed nervousness, worries about new school, stress symptoms, scared of crime, and being teased at school. Dr. White noted that the Army Corps of Engineers tried to keep the kids in their current school for the duration of the school year.

Another question posed to the residents was "What could have been done differently to make the transition easier?" to which they responded: EPA should do a better job preparing residents, keep the money coming, build new apartments, put residents in trailers, and be better organized. The COE received the brunt of the criticism because it was the most visible agency and had an office on site.

When asked if they had ever had any health concerns about the tar-like seeps, some residents in the workshops responded that it never bothered them and they were not worried. Finally, when asked if they understand why they have to be permanently relocated, some residents were looking for reasons to go back, according to Dr. White. Additional comments addressed concerns of being lied to, discrimination,

recognizing that the agencies were also under stress, and displeasure at the removal of an EPA official who was liked by the residents.

Dr. White's overall observations of the residents include realizing the extent to which they relied on each other and how fearful they were of having to meet new people. She added that the residents who attended the stress workshops did find them helpful and they were relieved to find out that their stress responses were normal.

Dr. White concluded her presentation by providing some tips for what agencies and personnel involved in relocation can do to make it easier for the residents. First, talk about the realities of relocation with the community (e.g., they will not make money, it is disruptive and stressful). Second, recognize that it is difficult for some people to grasp the information provided to them. Therefore, agencies need to do a better job of communicating with them. This involves communicating with residents in ways other than large public meetings, such as small groups or one-on-one. It would also be helpful to distribute fact sheets or pamphlets that are clear and at an appropriate literacy level. All of the agencies involved should be aware of what information is being conveyed or distributed to the residents. These steps will help reduce misconceptions about relocation as well as serve as a record of exactly what information residents have been given. Involved agencies have to do a better job of communicating with each other.

Dr. White also recommended identifying a local person whom residents trust to act as a mediator or facilitator between residents and the agencies. This person can communicate what is happening in a language residents can understand as well as bring information about what the residents want back to the agencies. Other recommendations include making efforts to keep communities together if they so desire, incorporating information on stress for both adults and children, and following up with residents after the relocation. Finally, Dr. White emphasized that no easy answers exist to the problems that arise in relocation.

Dr. White also added that the Army Corps of Engineers, who conducted the relocation, did an excellent job, including predicting questions and having answers ready for residents.

Questions:

- Sharon Frey asked what happened with the community activist that was involved. *She was not a resident of the apartment complex, so Dr. White did not know what happened to her or what her involvement is now that the residents have been relocated.*
- Yolanda Ting asked what will happen to the apartment buildings. *The county will have to have them condemned. The government wants to avoid other people moving in. In this case, permanent relocation was found to be the most cost-effective solution.*
- Mary Skelton-Roberts asked how the allowance for residents was conducted. *The allowance was based on the number of children and government per diem. The COE actually decides the allowance.*
- Shannon Flanagan asked whether stress sessions were held at other sites. *They were held only at this particular site. ATSDR does not go into the community unless it is invited to talk about stress. ATSDR has also trained others to conduct the workshops.*
- Ms. Griffith asked whether local social workers are equipped to conduct the workshops. *It depends on the State or county. ATSDR could train state, county, or local social service personnel on how to conduct the workshops. Regardless of who conducts the workshops, a local referral system should be set up to address residents' needs.*

• Suzanne Wells asked what resources ATSDR possesses when psychological counseling is recommended.

ATSDR does not conduct counseling. In the stress sessions, residents are given the opportunity to talk and share. More people must be trained at the local level, but no resources exist. Local individuals to consider include clergy, and people that are well-respected and have good people skills.

• Suzanne Wells asked whether ATSDR pays for these sessions.

Yes. ATSDR also provides information about further assistance available in the area. If state and county health departments were willing to conduct these sessions with training and guidance from ATSDR, the Agency could provide this.

• Mary Skelton Roberts asked whether there was a structured agenda for the workshops.

The residents were asked a series of questions and allowed to talk.

• Joann Griffith asked whether the community was involved up front.

The relocation decision was announced to them. Many public meetings were held, but the community could have been involved earlier.

• Ms. Griffith followed up by asking whether consideration was given to the ramifications of relocating residents of Section 8 housing.

No, but alternatives should be considered when Section 8 housing is involved.

• Ms. Wells asked whether local health departments would conduct the workshops without reimbursement.

If ATSDR provides training, it would be considered part of their job, but it depends on how expensive it is and how much time is spent on the sessions. Not every community needs or wants these sessions. For example, if a trusted person is identified, it can alleviate some of the stress associated with relocation. Much of the stress arises from the Superfund process as residents are confused by miscommunication and inconsistency among agencies.

• Randy Merchant noted that at Escambia, a local biology teacher was hired to communicate information about toxicology and related scientific facts.

• Dr. Couch asked how a local person can be seen as neutral.

The community can nominate individuals for this position.

• Ms. Griffith asked if there was division among the residents in the Red Wing case.

Overall, it didn't appear that any major divisions existed, the community seemed very close.

• Steve Hess noted that tenants and homeowners have different rights during relocation because tenants do not have real property rights.

• Dr. Cole asked what lessons were learned from this relocation.

Relocation is a complex subject with many angles, and community groups (e.g., CAPs) are a positive influence. In addition, if people are involved from the start, they have time to reflect and understand.

• Ms. Griffith commented that EPA should understand the ramifications of relocation on residents lives up front.

• Ms. Wells noted that thirty-three Community Advisory Groups have been formed in the Superfund program. A case study conducted on five of these groups revealed an overwhelming positive response. The purpose of these groups is to assist residents in a very stressful time through initiating dialogue and more meaningful involvement of citizens.

• Dr. Cole asked whether any CAGs have been formed specifically to address relocation.

Ms. Wells responded that none have been formed to her knowledge.

Large Group Discussion

Mary Skelton Roberts opened the large group discussion by reviewing the group's expectations for the day: To learn, share experiences, and clarify the psychological and social effects of relocation. She then presented the group with several questions to think about during the discussion: (1) How these ideas can be included in the policy? (2) What lessons have been learned? and (3) How can follow-up be incorporated into the policy? She also reminded participants to focus on specific recommendations for the relocation policy.

Community Involvement

Ms. Skelton Roberts stated that one lesson learned from the morning discussion was the importance of community involvement. Further questions to consider on this topic include when involvement should begin, how substantive it should be, and how to deal with limited resources. The group then offered ideas for what would indicate the need for strong involvement at a site, such as evidence of contamination that causes alarm, local public concern, perceived risk, minority or low-income areas, and a history of conflict within the community.

Dr. White commented that community involvement should be important in any case. She noted that involvement is more difficult in older communities where it is necessary over a long period of time. She recommended that one method for maintaining involvement is to encourage currently active participants to talk to the rest of the community. The residents are more likely to trust these individuals than government agencies.

The group then discussed their experience with Community Advisory Groups (CAGs) and Community Advisory Panels (CAPs). Dr. Cole provided an example of an ATSDR-formed CAP that has been successful as a result of the democratic process used to form the group. Ms. Wells asked how ATSDR decides when to form CAPs and when to work with EPA. Dr. Cole responded that in one case, the community saw ATSDR as the only agency that would listen to them, so a CAP was established to deal with health issues.

Participants were then asked to think about how EPA can ensure that a CAG is representative of the community. Dr. Cole noted the National Zinc case in Oklahoma, in which minorities protested against the state-formed steering group because it was not representative of the community and did not represent the most affected people, the minorities. As a result of this protest, affected people were added to the group. Three lessons learned from this case were: (1) Protest from the community can help; (2) The group should include people who perceive themselves as affected; and (3) Mistrust can develop if these individuals are not included.

Mr. Merchant noted that, in forming a community group, ATSDR requests nominations and selects a representative cross-section of the community. He added that this process is somewhat subjective, however. Ms. Wells commented that it is important to get representation from various viewpoints.

Ms. Skelton Roberts prompted the participants to consider a process for evaluating whether the right people are serving on the community group and what role this group should play in relocation. Dr. White responded that the role of these groups should include communicating with the community and

government agencies, outreach, and representing the affected community. She commented that in some situations, however, it is difficult to form a group because people do not want to get involved.

Robert Cribbin of the Army Corps of Engineers commented that the COE does not have much contact with community groups because communication is one-on-one by the time COE is involved. The communication involves a negotiator who covers real estate interests and a relocation assistance coordinator who visits the resident to walk them through the relocation process and evaluate special needs.

Ms. Frey then raised the issue of identification of the overlap of health and EPA issues. Dr. Cole responded that ATSDR health studies focus on defining potential risk and that the Agency can make recommendations or issue an advisory to EPA. EPA, on the other hand, focuses on the clean-up of contamination. Dr. White commented on the need to clarify these roles for the community because dealing with multiple agencies adds to the residents' stress.

Public Welfare

The discussion then shifted to the definition of public welfare under CERCLA and public health effects. Dr. Couch offered quality of life as one indicator of welfare. He added that factors to consider when evaluating quality of life include conflict due to the Superfund process as well as economic and social factors. Quality of life cannot be assumed – the community should be asked what their idea of quality of life is. Ms. Skelton Roberts then asked how effects that are a result of the site can be measured. Participants responded that investigating the community's history and talking with residents can help determine these questions. Dr. Cole warned that personnel should not insult people when evaluating the community's history.

Mr. Merchant commented that the perception of risk is also important in evaluating effects on a community. For example, when residents are working at a local plant, their risk perception is lower, but the closure of the plant increases the perception of risk.

Ms. Wells questioned how effects of the site can be separated from social ills and how far Superfund should go in addressing these problems. Dr. Cole responded that sites should be addressed using a community restoration approach, which includes dealing with redevelopment and economic issues in a democratic manner. An example of this approach is the Brownfields initiative, which protects human health while addressing economic problems. Ms. Wells added that the Escambia site was provided with a grant under Brownfields, which would be productive for the community.

Ms. Frey then asked the participants whether a definition of welfare would be standard for all sites, or would change with the specific community. Ms. Skelton Roberts explained to the group that some decisions are based on data, while some are based on welfare. However, CERCLA does not define welfare (including public health), so it is necessary to think about how this should be defined in the policy and how much weight it should be given in the decision whether to relocate. Ms. Griffith added that the Agency is specifically seeking input on incorporating social and psychological aspects into the definition of welfare.

Mr. Jones responded that ATSDR sees two aspects to evaluation: health data, or "hard science," and "softer" science. He noted that ATSDR would want a say in the definition of welfare or social effects, but it should be recognized that these aspects change at every site.

Mr. Cribbin reminded the group that limitations exist in the ability to implement certain actions and what can be required of a PRP for relocations. He also noted that a community may have a poor quality of life even if the contamination is cleaned up, and a PRP cannot be required to improve the quality of life outside the contamination. Ms. Wells responded that examples do exist of PRPs acting as good corporate citizens that choose to go beyond what EPA can do in relocation. She emphasized that EPA is also subject to limitations on what it can do in a relocation.

Dr. Cole asked what the basis was for the decision to relocate in Escambia. Ms. Wells answered that the decision was based on a combination of health issues arising from dioxin, public welfare/community issues, and plans for redevelopment. She added that a Remedial Investigation has not been completed at the site, which is normally done before the decision of whether to relocate is made.

Dr. White emphasized the need to consider how much of a role politics plays in a relocation decision. She also discussed how a psychological approach to evaluating a community would be conducted. She suggested evaluating the community by looking for deviations from its history before the Superfund site was identified. Residents should be asked how they are affected by the site and these effects should be differentiated from daily problems not associated with the site. She also commented that environmental data should be evaluated first, prior to psychological investigations.

Mr. Merchant commented that health agencies have difficulty in determining the health of an individual because there is no historical exposure data to compare to the person's present condition, and it is a very resource-intensive process.

Uncertainty of Risk

The group was then asked how the uncertainty of risk can be addressed. Mr. Merchant commented that this uncertainty can lead to conflict that eventually becomes politicized. Dr. Couch stated that this is the most difficult question, as the community is scared, and the scientists cannot get the information needed to support or deny these fears.

Ms. Yuhas asked the participants about the existence of a scientific or measurement capabilities for evaluating risk to communities. Dr. Cole answered that, in this evaluation, it is important to first determine whether the population is large enough to have an adequate sample to determine risk. A major question arises as to how the decision is made when a study cannot be done. Dr. Couch commented that "softer" science is sometimes easier to measure than harder science. He suggested using perception of health risk as a measurement, when this effects people to a point where they need to be moved. Specific indicators of effects on quality of life include economic change, cultural life, level of conflict, and friendship networks. This information is supplemented by qualitative data.

Ms. Griffith commented that, at some sites, EPA has been the cause of problems for the residents. She emphasized that relocation is an extreme action and that sites where quality of life cannot be restored need to be distinguished from sites with less severe problems.

The group was then asked how public welfare should be used as a reason to relocate. Dr. Cole commented that relocation is a subset of community restoration and that a multi-stakeholder process is needed to plan a positive future direction for the community.

Ms. Roberts suggested that the policy could include alternatives to relocation. Dr. White commented that there is no "cookbook method" of deciding whether or not to conduct a relocation. The decision involves consideration of both environmental data and quality of life analysis. If only a quality of life issue exists, stakeholders and sociologists should be called in to assist in the decision. This is a very different way of operating than EPA is used to. The goal of clean-up is to ensure the health of residents; that their children are safe. Uncertainty of exposure and a loss of control for the residents are significant stressors. She suggested that upfront planning of the process helps to restore residents' sense of control. In addition, agencies need to take responsibility for their actions and their affect on people, especially in how to talk to and involve the community.

The group was then asked how to deal with uncertainty. Dr. White suggested that the science should be presented in a way residents can understand. Dr. Couch added that the experiences of the residents should not be invalidated. He suggested incorporating a community dialogue process into the relocation policy involving all parties/stakeholders to assess quality of life, whether the community can be salvaged, and what the needs of the community are. Components of this evaluation include gathering information and history on the community, asking for input from community members, and discussing with them whether relocation is the best option.

Dr. Cole added that a community advisory group is a forum for this dialogue. This allows people to talk with each other and to the government agencies. The group should be based on the characteristics of the community itself and should avoid a town meeting format where the discussion is dominated by town officials.

The discussion then moved on to how this process would fit into the relocation policy. Dr. Cole emphasized that the process of community involvement should take precedence over the policy. Ms. Yuhus suggested making the process part of the policy. Dr. Cole responded that people will circumvent the set process if they do not like it; therefore, a democratic process model is needed. Ms. Skelton Roberts summed up the group's feeling as to the need for a multi-party stakeholder involvement process.

Relocation Decision Process

At this time, the group chose to continue their discussion, rather than break into small groups. The facilitator asked the group to think about a process that would move forward the necessary dialogue among stakeholders in the relocation process. They began by defining the purpose of such a process, stating that it was for:

- The communication of technical information by EPA to all stakeholders;
- The discussion of quality of life issues, such as economic and psychological impacts, indicators, deviation from the status quo, and community needs;
- The discussion of multi-interests; and
- The identification of levels of concern within the community and ideas on how to address these.

The facilitator next asked participants what issues this process should address. The participants agreed on twelve basic issues that should be included in the process. These were as follows:

- (1) Establishing community-specific indicators.
- (2) Matching needs with resources to achieve resolution.

- (3) Determining stakeholders and their roles. This issue should be revisited multiple times throughout the process, not just at the beginning.
- (4) Addressing environmental justice issues.
- (5) Determining susceptible populations within an entire community, such as the elderly.
- (6) Exploring issues in a collective sense to evaluate the pros and cons of a relocation.
- (7) Defining available resources.
- (8) Defining the community's needs.
- (9) Exploring creative problem-solving, specifically with respect to opposing opinions within the community itself. This could include exploring resources for the safety of citizens who remain on-site.
- (10) Examining the health status of the community and how it has been impacted by the site.
- (11) Educating citizens on their property rights.
- (12) Exploring alternatives and selecting a remedy.

The facilitator then asked participants to think about how this process could benefit all stakeholders. All participants believed that the process would increase the feeling of control for all stakeholders. This process would also identify multiple perspectives. Industry would benefit by agreeing on concerns and taking part in the process from the start. Industry would then be recognized as part of the solution, and be given the opportunity to be proactive. This process would also reduce uncertainty with respect to industry and make companies more willing to play a role in the relocation. Health officials would benefit because the process would identify areas where they should be involved and would also allow them to avoid being involved in ad hoc political battles between commercial interests and the community. State and local officials would benefit by better understanding what the end use of the property should be. Community members would benefit from this process by driving it themselves. In this way, the community would be contributing to the remedy selection. Overall, lines of communication would be more clear and consistent, leading to established indicators and ways to measure them that are community-specific. EPA would benefit from this process by avoiding litigation and having other stakeholders involved in the decision-making process. EPA would also benefit by incorporating people who understand science as well as the substance of the issues. Finally, EPA would benefit from the use of facilitation from the beginning of the process so that it starts off correctly.

For this process to be beneficial, it would have to be initiated when the site is identified as a potential problem. This is problematic because relocation is not identified as a possibility early in the process. Therefore, this process is in essence one that could be used for any Superfund site in the United States. For this reason, it is difficult to include such a process in a relocation policy. In addition, it would be difficult to create such a process because Superfund is currently designed to inform the community, but not to involve it. To achieve this kind of process, EPA needs to complete the following:

- (1) Build Staff Capacity: EPA cannot be effective in communities without effective Community Involvement Coordinators and properly trained staff.
- (2) Build Community Involvement: EPA must involve technical assistance in the relocation process.
- (3) Recommend Change: Without a strong recommendation from EPA, changes in Superfund issues such as these will never occur.

At this time, the facilitator asked participants to take part in a role-playing exercise. Participants were told that a potentially-contaminated site existed in a neighborhood that was beginning to be concerned about possible risks. The participants were asked what would need to occur at this site. All

participants agreed that the first order of business was to identify all stakeholders. Stakeholders would be defined as those who are directly affected, those who will implement solutions, those who are opposed to solutions, and those who support solutions. This would allow all who are involved to understand who they will be working with and what is occurring at the site. At this time, all stakeholders could become involved in the process and begin working together.

Next, a community relations plan should be written. Third, partnerships between local health officials and other stakeholders need to be established. Fourth, a highly visible process needs to be established that involves all stakeholders, in addition to communicating all set-backs or problems that could hamper future communication efforts. Resources to clarify issues such as meeting minutes or lectures by experts could be helpful. Fifth, the lead at the site needs to be established. This is oftentimes EPA at a Superfund site. The lead at the site can then identify the needs at the site and begin the process of providing for these needs. Sixth, a CAG needs to be established. It is important to provide a baseline for the members of the CAG so that everyone begins at the same level of expertise. Assuring that all members have the same information will eliminate problems of miscommunication throughout the process.

The facilitator then asked participants how the process created above could be institutionalized. Participants agreed that the following needs to occur:

- Sell the process. EPA needs to convince site managers and division managers that this is a successful process that should be adopted at every site.
- Utilize success stories. EPA needs to pilot this process and build on pilot successes. These success stories should be communicated on a national level to demonstrate the benefits of this type of process.
- Introduce the process as a model. EPA should introduce this process as something that is being tested, and can be changed at any time. If this process is seen as flexible and workable, it will be more successful.
- Make restoration the end goal. EPA needs to define when relocation can be a remedy at a site. When relocation is not an option, community involvement and the other parts of this process could be very beneficial at any Superfund site. The restoration of the community should always be the end goal.

The facilitator asked participants what factors should trigger relocation. She noted that CERCLA sets specific criteria for the selection of permanent relocation as part of the overall remedy. The definition of "remedy" or "remedial action" includes the costs of permanent relocation of residents and businesses where the President determines that relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off-site of hazardous substances, or may otherwise be necessary to protect the public health or welfare. Several participants mentioned health criteria as an important factor when identifying a remedy. Construction needs were also mentioned as a concern from an engineering standpoint. If residential areas are needed for the remediation process, relocation may be necessary. Public perception of risk was also stated as an important factor. This is difficult to measure within a community, but should always be considered. This factor could also be problematic if the PRP believes their data contradicts the community's perception of risk. Lastly, participants identified public welfare as a key factor when identifying whether or not relocation is the optimal remedy. Welfare in many ways encompasses both health issues and engineering issues, but should be considered as a separate factor nonetheless.

Political Pressures

At this time, the facilitator asked how political pressures should be dealt with. Participants agreed that boundaries are difficult to identify and that with situations like relocation, there exists no clear bright line. Communities struggle to understand how EPA decides their ultimate fate. Looking at risk ranges tends to be helpful when evaluating cost effectiveness and time frame. However, States have different risk ranges, so political problems are not always avoided.

One participant stated that EPA has attempted to avoid relocation in the past, but recent sites where relocation was the chosen remedy have drawn attention to this option. Now the demand for relocation has increased. Studies have not yet been completed to track those who have been relocated. It was suggested that this be looked at in the future to evaluate every aspect of a relocation after it occurs. Another participant stated that when communities are presented with no options, relocation is bound to be the most appealing option. But when presented with a number of options, communities will not necessarily want to relocate.

Medical Monitoring

The facilitator then moved the discussion toward medical lifetime monitoring, asking participants if it should be a part of the settlement and what EPA should be doing in this area. First, participants discussed a referrals system that would allow residents to go to clinics within their community. The Del Amo project was used as an example of where this system had been successful. A staffed clinic was used, perhaps University of California - Irvine, and follow-up medical exams were provided for residents.

Second, participants stated that certain conditions must be met or bio-markers must be established for medical monitoring to occur. There are a number of current misconceptions among Superfund communities about what medical monitoring involves under ATSDR criteria. It is not lifetime health care. A site in New Jersey where residents were exposed to mercury was cited as an example of biomarkers. Urine samples were taken and mercury was detected. Follow-up medical exams ensued to establish bio-markers. The local medical clinic is continuing to monitor urine mercury levels in these residents.

Third, participants questioned who would facilitate this process. Again, the site in Hoboken was used as an example of where ATSDR funded an Association of Occupational and Environmental Clinics (AOEC) clinic at Rutgers. Here, physicians took urine samples and completed follow-up examinations on citizens. Residents did not want to be relocated, but were forced to due to the concentrations of mercury present at the site. After the relocation, monitoring continued. In Hoboken, all health stakeholders were able to become involved in the process. The local health department was involved in the monitoring, and all analysis was completed at the State lab. Since the relocation, there has already been a mercury decline in the urine samples. Another participant stated that industry, in the past, has sometimes agreed to complete medical monitoring as part of the remediation. However, this is more common with workers at an industrial or mining site than it is with residents at a relocation.

Fourth, participants discussed the public's perception of risk. The fear and perception of risk of residents near a Superfund site is very real. Remediation is long-term, therefore, medical monitoring makes sense. In addition, no one knows the long-term effects of contamination. However, medical monitoring is not an easy task for EPA and many problems need to be solved before it can be institutionalized. A dichotomy exists of needs among criteria and policy, the vision of the process, and the lack of resources.

Lastly, participants stated that the perception that science is used to avoid the full cost of remediation needs to be combated. Both hard science and soft science need to be used throughout the process to identify the best remedy on a site-by-site basis. A process needs to be established that can be used for any site, with relocation being provided as one of many options. This process would help communication and would be fairly easy to write. On the contrary, creating a universal method of deciding upon a final remedy would be impossible, and this is ultimately what is currently sought after. In addition, if the community is included in the process and then becomes a key stakeholder, EPA faces a great deal of uncertainty. It is necessary to recognize that community involvement necessitates negotiation. One participant compared community involvement to the following quote: "When you teach a bear to dance, you have to dance until the bear wants to stop." EPA is not currently in a position to create a policy that will choose a final remedy.

Forum Themes

At this time the facilitator ended the discussion to reiterate the themes of this forum, which were as follows:

- **Community.** Remembering that the community is a functioning whole is integral in the relocation process. It is important to remember that the citizens are the victims, and the process must not be so data driven. In addition, the intuitive view of the community that something is wrong should not be ignored;
- **Start Early.** The process must begin as soon as possible and involve all stakeholders. The community will be able to voice concerns and receive technical information. Concerns must be allayed and trust must be built from the start;
- **Evaluate Options.** All stakeholders must consider restorative options in lieu of relocation to allow the community to socially, economically, and psychologically move forward;
- **Data Driven.** While data should not be the only consideration at a Superfund site, data should always be considered. The process must allow for an evaluation of the data to occur early;
- **Flexibility.** The guidance must be flexible, but also rigid enough to provide parameters for the community and other stakeholders. Once established, the process must remain consistent; and
- **Process.** It is essential to remember that Superfund sites do not necessarily deal with policy, but with process. CAGs are important players that will provide a great deal in a collaborative process.

The facilitator closed by leaving the participants with some issues to consider in the future:

- **Health status and its effects on the community;**
- **Connection of the community with its resources;**
- **Exploration of alternatives for remediation; and**
- **Structure of CAGs, including technical expertise to help clarify issues.**

Conclusion and Next Steps

Suzanne Wells discussed next steps in taking the information from the forum and drafting the relocation policy. The first step will be for the workgroup to craft a draft policy. She asked the environmental and public health representatives' opinion on their willingness to participate further in the

process, possibly through the involvement of representatives from each forum in collaborating to draft the policy. She also informed participants that they would receive a summary of each forum. Finally, she explained that the next meetings will include environmental justice and Tribal representatives.

Superfund Relocation Discussion with Other Federal Agencies

September 4, 1997

Environmental Protection Agency

Crystal Gateway 1

Introduction, Welcomes, and Purpose of Discussion

Elaine Davies, Acting Deputy Director of the Environmental Protection Agency's (EPA's) Office of Emergency and Remedial Response (OERR), welcomed the participants and observers to the forum. She then outlined the history of the Superfund Relocation issue as context for this forum with Federal Agency representatives. In 1995, a subcommittee of the National Environmental Justice Advisory Council (NEJAC) requested that EPA look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for OSWER, followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. The current series of forums on relocation provides additional opportunities for stakeholders to offer information and raise issues for consideration in EPA's development of the relocation policy and corresponding guidance. She added that two additional forums with Tribal representatives and Environmental Justice groups are planned for October.

Ms. Davies next presented some background information on Superfund relocations. The use of permanent relocations at Superfund sites has been limited, with only 16 cases in the history of the program. However, many temporary relocations have been implemented as part of both removal and remedial actions. Relocations are conducted within the context of EPA's two main goals at Superfund sites: (1) to protect human health and the environment and (2) to make the land available for productive use. Generally, permanent relocations have been authorized in the past for two reasons: engineering and/or human health. She noted that the Agency's Pilot Relocation Project at the Escambia site in Florida, which involves permanent relocation of over 350 people, has demonstrated to EPA the importance of working with other Federal agencies on issues such as subsidized housing.

Regarding the purpose of the discussion, Ms. Davies stated that the Agency is specifically seeking input on other agencies' experiences with relocation, what criteria should be used in making the decision whether or not to relocate, how the policy could affect other agencies, and what various roles and responsibilities agencies should play in relocations. With regard to the schedule for policy development, Ms. Davies noted that a framework policy is set to be completed by the end of the year.

Agenda and Ground Rules – Mary Skelton Roberts, Program for Community Problem Solving

Mary Skelton Roberts, the discussion facilitator, began by identifying key issues for participants to consider throughout the day, including: criteria for making relocation decisions, public welfare considerations, and impacts to communities. She also noted that this discussion is an opportunity to share experiences in how Federal agencies handle these issues and collaborate on a policy that affects numerous agencies.

Ms. Skelton Roberts then reviewed the agenda and ground rules for discussion. Following that review, participants and observers introduced themselves and stated their personal expectations for the day (a list of attendees is attached). Common expectations included sharing experiences and lessons learned,

developing a working relationship, sharing programs and financial pools, and listening to others' perspectives.

Background on Superfund Relocations

Sharon Frey of EPA provided an overview of EPA's authority and experience with relocation. She began with an introduction to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), which grants EPA the authority to clean up sites to protect human health and the environment, and the National Contingency Plan (NCP), which sets forth regulations to implement CERCLA provisions. Two types of response actions are identified in CERCLA: 1) removal actions are used when immediate action is required; and 2) remedial actions are used in longer-term, non-time-critical events.

Ms. Frey explained how relocations fit within the context of CERCLA and the NCP: relocations are one type of response action under these authorities. Temporary relocations may be conducted during removal and remedial actions, while permanent relocations are considered only under EPA's remedial authority.

Ms. Frey next outlined the remedial response decision process and where relocation comes into the decision on a site. The first step is a remedial investigation to characterize site contamination. Next, a baseline risk assessment is performed to determine if any further action is necessary at the site, followed by a feasibility study of clean-up options, if necessary. In the feasibility study, relocation may be considered as an option. During the feasibility study, a comparative analysis of options is conducted in which trade-offs among various clean-up activities are examined. In this analysis, EPA uses the nine criteria specified in the NCP to compare various clean-up options and select an alternative that is protective of the site and satisfies statutory requirements. The nine remedy selection criteria listed in the NCP are:

- Overall protection of human health and the environment;
- Compliance with applicable or relevant and appropriate standards (ARARs);
- Long-term effectiveness;
- Reduction of toxicity, mobility, or volume through treatment;
- Short-term effectiveness;
- Implementability;
- Cost;
- State acceptance; and
- Community acceptance.

Remedy selection also must follow CERCLA provisions requiring that the selected remedy be protective of human health and the environment, comply with ARARs, utilize permanent solutions to the maximum extent practicable, satisfy the preference for alternative treatments, and be cost effective. Ms. Frey clarified that cost effectiveness involves evaluating overall trade-offs between alternatives and cost. The evaluation of clean-up alternatives appears in the Record of Decision (ROD) for the site, and public comment is solicited on the selection of a remedy.

Ms. Frey then explained that EPA cannot simply buy out affected areas rather than clean them up because CERCLA requires the Agency to select remedies that are protective of human health and the environment.

EPA has selected permanent relocation as part of the remedy in 16 Superfund cases. The two primary rationales behind this selection are health considerations (risks exist that could not be otherwise addressed in a timely manner without relocation) and engineering considerations (homes require demolition to properly implement the clean-up). Temporary relocations have been selected in many cases due to immediate or acute risk to human health or potential risk or danger during clean-up implementation (e.g. emissions, heavy equipment, concerns about liability for potential injury). Most temporary relocations are short-term, but some cases have eventually resulted in permanent relocations.

Regulations for implementing relocations are found in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), which is developed and overseen by the Department of Transportation. The purpose of these regulations is to ensure that people are treated fairly and equitably in cases of relocation. The URA covers property acquisition procedures and relocation benefits that are to be offered to residents.

Questions:

- How often is relocation considered as an alternative by EPA?
Ms. Griffith of EPA responded that relocation is rarely an alternative at sites because one of the Agency's main goals in Superfund is permanent site clean-up.
- Is the impact of surrounding sites evaluated when making response decisions?
Ms. Frey responded that the evaluation focuses on the impacts of one site, but cumulative effects are considered as well. She added that a site is defined as the boundaries of the contamination, which is different than property lines.
- Is an intuitive or quantitative approach used in the application of the nine criteria?
Ms. Frey answered that the criteria are applied using some intuition, but within an established legal rationale and structure for decision-making. Standards exist that must be met, but a certain amount of subjectivity is possible.
- What is the average time frame for site clean-up?
Ms. Frey responded that the length of time depends on budgets and site priority, but the average time is about 10 years from start to finish.
- Have relocations been conducted on tribal lands?
Ms. Frey responded that the Agency has learned that relocation is almost never an option for Tribes, but it has occurred. She clarified that CERCLA is applicable to tribal lands.
- How does EPA conduct its analysis of cost-effectiveness when evaluating clean-up alternatives?
Ms. Frey explained that the Agency uses a computer model and is trying to improve its cost estimates. She added that EPA conducts analysis of cost-effectiveness rather than a cost-benefit analysis.

Mr. Cribbin, of the Army Corps of Engineers, commented that in cases of permanent relocation, an initial offer and negotiation process takes place with the property owner. The Agency tries to avoid condemnation of property, using this authority only when a price for the property cannot be agreed upon after negotiations. Mr. Schy, of the Federal Highway Administration, added that public relations implications exist if large relocation payments are made. Ms. Bennett noted that her Agency (FEMA) pays pre-flood value for property in a disaster area. However, some residents would prefer receiving post-flood value plus relocation benefits, which are not taxable.

Presentations/Case Studies

Uniform Relocation Act - Marshall Schy

Marshall Schy of the Federal Highway Administration (FHWA) presented highlights of the Uniform Relocation Act, noting that relocations involve a significant commitment of time and resources for any Federal agency.

FHWA serves as the lead agency for the Uniform Relocation Act (URA), as delegated by the Department of Transportation. The URA was issued in 1971 as a result of the impact of federal activities and applies to 16 Federal agencies, including EPA. FHWA's major responsibility as lead is to promulgate government-wide regulations for implementation of the URA, (49 CFR part 24).

The purpose of the URA is to provide protections and benefits for persons displaced for a federal project or whose property is acquired for a project. The goal of its provisions is the uniform and equitable treatment of displaced persons by avoiding placing disproportional burden on those forced to move because of federal or federally-financed programs.

Mr. Schy then discussed the role of FHWA and the structure of the program. FHWA serves a dual role in the Federal government, responsible for implementing the federal highway program in addition to serving as the lead agency for implementation of the URA and accompanying regulations. Specific activities under the URA role include holding an annual meeting of representatives from agencies that follow the URA, preparing an annual report to OMB on its activities, providing technical assistance if requested, and serving as a resource center for questions about the URA. He noted that FHWA staff are always available to answer questions related to the URA or its regulations.

FHWA's program is operated through the States and State departments of transportation. FHWA has permanent relationships with these partners, allowing them to develop contacts and personnel with experiences in applying the URA. This relationship is based on assurances in which the State agrees to comply with the URA as a condition for receiving Federal funding. He noted that due to the nature of the projects, FHWA relocations are more predictable and less complex than those conducted at Superfund sites. Relocation is not a major consideration in project planning, it is actually a by-product. Once the best route for a highway is decided upon, residents are relocated. However, the implications of relocation are considered in choosing project alternatives.

Mr. Schy explained that the URA applies to Federal or Federally assisted programs or projects in which real property is acquired. Owner/occupants are eligible for relocation benefits under the URA and its regulations (e.g., individuals, families, farms, businesses, non-profits). It excludes non-resident owners and tenants. He noted that the URA focuses on permanent relocations, while temporary relocations are addressed in an appendix to the Act.

Two legal conditions must be met for an agency to condemn property and relocate the residents: 1) the project must be necessary; and 2) the project must be for a public purpose. These determinations are made on a case-by-case basis.

Mr. Polatsek clarified that the law applies to activities "for" Federal or Federally funded projects, thus locally funded projects could be covered if they are for or part of a Federal project.

Elements of the URA

Mr. Schy outlined the three main elements covered in the URA:

- Protections;
- Requirements for advisory services; and
- Relocation payments.

Protections include: a 90-day notice to residents prior to relocation; at least one referral to an appropriate replacement dwelling; and selection of comparable, decent, safe, and sanitary units. Requirements for advisory services, designed to help people relocate successfully, include information, counseling, advice, and personal contact. These services are particularly important in cases involving low-income or minority communities, the elderly, or people with disabilities. Ms. Griffith asked whether other forms of services were offered, such as individual psychological counseling. Mr. Schy responded that it is FHWA's view that psychological services are important and real stress impacts occur, but individual psychological counseling is beyond the scope of standard services. He added that it is within the Agency's discretion whether these latter types of services should be offered.

Ms. Frey commented that group counseling has been conducted in past cases. Dr. Tucker of ATSDR explained that workshops have been conducted in Alabama for those who volunteer to attend. ATSDR also provided referrals for individual help as well as trained local clergy to help residents cope with the relocation. She noted that what services should be provided depends on the particular circumstances of the relocation and the residents. Ms. Griffith asked how FHWA would handle cases in which the community wants an outside consultant to help advise them. Mr. Schy responded that the URA does not require agencies to provide this type of service, only that the Agency provide appropriate information and assistance so that people can successfully relocate. He added that is up to the Agency's own judgment and funding capabilities to provide service above and beyond that which is required by law. Mr. Polatsek commented that these decisions are sometimes political due to political pressures and heightened public concern, fear, and pressure. HUD has found that it is sometimes necessary to send staff to provide on-site, specific advice.

Mr. Schy provided details on the specific services and advice the Agency must provide to residents being relocated. First, the Agency must explain the relocation and services and options for assistance payments available to the residents, including eligibility requirements. The Agency then determines the needs of the residents through personal interviews and assists them in applying for relocation assistance or refers them to other resources. He cited the Combined Federal Program, which lists many relevant Federal activities, as a useful source for finding government resources.

Most relocations apply to occupants living on the property, but may apply to occupants of adjacent property who suffer significant economic injury. Ms. Wells, of EPA, commented that drawing this line is often difficult. She gave an example of a company who chose to go beyond required advisory services and stabilize the remaining community by providing low-interest loans and building parks. Mr. Schy responded that this is not required under the URA, but that FHWA goes beyond the requirements in some cases to provide "environmental mitigation" measures. Ms. Frey inquired how that agency would handle a project in which 40 homes are to be relocated, but 10 homes are left in the area. Mr. Schy answered that it all 50 families may not be relocated, but the Agency would attempt to avoid such a situation in planning the project. Mr. Alsop, of FHWA, added that other measures are sometimes implemented to lessen the impact on the remaining homes, such as noise barriers. In addition, project designs can be adjusted to

avoid dividing communities by putting in underpasses or other measures. He noted that some states have their own relocation laws that are more expansive than Federal laws.

Mr. Hess, of EPA's Office of General Counsel, reminded the participants that the Federal statute sets forth the minimum legal requirement for conducting a relocation; additional benefits or services are programmatic decisions. Mr. Polatsek gave an example of a legal situation in which a project cut off access to a business, which can have a great impact. Mr. Hess responded that the business could be compensated if a legal right to access was established.

Ms. Griffith asked whether such environmental mitigation efforts fall under EPA's statutory authority, as it is not explicitly stated. Mr. Alsop responded that agencies have some statutory authority and flexibility for mitigation activities within the general concept of conducting an effective and useful project.

Relocation Payments

Mr. Schy explained that two types of payments may be made to relocated persons who meet the criteria for replacement housing or business re-establishment: 1) moving expenses; and 2) supplemental payments. Eligibility for relocation payments is limited to persons displaced from real property. Limits on these payments are set at \$22,500 for homeowners, \$5250 for tenants, and \$10,000 for businesses. The URA also provides for a third option known as last-resort housing, if comparable property cannot be found within these limits. He added that use of this option varies according to location and the housing market over periods of time.

Important Elements

Mr. Schy then reviewed the most important and relevant elements of the URA for EPA to consider in conducting relocations. He noted that along with requiring assistance to relocated persons, the regulations also provide protections for the Agency against individuals seeking windfall profits. The laws and regulations also allow some flexibility, such as donation of property by the owners and broad waiver provisions that permit an agency to waive any requirements (except statutory provisions) while meeting the purpose of the act and protecting displaced persons. Finally, provisions for emergency situations allow agencies to take necessary action under special circumstances.

He noted that mobile homes are especially difficult challenges in relocations, because they are often occupied by persons of low socio-economic status or the elderly. The variety of property laws applying to these units make actions difficult as well, such as split ownership between the land and the home, local regulations, and differing state laws.

In summary, Mr. Schy emphasized that the URA is a complex law that involves substantial expenditure of time and money. While being a source of assistants to citizens, it also provides a framework for Federal agency treatment of affected residents.

Mr. Hutchins, of the Department of Justice, asked about the number of staff who work on relocations and available resources. Mr. Schy responded that individuals now have multiple jobs within the general work of acquisition, appraisal, and relocations. At least six people would be involved in these activities.

Ms. Yuhas, of ICMA, inquired about the role of local governments in relocations. Mr. Schy answered that, with regard to FHWA projects, the role of local government is limited. The projects are operated through state agencies that have a financial relationship with the Federal government and are responsible for overseeing the relocation activities.

Mr. Nemeth, of HUD, commented that relocation information should be given to residents in an accessible format, including special considerations for non-English speakers, the hearing impaired, and other persons requiring extra assistance.

Ms. Johnson, of EPA, asked that if each state implements relocations, how it is ensured that these actions are equitable and uniform? Mr. Schy responded that FHWA receives assurance from the State Department of Transportation, including a legal agreement that the state will comply with URA requirements for property acquisition and relocation as well as the implementing regulations to the extent practicable under state law. Therefore, states operate in accordance with the same standards as the Federal government, although some states do handle some issues differently. It is the view of FHWA that states should maintain some degree of flexibility. Mr. Alsop added that consistency is also monitored through a staff member responsible for relocations in the state offices of FHWA. Mr. Polatsek noted an example in HUD where consistency among states was needed. Problems were caused by state offices differing in how payments were distributed to the public, thus a Federal law was established requiring that all payments must be made in installments. He emphasized that meeting the overall goal of similar treatment for residents in similar situations can be achieved while retaining some flexibility in funding.

Grand Forks, North Dakota - Dave Polatsek, HUD

Dave Polatsek, HUD, presented a case study pertaining to the relocations resulting from the flooding that occurred in Grand Forks, North Dakota. Mr. Polatsek began by stating that HUD is most involved in the relocation process through the provision of low to moderate income housing following an incident. In addition, he explained that HUD also acts as a banker by providing financial assistance to local governments, non-profits, individuals, etc., as well as to projects that involve acquisition, rehabilitation, and demolition through the Uniform Relocation Act (URA). Mr. Polatsek stated that the URA takes effect when Federal assistance is provided and relocation activities pursued. Federal assistance is anything pursuant to a grant, loan, or contribution to a State for distribution. Furthermore, Mr. Polatsek stated that most HUD-related activities involve the Housing and Community Development Act (HCDA) of 1974, which established the block grant program. The block grant program primarily involves redevelopment, rehabilitation, demolition, and infrastructure development projects. Additionally, relocation is an eligible activity under the HCDA. The HCDA has become increasingly utilized by other Federal agencies, especially FEMA in the aftermath of a presidentially declared disaster, in ways that had never been previously contemplated under the URA. Mr. Polatsek stated that following FEMA's activities to ensure that the disaster is mitigated, HUD is almost invariably called upon to redevelop the devastated area.

Ms. Bulka asked if there is a distinction between taking a building over and seizure? Mr. Polatsek explained that HUD does not seize property, but rather forecloses on it on a discretionary basis.

Mr. Polatsek explained that in mid-April 1997, the midwest floods hit Grand Forks, North Dakota. As a result of the devastation, FEMA proposed to use the voluntary acquisition program under the URA to purchase properties and attempt to move residents off the flood plain, as well as make improvements to mitigate the consequences of living on a flood plain. He stated that the entire city suffered rampant

devastation, and eight months after the flood waters has subsided, the city remained covered by a layer of silt and debris. FEMA subsequently intervened because of militant citizens groups protesting that the voluntary acquisition program was really not voluntary. In response, HUD created the transaction exception, which FEMA began to use to voluntarily relinquish properties.

Several residents of Grand Forks, through the homeowners association, initiated a class action suit claiming that they were never really offered a choice; they were forced to either relinquish their property or remain in a devastated area. They also argued that they were being denied benefits under the URA. Therefore, HUD used authorities under a number of appropriations acts providing it the opportunity to waive a number of statutory and regulatory provisions. Using these authorities, HUD selectively waived parts of certain acts simply because they were too expensive to implement. However, Mr. Polatsek stated that HUD did not want to deny citizens their right to relocate by only providing voluntary buy-outs, which do not cover all residents, such as tenants. Therefore, Mr. Polatsek stated that HUD employed section 105(a)(11) of the HCDA, which establishes relocation as an eligible activity, with no restrictions except that people in like circumstances must be treated in a like manner.

Because this section allows the provision of funds, the city wanted to offer \$10,000 to all residents to stay within the city limits in an effort to preserve the economic/tax base of the community. In response, HUD stated that any activities undertaken must always have some connection with the displacement process. In other words, the city cannot provide a blanket payment to all residents, whether displaced or not, in need or not, simply to preserve the economic/tax base of the city. However, despite these certain activities that are not allowed under the law, the process is very open and, therefore, allows for the construction of a tailor-made local plan, which balances cost considerations with the needs of the displaced population.

Ms. Frey asked how HUD makes a decision that certain acts are too expensive to implement. Mr. Polatsek stated that the localities make most of the decisions in terms of the budget priorities. He noted that the majority of housing in Grand Forks was completely devastated and there were 2,200 jobs that needed to be filled. Therefore, residents who wanted to stay in Grand Forks and pay for comparable housing had to dip into the project reserve to produce the necessary funds.

Mr. Polatsek stated that HUD also had to comply with another parallel statute. He stated that Congressman Barney Frank thought the URA was insufficient and, therefore, enacted a parallel scheme for low and moderate income tenants that provides a 60-month differential for only those residents displaced by demolition. Therefore, HUD also had to waive those provisions and construct their own scheme, which employs section 105(a)(11) to create tailor-made plans, employing voluntary acquisitions, buyouts, waivers, etc., for individual communities suffering devastation.

Furthermore, Mr. Polatsek stated that a large problem that occurred in Grand Forks was that FEMA's legislation is primarily aimed at protecting homeowners. Although the bulk of housing devastated in Grand Forks was privately owned, there was also a large number of tenants and businesses that suffered the effects of the flooding. Mr. Polatsek explained that the community of Grand Forks is comprised of three components: (1) a university; (2) a military base; and (3) small "mom and pop" business establishments. As a result, this large component of residential tenants are a serious concern because they have the ability to easily move out of the city limits. Mr. Polatsek stressed that every situation resulting from a disaster or environmentally related incident will necessitate a tailor-made plan. He also noted that, to some extent, EPA is not as bound by various statutory provisions as are other Federal agencies.

Regarding temporary relocation, Mr. Polatsek stated that the URA does not address the issue of temporary relocation because the URA only addresses instances when displacement equals acquisition. When rehabilitation became a premise for the Act and residents were paid to move out of their homes while rehabilitation activities were being undertaken, they often took the money and left. Therefore, HUD had to devise an approach that ensured residents would stay in their homes. In response, HUD promised to come up with program requirements in which a person who is temporarily relocated will not be considered displaced, as long as certain protections are provided. In other words, any additional expenses must be covered, they must not be subject to any adverse environmental conditions, HUD must incur the costs of any increased rents or utilities, etc. If these protections are not provided, the resident will be considered displaced. In conclusion, Mr. Polatsek, stated that the Grand Forks situation continues to be on-going, and HUD remains in consultation with the local government and residents of the community.

Questions:

- Are there any relocation programs or authorities that are applicable outside of a disaster situation?
Mr. Polatsek explained that section 105(a)(11) of the HCDA establishes the community development block grant assistance program, which creates discretionary authority for relocation. So any community that is pursuing clean-up activities and has block grant assistance can use their block grant assistance for relocation benefits at the discretion of the local government.
- In response to several questions regarding the Section VIII subsidy program, Mr. Polatsek explained that a resident, who is not in a subsidy situation under HUD's interpretation and is displaced, has a right to housing available on the open market. Section VIII, which can be tenant-based or project-based, is designed to defray the cost of rent for the tenant through the provision of Federal funds. Individuals have the opportunity to go into the open market and find a landowner who is willing to take the subsidy with the tenant making up any difference in price between the rent and the subsidy.
- Could HUD and EPA have overlapping authorities that pertain to relocation?
Mr. Polatsek explained that HUD authorities often coexist with other agencies' authorities.
- Do the public housing authorities have the authority to close a building and move the tenants to other public housing?
Mr. Polatsek explained that the answer depends on the proximate and actual reasons precipitating the close down and move. If the case is brought to court, the decision would depend on the validity of the close down and move.
- EPA has been involved in instances requiring the relocation of individuals from subsidized housing. Is it HUD's or EPA's responsibility to find replacement housing?
It was explained that during the Escambia site relocation, EPA provided the displaced residents with vouchers that could be taken to any available subsidized housing.
- When relocating public housing tenants that are largely minority, is there any responsibility for not perpetuating segregation by not moving those residents into the same building? In other words, when providing relocation options does segregation have to be taken into consideration?
It was noted that the URA does not say that segregation must be taken into consideration. However, there is no easy answer to that question, rather, it is often a policy call. The regulations state that all available housing must be a consideration. The residents are provided the option of deciding where they would like to relocate, whether it be into a non-segregated area or segregated area, and HUD cannot force residents to move into any

particular area. Mr. Schy explained that the regulations that implemented the URA speak to that issue. He stated that 49 CFR Part 24(205)(c)(2)(c) states that "Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling." Mr. Schy explained that the URA addresses relocation from an individual standpoint, not a community standpoint. However, each individual is given the opportunity to relocate outside of typically minority areas if they desire to do so. Additionally, the URA ensures that the implementing agency provides available housing and makes reasonable referrals, but does not tell individuals or communities where they must relocate, and the agency is not required to issue a larger than necessary payment.

EPA has made several decisions regarding the relocation process. Ms. Wells asked if any of these decisions have caused concern for HUD and its relocation process.

Mr. Polatsek stated that he has not heard of any concerns, but HUD is very fragmented and he may just not be aware of issues involved in other divisions.

Has a crosswalk ever been performed among the 16 agencies involved with implementing the related housing/relocation authorities? In other words, each agency may have individual policies or guidelines addressing the implementation of various sections within the URA, and has there been any effort to outline who is doing what and how they are doing it?

It was explained that there is one basic set of government-wide regulations that implement the URA, and although each agency may have a different set of program authorities, the way to implement them is found in the government-wide regulations.

Does FEMA have any regulations regarding temporary relocations?

It was noted that FEMA provides vouchers, rental assistance, mobile homes, hotel accommodations, etc., in response to disasters. 44 CFR part 206 addresses temporary or disaster housing.

Does GSA have relocation authorities?

Mr. Polatsek stated that GSA is subject to the URA, as are all other Federal agencies.

Is there a users guide to HUD programs?

It was noted that there is a guide that explains all HUD programs. Other information regarding HUD can also be found on the HUD Internet HomePage.

Ms. Skelton-Roberts asked the group to consider question 1.b. on the list of discussion topics, which states, "What changes would you like to make to your current relocation process/how decisions are made?" Ms. Bulka, of EPA, stated that in determining how relocation decisions are made, the resources available should be considered. Mr. Polatsek stated that obtaining community/local government input is also very beneficial. Next, Ms. Skelton-Roberts asked the group to consider how consistency in the relocation process can be ensured. In response, it was noted that the primary goal is to provide maximum equity. Outside of that, there is nothing that says every relocation must be handled in an identical manner because issues and circumstances vary. However, there are certain broad parameters that must be followed that apply to every relocation.

Ms. Griffith asked the group if their respective agencies have been involved in situations where the local government wants something that the community does not want. In response, Ms. Bennett stated that, under FEMA regulations, the community has to apply for a grant. Therefore, the "buy-in" originally comes from the community and, consequently, the government is persuaded by the residents.

Ms. Skelton-Roberts asked where in the process should the community become involved. She asked Mr. Alsop about the process for constructing a highway and where the community fits in that process. Mr. Reid stated that any urban area must have a detailed urban planning process that involves the communities, local government, etc. The process is not a top-down approach, but rather, much emphasis is placed on obtaining stakeholder input. He stated that many of the decisions are very political. Therefore, the planning process legitimizes the project. Once the planning phase is complete, the next step is to consider the NEPA factors, such as ensuring that land uses are protected, etc. Mr. Reid stated that the entire process depends on how much support or opposition is expressed toward the project. If there is sufficient local government support, the entire process may only take one or two years. However, it is rare that there is no issue or controversy that will ultimately delay the project.

Mr. Schy asked the EPA representatives if they have considered whether EPA may be attempting to do too much by trying to make everyone happy when it is an impossible task. Ms. Griffith responded that EPA has traditionally been a very community-friendly organization that is very concerned socially. She stated that within EPA there is a lot of emphasis on volunteerism, which translates down to doing more than is required by law. However, she stated that although EPA recognizes that they cannot always make everyone happy, EPA is constantly striving for increased community participation.

Mr. Schy agreed, but noted that certain activities are impossible to achieve, and he asked if EPA takes those into consideration to decide among conflicting priorities. Mr. Schy asked if, once a decision is made, EPA allows the community to sway it into doing something that is opposed by the Agency. Ms. Griffith noted that ultimately EPA must answer to Congress, GAO, and the courts. Therefore, if the Agency cannot find someone to pay for the relocation efforts, EPA will use its own funds. However, if relocation activities are not necessary for public health or environmental reasons, EPA will not assume such activities because it will ultimately have to justify the expense to Congress. Ms. Wells noted that often EPA makes decisions that are very unpopular with the public and often receives very negative publicity for those actions.

Group Discussion

Public Welfare

Ms. Griffith raised the issue that EPA is responsible by law to be "protective of public health and welfare" in terms of relocation activities. She stated that the addition of the term "welfare" has created many problems for EPA because it is undefined. Ms. Griffith explained that communities have asked for relocation activities under the umbrella that their welfare is in jeopardy, when in effect there is no public health risk involved. Ms. Griffith asked the group for input on how "welfare" should be defined. Ms. Tucker, of ATSDR, stated that her agency interprets "welfare" in terms of quality of life or a measurement of stress.

Mr. Schy expressed concern that EPA not be overly broad with the definition of public welfare, which may result in an abuse of relocation activities. Mr. Seigal, of the Bureau of Reclamation, stated that EPA should consider at what level of risk does the Agency have to begin remediating a site. He noted that public welfare should be tied to health risk. Mr. Featherson also expressed concern that if public welfare is defined too broadly, it will be very difficult to defend the decision against the potentially responsible party (PRP) in court. Ms. Bulka recommended that research be conducted to determine the congressional intent regarding public welfare and its limits. Ms. Johnson stated that most stakeholders, with the exception of the environmental justice community, do not want EPA to consider welfare as separate from risk.

Ms. Tucker stated that ATSDR is considering approaching relocation from a risk/benefit analysis perspective. She noted that following Chernobyl, it was determined that residents who relocated did worse than those who remained in the area. It is the common belief that relocating is the best approach; however, there are many hard, scientific issues that need to be addressed to determine the effect of relocation on public welfare.

Ms. Wells stated that choosing relocation as part of the remedial process may be a more cost-effective solution than not. She noted that it is often more efficient and logical to convert a residential area into an industrial area that does not have to comply to the more stringent residential land standards. Each decision must be based on factors that assess the best use of the site.

Environmental Justice

Mr. Hutchins stated that the group should also consider environmental justice issues in the relocation process. Mr. Alsop stated that DOT has an environmental justice order that approaches relocation on a project-by-project basis. In other words, it does not just look at environmental justice issues separate from relocation activities, but at the entire project as a whole. Ms. Bennett stated that those residents who live on a flood plain are often minority. Therefore, if given a comparable rate to move, they cannot afford to relocate anywhere else. However, if the residents are not offered more than a comparable rate, the agency could be accused of not making the program equally available and leaving minorities in a hazardous area.

Temporary Relocation

A member of the group stated that temporary relocations are often more stressful than permanent relocations because the length of time is indefinite. Therefore, it was asked how various agencies determine the length of time for which a resident will be temporarily relocated. Mr. Schy stated that regulatory limits define temporary relocation as usually between one year and 18 months. He also noted that the FHWA makes every effort to decrease the length of time residents are temporarily relocated and, if the period is overly extended, their status will be changed to permanently relocated. Furthermore, Mr. Schy stated that an agency may be tempted to temporarily relocate residents in an effort to not provide the full benefits required under the law regarding relocations. Mr. Seigal stated that EPA also needs to reemphasize the cost factor of the nine criteria when doing temporary relocations.

Ms. Skelton Roberts asked how long the average clean-up takes. Ms. Johnson stated that temporary relocations are used more often in removal situations, which are usually less than 12 months in duration, than in remedial actions. However, Ms. Griffith stated that residents of one site have been temporarily relocated for over two years.

Ms. Bulka stated that under California law, an employee can sue its employer for stress caused by the job. Therefore, State laws must also be taken into consideration. Ms. Griffith noted that if EPA has to demolish a home and offers the residents payment for the home, the URA may be triggered. Additionally, Ms. Johnson stated that response-related damage is also a factor. Mr. Schy warned EPA not to be driven by those odd and rare cases.

In response to a question regarding the status of EPA's policy regarding relocation, Ms. Wells stated that the policy is intended to have a large community involvement component. Ms. Griffith stated that EPA is attempting to keep the policy as flexible as possible by providing general principles rather than

specific details on any one criteria. EPA is currently considering very generic issues and hopes to provide a more in-depth policy next year, which will include feasibility study guidance.

Collaboration Among Federal Agencies

Ms. Skelton Roberts opened a discussion of opportunities for collaboration among Federal agencies handling relocations. Mr. Schy suggested several ideas: 1) The annual URA meeting hosted by FHWA provides a useful forum for exchanging information on problems as well as for meeting contacts in other agencies; 2) Agencies can contact individuals at FHWA to discuss the URA; 3) Agencies can work together at multi-jurisdictional sites (e.g. FEMA and Superfund sites); and 4) Individuals should share information through phone calls or other communications.

Next Steps and Wrap-up

Ms. Wells explained that EPA has several activities planned as next steps for developing the relocation policy. Two more discussions with stakeholders, Native American Tribes and Environmental Justice representatives, are scheduled. The Agency has begun drafting an outline of the policy based on the previous forums, and will continue to incorporate issues from ongoing discussions. Other steps include convening a multi-stakeholder group to comment on the draft policy and issuing an implementation guidance in 1998.

Ms. Skelton Roberts concluded the meeting with a summary of key issues and recommendations raised during the discussions:

- Social service agencies and non-profits have a potential role in relocations;
- State and local resources need to be considered;
- The policy should be flexible and set broad parameters that are tailored to individual communities to incorporate needs of citizens and state and local governments;
- The planning stages of a relocation are important;
- Long-term views should be emphasized in remedy selection;
- Consistency is needed in setting limits on relocations;
- Public welfare is based on risks and is tied specifically to health risk, although some participants questioned this approach; and
- A decision needs to be made as to when temporary relocation is continued for too long for reasons of cost.

To close the meeting, Ms. Wells thanked everyone for their participation.

Superfund Relocation Discussion with Environmental Justice Representatives

October 18, 1997

Charleston, West Virginia

Introduction, Welcomes, and Purpose of Discussion

Barbara Yuhas of the International City/County Management Association (ICMA) began the morning session. ICMA is a professional and educational association of chief appointed administrators and assistant administrators serving cities, counties, regional councils, and other forms of local government. Under a cooperative agreement with the Environmental Protection Agency (EPA), ICMA is working with the Office of Emergency and Remedial Response's (OERR's) Community Involvement and Outreach Center in coordinating a series of discussions with a broad range of stakeholder groups (industry, state and local officials, public health organizations, environmental groups, Tribal representatives, and environmental justice organizations) on the issue of Superfund relocations. Ms. Yuhas noted that the purpose of the meeting is to collect information and feedback on this issue.

Suzanne Wells, Director of the Community Involvement and Outreach Center for OERR, welcomed the participants and thanked them for their time and interest. She then outlined the history of the Superfund Relocation issue. In January 1995, a subcommittee of the National Environmental Justice Advisory Council (NEJAC) requested that EPA look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for OSWER, followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. EPA recognized the need to gather broad input on the policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. She noted that participants at this meeting, Connie Tucker, Margaret Williams, and Kenneth Bradshaw, also attended the Roundtable. At the Roundtable, citizens shared their issues and concerns about living near hazardous waste sites and what should be considered when deciding whether to relocate residents from a site.

The current series of forums on relocation provides additional opportunities for a broad range of stakeholders to offer information and raise issues for consideration in EPA's development of the relocation policy and corresponding guidance. She reviewed some common themes that have arisen during the previous forums, including the importance of community involvement, making relocation decisions based on the available data, the need for be open and honest communication of risk issues, ensuring citizens remain financially "whole," and keeping the community that remains behind stable.

Ms. Wells stated that the purpose of the meeting was to focus on people who live in the Appalachian region of the country, and to listen to their issues and concerns regarding development of a national relocation policy.

Ms. Wells next presented a brief history of Superfund relocations. The use of permanent relocations at Superfund sites has been limited, with only 16 cases using Superfund authority pursuant to a Record of Decision in the history of the program. EPA has conducted many successful clean-ups in residential areas so that the community can safely live in the area. Approximately 1,200 sites are listed on the National Priorities List (NPL), and many of these are located near residential areas. The Agency estimates that one in four Americans lives within four miles of a Superfund site. Generally, permanent

relocations have been authorized in the past for two reasons: engineering and/or risks to human health. She noted that the Agency takes the decision to relocate residents seriously, understanding that the decisions involved and the moving process are very stressful events for residents.

She explained that the schedule for the development of this policy includes distributing summaries of all of the forums to participants, completing a draft policy, and then bringing a group of stakeholder representatives together for review and comment on this draft.

Review of Agenda and Ground Rules – Mary Skelton Roberts, Program for Community Problem Solving

Mary Skelton Roberts, the discussion facilitator, began by reviewing the agenda and guidelines for the meeting.

Participants and observers then introduced themselves and each stated his or her expectations for the day (a list of attendees is attached). Common expectations included learning, helping EPA develop a policy, and sharing experiences.

Overview of Pensacola Relocation Roundtable - Connie Tucker

Connie Tucker presented an overview of the Relocation Roundtable held in Pensacola, Florida in May 1996. She began by discussing the history of the relocation issue. She noted that the NEJAC committee, which raised the issue initially, received much support from staff at EPA, including senior management. As a result of this interest, the concept of pilot relocation projects was developed. Every Region was encouraged to develop a relocation pilot, but Region 4 was the only Region that chose to do so. Region 4 selected the Escambia site in Pensacola, Florida as the relocation pilot project.

Ms. Tucker explained that the two-day Roundtable provided an opportunity to explore many concerns and issues related to relocation. She noted that a video of the event is available from EPA. (Please call Yolanda Singer at (703) 603-8835 for a copy of the video). Key concerns that were raised by participants included the need for community involvement in decision making, health issues, and cost-effectiveness. She noted that in some cases, EPA has conducted a temporary relocation of residents that was more expensive than buying residents new homes. Other concerns include the need to consider temporary relocation in communities where the clean-up is causing further exposure, clean-up standards, and environmental justice issues. Race and class issues in the communities that EPA has already relocated also arose as a significant problem, with only one African-American community having been relocated and a perception that middle-class communities receive quicker action.

A brainstorming session also took place on what should trigger a relocation. Other plenary and breakout sessions were held to identify the communities' concerns.

Ms. Johnson asked if Ms. Tucker had a sense from the discussions of the duration of temporary relocation that would be acceptable to residents. Ms. Tucker answered that no specific time frame was identified, but that EPA should consider permanent relocation as a potential remedy in those cases where temporary relocations may be more costly than permanent relocation.

Ms. Wells commented that, with regard to health concerns, soil or other contamination cannot always be cleaned up to a level that is safe for people to live on. She asked participants to think about how

health concerns should factor into the decision. Ms. Tucker responded that the Roundtable participants raised problems of risk assessment tools not considering other sources of contamination, the burden on the community to prove illnesses, and recognizing environmental diseases as a trigger to action. Ms. Tucker noted that anecdotal evidence provided by citizens about their health problems should be considered more heavily in the decision. Ms. Swearingen commented that "anecdotal evidence" should be enough evidence to relocate them if they want to be.

Mr. Wilson and other participants raised concerns regarding the lack of representation of the Appalachian region at the Relocation Roundtable and other EPA meetings.

Ms. Skelton Robert summarized some of the themes raised in the discussion as what are triggers to the decision to relocate, how is cumulative risk factored in when multiple exposures exist, where does the burden of proving risk lie, and what is the difference between clinical and anecdotal evidence.

Background on Superfund Relocations

Terri Johnson of EPA provided an overview of EPA's experience with relocation. She began with an introduction to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), which grants EPA the authority to clean up sites to protect human health and the environment, and the National Contingency Plan (NCP), which sets forth regulations to implement CERCLA provisions.

The National Priorities List (NPL) is a list of sites that are potentially contaminated and require additional study. When a site is discovered a Preliminary Assessment is conducted. This assessment is an initial review of existing information on the site to determine if further investigation is warranted. Citizens can petition for a preliminary assessment, which must be responded to within one year. If it is determined that more study is needed, a Site Investigation is conducted. At this stage, sampling is conducted to determine the probability of qualifying for the NPL. Qualification is determined by the Hazard Ranking System, a quantitative formula that EPA uses to establish a score for each site. Four separate pathways are considered in this formula: ground-water contamination, surface-water contamination, soil exposure, and air contamination. If the score is greater than 28.5, the site qualifies to be listed on the NPL. Generally, the next step is a letter of approval from the governor of the state.

Two types of response authorities for EPA are identified in CERCLA: 1) removal actions are used when immediate action is required; and 2) remedial actions are used to address the longer-term hazardous substance problems (e.g., groundwater contamination)..

Ms. Johnson explained that relocations fit within the context of CERCLA and the NCP in that relocations are one type of response action under these authorities. Temporary relocations may be conducted during removal and remedial actions, while permanent relocations are considered under EPA's remedial authority.

Ms. Johnson next outlined the remedial response decision process and where relocation comes into the decision on a site. The first step is a remedial investigation to characterize site contamination. At this point, discussion with local officials regarding the future land use of the site is initiated as a consideration in the remedy selection. A baseline risk assessment is performed to estimate current and potential risks at the site. This identifies who is being exposed, how they are being exposed, and what

they are being exposed to (cancer and non-cancer risk). EPA action may be warranted when the cancer risk exceeds the Agency's cancer risk range or the acceptable daily level for non-cancerous chemicals.

Next, a feasibility study of clean-up options is conducted, if necessary. In the feasibility study, relocation may be considered as an option. During the feasibility study, an analysis of options is conducted in which tradeoffs among various clean-up activities are examined using the criteria from the NCP to compare various clean-up options and select an alternative that is protective of the site and satisfies statutory requirements. The nine remedy selection criteria listed in the NCP are:

- Overall protection of human health and the environment;
- Compliance with applicable or relevant and appropriate requirements (ARARs);
- Long-term effectiveness and permanence;
- Reduction of toxicity, mobility, or volume through treatment;
- Short-term effectiveness;
- Implementability;
- Cost;
- State acceptance; and
- Community acceptance.

Remedy selection also must follow CERCLA provisions requiring that the selected remedy be protective of human health and the environment, comply with ARARs, utilize permanent solutions to the maximum extent practicable, satisfy the preference for alternative treatments, and be cost effective. Ms. Johnson clarified that cost effectiveness involves evaluating overall tradeoffs between alternatives and cost. The evaluation of cleanup alternatives appears in the Record of Decision (ROD) for the site.

Ms. Frey clarified that if a remedy is not protective of human health and the environment, it is dropped from consideration before the costs of various options are considered. Ms. Johnson added that a "no action" alternative is considered at each site, but usually drops out because it does not meet the first threshold criteria.

Mr. Wilson referred to cost-benefit analyses that show that a certain amount of mortality or health risk is acceptable, but noted that from a community standpoint people dying or being sick is not acceptable. He urged EPA to make the decision process "real"-- related to saving people's lives rather than cost-effectiveness.

Mr. Yates responded that early involvement of the community is crucial so that the community understands the limitation of the policy under which the government agency is functioning in a particular situation. The government may not have the power to do what the officials or citizens want based on certain risk assessment criteria.

Mr. Wilson asked whether the profitability of the company responsible enters into the cost-effectiveness considerations. Ms. Tucker stated that as long as EPA uses a single chemical approach in risk assessment without considering the cumulative impact of the chemicals, too often the risk is determined acceptable. Communities do not believe that any acceptable risk exists. She then asked if risk assessment is mandated by law. Ms. Frey answered that it is a regulatory requirement, but not a statutory requirement.

Ms. Frey clarified that the Agency does not conduct cost-benefit analysis in Superfund program. EPA looks at the cost of a remedy as related to its overall technical effectiveness. The profits of the Potentially Responsible Party (PRP) are not taken into account.

Ms. Johnson then explained that EPA cannot simply buy out affected areas rather than clean them up because CERCLA requires the Agency to select remedies that are protective of human health and the environment. She also clarified the meaning of the term PRP, or potentially responsible party, who is a company, owner, or operator that appears to have some responsibility for the contamination.

Mr. Bradshaw commented that a "reality check" is needed because what EPA intends or plans to do does not occur in actuality. This is particularly true for federal facilities, when deals are made to ignore rules and guidelines and relinquish regulatory authority. He noted that CERCLA mandates the EPA to conduct certain actions, which the Agency is not doing. For example, CERCLA section 106 specifically states what should be part of a health assessment and that is what should be followed. Ms. Frey responded that, as she understands it, in the case of federal facilities, an agreement is made between EPA and the federal facility as owner/operator that changes the lead for the site cleanup to the non-EPA federal agency. Section 120 states that federal facilities have the responsibility for investigations and clean up. EPA does comment on their activities, but it is difficult for EPA to have authority over other agencies. Participants noted that clarification is needed on whether EPA has regulatory authority over other federal agencies. EPA staff responded that the Agency works with other agencies, but cannot sue another federal entity. Ms. Tucker noted that political conflict limits EPA's authority. The discussion was tabled until later in the day.

Mr. Washington, who works with a DOE facility, commented that the facility must abide by all the laws. The facility can be issued fines similar to fines for a private facility.

Mr. Wadworth commented that EPA needs to acknowledge that almost every person who is exposed to a toxic chemical is also exposed to complex organic chemicals from other sources. Therefore, a clinical approach is very important.

Ms. Wilson noted that in her situation (a leather tanning company in Kentucky that is a RCRA facility), EPA has regulatory authority, but no enforcement authority. Mr. Wadworth continued that EPA's guidelines are not reality in Kentucky. Ms. Wells noted that the RCRA law is a different law than Superfund. Ms. Wilson argued that a major problem is exactly this lack of connection between EPA programs. No matter what citizens do, the problem is always passed on to someone else. Ms. Skelton Roberts recognized that the discussion reveals a significant disconnect between national policy and implementation at the state level.

Mr. Branson raised the issue of the power of corporations over the Agency, particularly when guidelines are changed so that facilities can be in compliance. In his view, the Agency must understand that the Federal government is ignoring citizens in favor of industry.

Ms. Johnson noted the Agency has learned that a much better job of community involvement is needed in the Superfund program. The relocation policy will focus on getting the communities involved as early as possible. She also stated that the Agency does feel frustration when the expectations of community groups are outside the Agency's statutory authority.

Ms. Frey clarified that conducting a baseline risk assessment is a regulatory, not statutory requirement. Ms. Williams commented that the main concern of the citizens is protecting people and not using risk assessment for a specific sub-population. Current risk assessment approaches involve inadequate data and do not properly consider health effects. Lack of scientific information on toxic materials and failure to consider the cumulative effects of exposure are additional problems. She noted that agencies cannot deal with people's lives based on assumptions.

Mr. Harris responded that there is much that is not known about risk assessment and health effects. It is imperative that all of the health agencies and EPA come together and gather useful information on the development of criteria for evaluation of synergistic effects, reproductive effects, birth effects, and effects on the immune system. Good information on many chemicals does not exist, therefore money needs to be directed to developing criteria for more chemicals.

Mr. Bradshaw asked if that is a trigger for relocation. Mr. Harris responded that, in his Region, staff attempt to look at as many factors as they can. This included going door-to-door, talking to people and collecting additional data. In one case where information was lacking, the majority of the people did not want to relocate.

Dr. Smoger agreed with the previous comments on risk assessment, adding that they are based only on cancer risk and do not take other effects into account. In addition, a vast majority of the data collection is funded by industry. He also noted that EPA and industry use jargon that is unfamiliar to the community and allows industry to gain a "step up" in dealing with risk assessment. The community feels left out because they do not understand the language. He suggested that the first step in a risk assessment should be to talk to the local doctors to find out the clinical effects that are occurring, and basing the hypothesis of exposure on that information. Ms. Swearingen added that it is widely believed at the grassroots level that risk assessment is a tool of industry and is easily manipulated.

Ms. Frey explained that the Agency has heard from many stakeholders that health risk should be a criteria for taking action at a site, including relocation. She noted that EPA's assumptions when doing risk assessments are fairly conservative.

Mr. Harris added that risk assessments he has conducted evaluate the risk from multiple pathways. The purpose is to protect the vast majority of the population, including sensitive populations. Thus, the most conservative data is used. When information indicates that a problem is present, it should be given full consideration for appropriate action. Relocation may not be the answer in all cases, but if it is the best alternative, it should be taken.

Ms. Williams expressed her concern about the lack of information and data when making assessments in communities. She stated that lack of information should not lead the Agency to conclude that the contamination is not harmful to humans. Communities should not have to prove their illness. She also added that many communities do not have physicians that are familiar with the illnesses caused by contamination.

Mr. Wilson commented that there is a lack of early education in the community and for Agency staff. He suggested sensitivity training for EPA staff on courtesy and consideration of the residents, because this is a major cause of adversity between residents and staff. Secondly, he noted that the statistical models that are currently being used do not apply to small populations. A third problem is that most of the exposure levels are based on healthy white males, which are not the majority of most of the

affected communities. He also reiterated that placing the burden of proof on those without the resources to do so is a problem -- it is impossible to absolutely prove the effects. The burden must be on the producers of the contamination. He recommended using biomonitoring of animals to monitor for adverse health effects.

Mr. Bradshaw commented that problems of racism and discrimination against low-income residents also exist when conducting health assessments.

Ms. Skelton Roberts then summarized the major issues/questions raised in the morning session:

- What should be EPA's response time;
- How should property values be assessed;
- What triggers should determine temporary and permanent relocation;
- How should health concerns and cumulative risk be addressed;
- Should the policy address a shift in the burden of proof;
- What is the role of clinical data;
- Who gets studied;
- How do we make sure the statistical models are appropriate;
- How can EPA ensure that the policy gets implemented on the state and local level;
- How does EPA go about monitoring other Federal Agencies;
- What does the risk assessment process actually measure;
- Risk assessment is not statutory, it is a policy;
- Communities want risk assessment to be discontinued as a tool to determine the remedy;
- EPA does have regulatory authority over other federal agencies, but for political reasons has not been able to enforce this authority;
- Local health departments and local doctors sometimes cover up health effects in the community due to industry pressure; and
- It is very important that a Roundtable to reforming risk assessment be held involving communities and scientists.

Ms. Wells then responded to some of the concerns raised by other participants. She stated that the issues with risk assessment reflect our society's scientific knowledge of the field. The science is sound within the framework in which it operates and it is the only way the Agency can set priorities among many sites. She recommended continuing pressure on advancing the scientific knowledge about risk assessment.

She continued that the Superfund program is currently investigating ways to better involve communities in the risk assessment process, recognizing that communities can be experts on exposure routes. This also involves communicating more effectively with residents.

Another priority for the Superfund Community Involvement program is building capacity in staff to be effective in working with communities. A training was conducted last year in basic public participation skills, working on treating people with respect.

In response to concerns about using healthy white males as the standard, she noted that one of the tasks of the newly created Office of Children's Health in EPA is to ensure that activities such as risk assessment takes children's health into account.

Personal Stories

Ms. Skelton opened up the discussion to individuals' personal experiences and challenges faced in their communities.

Al Puckett -- Paduka, Kentucky: After he became ill, Mr. Paduka's water was tested and found to be contaminated. After several months of repeated testing that indicated contamination, he complained to the facility. Another test was conducted in the presence of facility personnel, after which the individual who conducted all the tests said that he had made a mistake and that the glue on the tape on the water samples had contaminated the water. However, a chemist Mr. Puckett consulted responded that the glue did not contain the chemicals that were found as contaminants.

Other residents of his neighborhood were hospitalized due to the contaminated water. A television station from another state broke the story and details of the contamination. Two five-mile plumes of contamination were tracked. New contaminants and new plumes continue to be discovered as a result of material buried at the facility. The facility has not informed the residents of what is buried on the site. After a fire of uranium metal on the grounds, local deer were found to be contaminated with uranium. This raised concerns about potential human contamination. An additional concern was the facility using reverse fans to blow contaminated dust out of their buildings into the air.

Mr. Puckett noted that cancer is rampant in the area. He added that, with regard to relocation, because he lives on a farm on which he can make a living, if he is relocated somewhere else with high utility bills and where he cannot make a living, he may not be able to survive. Some farms in the area have been in the families for five generations, and residents will not want to move because they are attached to the land. The residents believe that the plant should be relocated because they have been in the area longer than the plant. He also noted that the value of his property has dropped significantly.

Rick Wadworth -- Southern Appalachian Labor School-Fayette County: The Fayette County community was designated as a Superfund site due to an abandoned mining camp located near a creek. An electric company located in this area released oil containing PCBs from electric transformers onto the ground. Employees at the company and residents were being exposed to the smoke from burning this oil. The creek bed, which had been dredged and used as a berm, later proved to be highly contaminated. The contamination had been spread throughout the whole community.

The organization Concerned Citizens to Save Fayette County was formed with the intention of having the residents be bought out and given funding for replacement housing as well as follow-up health care. Citizens did not receive either of these requests. Three health studies were conducted on about 450 residents, which found liver disease, kidney disease, a high concentration of leukemia and other cancers, birth defects, and other health problems. In 1988, EPA conducted the first major clean-up by removing contaminated soil, which was dumped in a poor community in another county. The actual facility and a pit were left untouched. EPA studies showed that the PCBs had also reached ground water and threatened municipal drinking water supplies. In 1990 and 1993 smaller clean-ups were conducted. EPA planned to install a cap on the site, but this has never been done. In 1997, a structure on the site burned down, but was not dealt with as a hazardous materials fire despite being a heavily PCB-laden structure. No residents were evacuated. Due to frustration and the death of key activists, citizen action regarding the site decreased.

He noted that the community was able to assess the effects from the beginning as to how many people were sick, what was happening at the facility, and the nature of the contamination. The experts sent by EPA never understood these problems as fully as the residents. He emphasized that a major problem with risk assessment is who conducts the assessment. He suggested that, if communities were given information in language that is more easily understood, they could make a reasonable decision about acceptable or unacceptable risk. He added that some residents would choose to stay because they are tied to the land or community, while others would decide to relocate.

Ms. Workman noted that, at this emergency response site, three years passed before remediation was started. She also expressed frustration with the frequently changing administration and organization at EPA. She also opposes the Agency's assumption that whatever staff decides is appropriate also is what the community wants. In addition, a lack of trust of agencies and officials has grown stronger after incidents of misinformation and lack of help for the citizens.

Efforts at the site have been virtually stopped due to budget constraints and some residents still live near the site, although most have died.

Pat Nixon -- Canaugh County: Ms. Nixon explained that she stopped attending meetings for a Superfund site in the county because when she asked how clean the site would be made, EPA's answer was that clean was irrelevant. She noted that if the Agency does not know what the effects of contamination are, it cannot determine how to relocate people.

She also expressed concern about environmental racism issues in the area. For example, although 75% of the communities near chemical plants are white, the African-American neighborhood received most of the emissions because the plants in their neighborhood release much more into the community.

She emphasized the need to include children and females in studies, because they have lower tolerances to certain chemicals.

Larry Wilson -- Yellow Creek, Kentucky: Mr. Wilson began with stories of the health problems of families in the area, including cancers that killed many of the residents. The source of the contamination in the area is a leather tanning company that released chemicals into the drinking water for decades. However, government agencies told residents that the area was one-half of one case below being statistically significant, so there was not a problem. He urged training for communities and agencies, noting that agencies often say that they can solve the problems, but the community gets angry when they are not solved. Communities should be informed as to what agencies can and cannot do. He recommends that local residents and local knowledge, rather than expert sociologists, be used to train agency staff about how to interact. The community knows what is happening in the area and what has changed.

Distributing resources to the communities must also be made more effective. Advisory panels are not effective because an agency can choose to ignore advice. The people directly affected by the problem need real power in the decision making process. The TAG grants are also ineffective because no independent research can be accomplished. The community should be able to select who does the testing so that the results can be trusted.

Kenneth Bradshaw -- Defense Depot, Memphis, TN: Mr. Bradshaw referred to the situation in Memphis, Tennessee as "genocide." He explained that Memphis is an area that received substantial population

migration from the surrounding areas, which complicates health assessments and other studies because most people migrated from a rural area. The median per capita income of his community is \$6,800.

The facility in the area is the Defense Depot, which handled chemical warfare supplies during World War II. Experiments with chemical weapons, spills, and burials of chemicals were conducted at the site. From 1942-1995, the citizens had no information on the activities conducted or the materials handled at the site. The land surrounding the facility is a watershed which distributes water to surrounding creeks. All of the contamination at the site enters African-American neighborhoods, including several schools close to the site.

He clarified that the site was listed on the NPL before the citizens knew toxic substances were present. He added that the Defense Department is putting over \$100 million dollars to cleanup the site for commercial use, but has not provided any funds to help improve the health of the residents.

Corrine Whitehead: Ms. Whitehead noted that, in the Calvert County case, the plant officials knew of the contamination and knew for several years before residents knew that the drinking water was contaminated with radioactive materials. Residents were being contaminated with several hundred pounds of material per month. Radioactive materials have also been transported to the Calvert City incinerator for disposal.

She provided further information on the Paduka, KY site. A major concern is the contamination the soil by PCBs. Dioxin and plutonium contamination of employees working at the site and residents are other concerns. They did not know they were dealing with plutonium.

She also noted that environmental justice fundamentally means human rights.

Patsy Thweatt -- Calvert City. In 1937, the Kentucky dam was built in the area by the TVA to prevent flooding. Low electricity rates drew many business to the area. The most obvious impact of these facilities was the odor in the community, which prevented residents from being able to enjoy being outdoors. Also noticeable was that the cars driven by employees at the plant had peeling paint and strong odors. Windows on houses had to be cleaned with razor blades to scrape the film off. Health effects such as cancer, birth defects, and miscarriages became prevalent among residents.

She herself has cancer. Like many residents, she has problems with insurance and paying for medication and hospitalization. She has kept track of all the names of about 475 people in her county who have developed cancer. She asked EPA to help these people and the community.

Terri Swarengen - Waste Treatment Incinerator: Ms. Swarengen commented that the previous situations are the reality of what is happening in the communities, not what the risk assessments show. She added that because some businesses are giving money to towns and even doctors, all the cancer incidents are not being reported and therefore, accurate information is not available. This contributes to mistrust of government agencies. She added that gathering clinical evidence is extremely important.

Ms. Swarengen also suggested the funds should be given directly to the communities, because the citizens know the most appropriate way of using it.

She then discussed a hazardous waste incinerator in one community. It was placed in the community for political reasons, in the middle of an impoverished minority community. She commented

that siting policy -- having a buffer system between facilities and people -- is extremely important because this is the cause of the problems. This incinerator is located right next to an elementary school.

Margaret Williams -- Escambia Wood Treatment Site: Ms. Williams began with a background on the Escambia site and the community. She noted that when the area around the site was first developed, it was one of the few places where people of color could purchase lots. The residents initially did not associate their health problems with the plant. In 1991, EPA conducted an emergency cleanup due to ground-water contamination. The soil removal that was done caused contaminants to migrate and residents began experiencing respiratory and skin problems. EPA did not stop digging, despite residents protests.

The citizens then organized and contacted various government officials for help. However, the Regional EPA office denied that a problem existed. Ms. Williams then met with the EPA Assistant Administrator, who sent the Superfund ombudsman to the site. The ombudsman did find some problems with the Region's activities. She recommended that personnel must be familiar with how the contamination if going to affect the people so they can be protected.

The citizens next asked ATSDR to come to the community. After an initial assessment, they offered to send a person to teach the residents about living next to a Superfund site. This actually caused more concern among residents because they were being told to live with the contamination rather than getting help for their health problems. Local doctors were also trained on how to deal with occupational illnesses. ATSDR then offered to do a health study, but would not provide a protocol for the study at first. When it was received, the residents sent copies of the protocol to various experts for comments. The experts responded that the protocol would not work because it was designed to be inconclusive. ATSDR eventually came up with a health assessment that concluded that because sufficient data were not available, the contaminant did not pose a threat. The assessment recommended fencing and signs around the site.

The citizens then requested off-site testing to determine whether the contamination had migrated, but were told that they would have to pay for the testing themselves. The testing was much too expensive for the residents to afford. Finally, some additional sampling was conducted. The citizens requested that the sampling and data collection be supervised by their technical advisor because they did not trust the Region to conduct the tests and analyses. The testing results confirmed that contaminants did exist off sites at levels which exceed EPA's safe level. In 1995, EPA then considered the alternatives for response, of which permanent relocation was the cheapest alternative. At this time, Ms. Williams was told that the three criteria for permanent relocation were health threat, cost-effectiveness, and public welfare, and that meeting one of these criteria would allow consideration of relocation. The residents knew that the first two criteria were met, but the welfare criteria was unclear and therefore, they believed permanent relocation was warranted. In April 1996, the residents were told that the Agency would agree to relocate sixty-six of the homes. However, the residents expressed the desire to stay together and all be moved and refused this offer. In August, the Agency added thirty-five homes, and in October, the Agency committed to relocate all 358 families. Through her experience, she has learned that relocation is not an easy process.

EPA has contracted with the Army Corps of Engineers to conduct the relocation. Currently eighteen homes have been approved and nine of these families have received offer letters. She hopes that everyone can be moved in a satisfactory manner without hardship. She noted that several organizations have been working with the residents, including the Civil Rights Organizing Committee and other civil

rights organizations. The community has received some help through sharing their concerns with people in the decision-making process.

She continued that stricter standards are needed to prevent polluters from contaminating resources. People lose concern for their property when it is destroyed by pollution and is not worth investing in or they cannot get assistance for investing in it. It is a criminal act to destroy property and expose people to poisons. Behavior problems in children are another major concern, especially with the fact that many schools are placed on or near sites. She encouraged an overall humanistic, rather than a scientific approach to regulating pollution.

Ms. Whitehead asked whether Ms. Williams's organization has asked EPA to withdraw the right of the state to manage clean air, clean water, and hazardous waste laws. Ms. Williams responded that the group has signed on with another organization that is pursuing this issue. She also clarified that the site is now abandoned and the company has declared bankruptcy.

Large Group Discussion

Ms. Skelton Roberts opened the group discussion by reviewing the recommendations that have been expressed during the meeting to this point:

- EPA should conduct training for the community and their staff;
- The burden of proof needs to be shifted from the residents to industry;
- Community should select the testers;
- More protection is needed for rural communities; and
- Cancer rates need to be considered in the decision to relocate.

She then asked participants to offer specific suggestions on how EPA would go about making a decision on whether to relocate. One participant suggested that clinical evidence of illness and presence of toxic chemicals together should be a reason for taking action. The trigger for relocation should be a vote by the affected community after they have been presented with the information -- the community should decide on the appropriate remedy. The people, when educated about the risks, should be able to make their own determination. Ms. Frey asked what the Agency can do when the community is not in agreement about the appropriate remedy and whether the community should be split up. One participant responded that in cases where some residents are moved and some remain, an important issue arises for access of outside people and services to the remaining community.

Another problem is that for the residents that remain, the property values are sharply decreased and residents gradually leave. The lives of the remaining residents may become even worse because the community gradually dissolves.

Dr. Smoger elaborated on some of the problems experienced by both residents who relocated and those that stayed behind. These include drawn-out process, uncertainty, and antagonism among residents due to property values. He suggested bringing appraisers from outside the community so that they are perceived as a more objective assessment. Counseling is also needed with regards to dislocating communities -- the biggest struggle in relocation is the distance from the community and loss of support mechanisms of the community. The stigma of living near contamination, especially for children, also causes difficulty in adjusting to a new location.

Ms. Tucker added that financial counseling should also be offered to residents. In addition, she suggested that an EPA employee should live in the area to facilitate quicker responses.

Mr. Wadworth commented that education for residents, including information about what relocation is like, is extremely important. In rural areas, it is often possible to relocate an entire community. He believed that compensation should be based on the value of replacement housing. For renters, he suggested offering housing vouchers or subsidies for locations in the new community or an existing community -- enable them financially to rent. Ms. Seppi commented that in her experience giving assistance to renters, many have actually used the funds for a down payment on a house in a step towards ownership.

Ms. Wells briefly explained the existing Federal law and regulations covering relocation, including the Uniform Relocation Act and accompanying regulations issued by the Department of Transportation, set forth fair guidelines for relocation assistance. For example, the regulations specify that the presence of contamination will not be factored into property value assessments. Ms. Seppi added that a relocation assistance payment is also provided to residents, which in part compensates for the fact that they lived in an economically disadvantaged area, if that is the case.

Ms. Williams noted that risk assessments should not be based solely on cancers, but on autoimmune diseases, birth defects, and multi-generational diseases. A second issue deals with land use in cases where the community has no power or input in zoning decisions after a site is cleaned up, but the surrounding community is still affected. Ms. Frey clarified that non-cancer risks are considered in the risk assessment.

One participant commented that the only way to relocate residents is to relocate the entire community. If some residents remain, the risks are increased to them and to the other members of the community by using schools, health services, and other community resources. Irrespective of residents' desires, the entire community should be moved to avoid continuing economic and political problems. The residents should be advised that this is in their best interest.

Ms. Thweatt commented that, in many affected communities, most families have a least one member who is employed at the facility. These residents value the economic value of facilities and their personal benefits from employment and, therefore, have a different perspective on the contamination.

Another participant noted that for some severe sites, no alternative may exist except to relocate the entire community, making it mandatory, if necessary. It is necessary to distinguish decisions involving contamination from an active facility from those involving contamination from ground water or other sources that will continue after a plant shuts down. In the first type of situation, a choice must be made between moving the plant or the community, while in the second case, the choice is temporary or permanent relocation to end the exposure to contamination.

Mr. Bradshaw noted that if relocation is not an option, other services such as a health clinic and economic benefits should be implemented. Medical staff should be available who specialize in chemically and radioactively induced diseases.

Another participant suggested that if relocation is not chosen, a "good neighbor agreement" should be developed by the community with the company to ensure local control over issues on which the community needs to provide input.

Ms. Tucker emphasized that providing sufficient funds for replacement property is very important to ensure that relocation does not place residents in further debt. A criterion should be that in situations where the community desires relocation, permanent rather than temporary action should be conducted because the temporary relocations are very expensive. Another participant commented that it is the community's decision to choose temporary or permanent relocation. It was also noted that the relocation should not adversely impact the political, educational, and social situation of the community. In addition, if the community wants to stay together, options should be presented so that this is possible.

Ms. Swearingen noted that the criteria for TAGs should be expanded to allow for new studies to be conducted to show further evidence and include assistance from the scientific community. Ms. Wells responded that communities should use the TAG assistance more efficiently, such as taking further advantage of technical experts with the TAG grants on the issue of sampling. If the community can show that proper samples were not taken, then EPA or the PRP should pay for additional sampling to be done.

Ms. Rains added that TAGs are not often used to gain assistance of environmental health professionals. Region 4 is proposing that better information needs to be given to communities regarding TAGs, including what expertise should be solicited.

Mr. Wilson commented that if communities were more involved in the initial studies done at the site, TAG grants would not be needed. If the communities could choose the first investigators, they would be more satisfied that the results are accurate. He added that the relocation process should also include health monitoring, such as baseline health assessments of the community members, periodic monitoring for diseases, and family counseling on pregnancy and birth defects.

Mr. Bradshaw disagreed with the \$50,000 ceiling on TAG grants to communities, while federal facility sites are given millions to clean-up their sites. Ms. Wells clarified that waivers for additional funds have been given for sites that are unusually large or complex.

Ms. Workman explained that her community did conduct its own study, but the Agency questioned the study because it was not conducted by an epidemiologist. She noted that the Fayette County site has never been designated as a NPL site.

Mr. Branson commented that the problem is not lack of understanding by the communities, but disagreement with approaches. He noted that people not believing government or believing in the process rather than a lack of education, is the major problem. A reason for this is that every step of the process is long and drawn-out and no conclusions are reached. Designation as an NPL site is another critical issue. In West Virginia, most communities are rural communities that have great difficulty achieving recognition for the contamination because of the small population base. Relocation cannot be considered until sites are listed on the NPL.

Participants expressed frustration that action by the EPA requires citizens to repeatedly request and pressure the Agency, even when EPA is aware of the evidence that contamination exists. The responsibility is on the citizen to raise awareness about the site.

Ms. Frey responded that, in general, states supply information on sites to be listed on the NPL. The only other option for citizens is to go through the EPA region or Headquarters. Ms. Singer added that a different situation exists for active RCRA-regulated facilities that requires consultation with other EPA offices.

Mr. Branson commented that an understanding of local policies in rural areas is needed. He suggested direct citizen access to the Superfund program without going through the state, as well as an ombudsman process by which people can identify and gain direct access to decision makers.

Mr. Branson commented that the EPA system is not working in the eyes of the citizens, as evidenced in the wide mistrust of EPA in affected communities and the view that the Agency is part of the problem. He expressed the feelings of powerlessness in Appalachia. Faith needs to be restored in the system in order to get communities involved.

Ms. Tucker commented that lack of wealth and lack of unity are major obstacles for recognition in the Appalachian region. She recommended technical assistance for communities with sites that are not on the NPL. She also commented that a major disconnect between EPA Regional offices and EPA Headquarters exists. She believes that the regional offices are under much pressure from conservative states. Another participant added that the Appalachian states are in different EPA Regions, although the geographic area is similar culturally and in environmental situations. Ms. Wells agreed that this is part of the problem.

In addition, Mr. Branson recommended that EPA pursue criminal prosecution for polluters. The lack of prosecution is another reason citizens do not believe in the system.

Ms. Skelton- Roberts reviewed key recommendations from the discussion:

- Provide assistance for Appalachian communities to receive NPL recognition;
- Conduct community training for EPA staff;
- Conduct training for communities on available assistance;
- Shift burden of proof from residents to the responsible party;
- Involve community in selecting who does the testing;
- Protect rural and small communities;
- Consider cancer morbidity or incident rate in statistical data;
- Establish health clinics in communities and provide ongoing health monitoring and assistance;
- Increase criminal prosecution of polluters;
- Find a mechanism for allowing direct access to EPA headquarters when the state or regional office is not effectively addressing a community's concerns;
- If citizens are relocated, costs should cover the replacement value of housing (including interest rate differences);
- Provide stress and financial counseling to residents being relocated;
- Relocate whole communities, or inform remaining residents as to potential risks and problems;
- Have an EPA staff member move into the affected community;
- Factor common-sense into evaluations in addition to scientific data;
- Increase the scope of the TAG grants (more funding, greater access, more information on potential uses);
- Begin Community involvement in decision-making up-front;
- Implement early detection programs to discover hazards early;
- Conduct ongoing medical monitoring;
- Incorporate a human rights approach;
- Allocate funds to non-NPL sites for initial involvement and information for communities; and
- Consolidate Appalachian area into one EPA region.

Downsides to Relocation

- **Conflict among residents;**
- **Uncertainty;**
- **Stress from relocation and loss of community;**
- **Emotional factors; and**
- **Stigma associated with contamination.**

Triggers

- **Proximity to schools;**
- **Health effects other than cancer;**
- **Inconclusive health assessment;**
- **Children's health as sensitive population (diseases and learning disabilities);**
- **Reproductive disorders and birth defects;**
- **Fish and wildlife kills;**
- **Communities in floodplains;**
- **Age-specific data;**
- **Cumulative effects and multiple sources; and**
- **Diseases caused by exposure to toxic chemicals: A.L.L. and soft tissue sarcoma.**

Next Steps

Ms. Wells commented that she is most troubled when people believe that things cannot change. Things do change when people continue to talk and to work. She noted that efforts need to continue to change the EPA culture to more highly value the expertise of the communities.

For next steps, the Agency is planning to prepare a draft policy in the near future. A gathering of diverse stakeholders is planned to provide input on the draft policy.

Ms. Tucker thanked the headquarters staff who are working on this issue, but stressed that more effort is still needed. She suggested a conference call be held for communities in Region 4. She also noted that an Enforcement Roundtable will be held in December and encouraged all Region 4 communities to attend. In addition, she recommended that Region 5 communities request an enforcement roundtable in that Region.

Ms. Yuhas closed the meeting by thanking the participants for their attendance and for sharing their stories.

Superfund Relocation Discussion with Native Peoples and Tribal Representatives
October 21-22, 1997
Seattle, Washington

Introduction and Welcomes

Terry Williams opened the meeting with a prayer and welcomed participants. Chris Fields, Section Chief of Region 10's Superfund Removal program, also welcomed participants and stated that he looked forward to a relocation policy that takes into account the perspectives of all stakeholders.

Barbara Yuhas of the International City/County Management Association (ICMA) announced that ICMA is working with the Environmental Protection Agency's (EPA's) Office of Emergency and Remedial Response (OERR) Community Involvement and Outreach Center in coordinating a series of discussions with a broad range of stakeholder groups (industry, state and local officials, public health organizations, environmental groups, tribal representatives, and environmental justice organizations) on the issue of Superfund relocations. ICMA is a professional and educational association of appointed chief administrators and assistant administrators serving cities, counties, regional councils, and other forms of local government.

Suzanne Wells, Director of the Community Involvement and Outreach Center for Superfund, thanked the individuals who participated on the planning committee for this meeting. She also commented that the briefing on tribal issues that was held in August was very informative and served to provide a foundation for more effective dialogue at this forum. She then outlined the history of the Superfund Relocation issue. In 1995, a subcommittee of the National Environmental Justice Advisory Committee (NEJAC) requested that EPA look into developing a national policy for relocating residents affected by Superfund sites. Elliott Laws, then Assistant Administrator for OSWER, followed up by issuing a memorandum in May of 1995 announcing the Agency's intention to develop such a policy. A Relocation Roundtable was held in May 1996 to provide an opportunity for citizen and community input regarding relocation issues and concerns. The current series of forums on relocation provides additional opportunities for stakeholders to offer information and raise issues for consideration in EPA's development of the relocation policy and corresponding guidance.

The participants then introduced themselves and stated their expectations for the meeting. These expectations included providing positive input, listening, learning, offering different perspectives, and understanding the impact of contamination on spirituality and a general way of life.

Overview of Pre-meeting Briefing on Tribal Issues

Robert Holden and Gilbert Sanchez presented the highlights of the briefing on tribal issues that was held in Washington, D.C. in August, 1997. Mr. Holden reported that several tribal representatives spoke to a group of EPA and other government employees at the briefing. He stated that the participants discussed the relationship of cultures with intense and heartfelt dialogue. One important topic covered was the relationship of the Federal government to the tribes and the traditional tribal governments. Through treaties with the U.S. government, many tribes were forced to leave their homelands and sacred sites for reservations. Many of the agreements contained in such treaties were never met by the U.S., which is still a great concern to native peoples. Today, some tribes operate through dual governments of both traditional and non-traditional systems, leading to troubles over who is representing whom and what they represent.

Mr. Holden added that he believes the U.S. and tribal governments are working toward the same goals of self-sufficiency and independence for the tribes and the clean up of contamination on tribal land.

Mr. Sanchez provided further insight into the discussion. He noted that tribal representatives emphasized the historical perspective of the native people, including treaties and movements around the country. In addition, representatives introduced a holistic viewpoint of the problem of relocation and its meaning to native peoples. Participants also discussed various types of rights to land and natural resources. He concluded by saying that the briefing led to a better understanding of important issues such as the involvement of EPA and other Federal agencies, developing positive sincere interaction, the roles and responsibilities of governments and tribes, and ensuring that further pollution is not concentrated on minority groups with less power.

Sharing Experiences with Superfund Clean-up and Relocation

Dave Harrison reviewed maps illustrating native populations and pollution in Alaska. Mr. Harrison explained that the state receives very few resources. He indicated that there have not been many Superfund relocations in his region. He explained that he does not consider the United States or Alaskan governments as "his governments."

Mr. Harrison then asked for input from participants in the August 28th "Native American Cultural Awareness Meeting." He hoped to get a sense of what participants learned about the Native American culture from this meeting. Ms. Wells indicated that she gained a deeper understanding of tribal rules and the relationships between governing bodies. Larson King explained the importance, especially for the U.S. EPA, of knowing about tribes. He suggested that the EPA and tribal groups work together to educate each other.

Mary Skelton Roberts learned that there is a difference between what the word "relocation" signifies to EPA and to tribal groups. Mr. Williams agreed that the term is "loaded" for native peoples. He continued to point to how many sites are on reservations. He argued that the United States government has allowed this to happen. Mr. King explained that "natural resources" affect Native Americans lives in a different way than non-Native Americans. He explained that natural resources are "what we are and what we do." Mr. Harrison described the pollution affecting Alaska's people and environment. George Edwardson explained that Alaska is affected by various toxics including PCBs. He indicated that the United States government often ignores environmental protection legislation when natural resource development is the goal.

Levon Benally spoke about the Navajo's experience with Superfund relocation. He indicated that the process of getting sites listed on the NPL is very difficult and time-consuming. Therefore, the Navajo people are using their own money to clean up the United Nuclear site. The funds are inadequate, however, to clean up the isolated mine sight which impacts the soil, air, and water in the surrounding region. Mr. Benally explained that the United Nuclear Corporation Site, located on private lands, has tribal lands on its perimeter. Another site with tribal land is located about a half mile from United Nuclear, but is not on the NPL list. Mr. Benally has recently learned that the United Nuclear Corporation is filing for bankruptcy. In addition, he indicated frustration that the Navajo people live in this contaminated area, but the decision-makers do not.

Ted Garcia reviewed his complaints about the Superfund process. He stated that the Hazard Ranking System is biased against rural areas and does not take into account the way of life of his people.

He explained that EPA and tribes have different priorities when dealing with potential hazardous waste sites. He also mentioned his concern about jurisdiction, especially in "checkerboard areas." He indicated that Indian tribes have been an afterthought when finally approached for input.

Mr. Edwardson stated that the meeting participants were "color-coding" the issues. He indicated that the focus should be on a common goal. Teresa Juarez explained that EPA's guidelines for Superfund need to be revisited because they do not take into consideration all the factors and issues like "rural" versus "urban." She stated that it is important to remember that the Agency is dealing with people whose substance and life come from the land. Don Williams explained that there are certain restrictions within Superfund of what can and cannot be done (i.e., the corporation must be approached first).

Ms. Wells explained that Mr. Garcia and Felicia Wright are looking at the Hazard Ranking System (HRS) to see if it can be made more tribe-friendly. Felicia described EPA's larger effort to look at expanding tribal and state roles when it comes to the HRS. Specifically, the mathematical model is used to determine the relative ranking of contaminated sites for listing on the National Priorities List based on standard exposure assumptions. The HRS may have a natural bias against sites on tribal land because it does not consider the unique characteristics of tribal culture that affect tribal exposure to contaminant or tribal priorities. In addition, sites on tribal lands are competing for listing with the worst types of industrial sites nationally. Ms. Wright stressed the need to consider more subjective factors (i.e, spiritual, cultural) when generating HRS scoring factors. She indicated that there are more meetings with tribal representatives planned to examine and make recommendations for the HRS scoring process, and that EPA management is supportive of this issue.

Mr. Sanchez indicated that the negative impacts of pollution and contamination do not just affect one region or one group of people; they impact everyone. This message was a common theme of the day as meeting participants stressed that "what impacts me will impact you eventually." Ms. Wells agreed with Mr. Sanchez, but maintained that practical solutions must be developed.

Tuesday, November 21

Introduction and Welcomes

Gilbert Sanchez began the second day of the meeting with an opening prayer, followed by a welcome by Ms. Yuhas. Ms. Wells then summarized the key points from the first day: 1) the environment does not know any boundaries (contamination travels); 2) the health and well-being of native and tribal peoples is directly tied to the land; and 3) the tribes and EPA are working toward the same goals of restoring the environmental integrity of the land. She reviewed the objectives of the meeting: 1) to share the experiences of native and tribal people who have dealt with either temporary or permanent Superfund-related relocation; 2) to gain insight and hear the different perspectives that exist regarding temporary and permanent relocation of native and tribal people located near or on Superfund sites; and 3) to develop an understanding of how to take native and tribal cultural issue into consideration in EPA Superfund relocation decisions.

Ms. Wells presented some background information on Superfund relocations. The use of permanent relocations at Superfund sites has been limited, with only 16 cases in the history of the program. She noted that the goal of the Superfund program is to clean up sites, therefore permanent relocations are often not the preferred option. Relocations are conducted within the following context: 1) to protect human health and the environment; and 2) to make the land available for productive use. Generally, permanent relocations have been authorized in the past for two reasons: engineering and/or human health. She emphasized that the Agency takes the decision to relocate residents seriously, understanding that the decisions involved and the moving process are very stressful events for residents. In addition, the Superfund law contains specific provisions related to response actions associated with tribes. Section 126 of the law states that the affected tribal government must concur with any decision to permanently relocate tribal members away from a contaminated site and that any lands acquired for relocation will be retained in trust for the benefit of the tribe.

She explained that the schedule for the development of this policy includes distributing summaries of all of the forums to participants, completing a draft policy, and then bringing a group of stakeholder representatives together for review and comment on the draft.

Mr. Harrison commented that information on contaminated sites has been difficult to obtain in Alaska due to the association of many of these sites with the Defense Department (DoD). Several other tribal members concurred and stressed the importance of interaction among tribes in the creation of this policy and a tribal policy currently being developed by DoD. Ms. Wright responded that a bibliography entitled *Publications on Mining Waste Management in Indian Country* is available through the RCRA docket (phone (703) 603-9230). Other EPA resources for technical assistance to tribes for sharing information are also available. Steve Etsitty of EPA's Office of Solid Waste is the contact for this program and can be reached at (703) 305-3194.

Agenda and Ground Rules - Mary Skelton Roberts, Program for Community Problem Solving

Mary Skelton Roberts, the discussion facilitator, reviewed the agenda and ground rules for discussion.

Case Study Presentations

Impacts of Superfund Sites on the Navajo Nation - Levon Benally

See attached presentation.

Questions and Comments to Mr. Benally:

- Mr. Benally clarified that the land exchange between the Navajo Nation and the responsible parties served to release the Navajos from liability for the contaminated land.
- Ms. Singer asked for further information on the "home site release form." Mr. Benally responded that the tribe has issued home sites to its members for 99 years. However, once the contamination was identified, sites were not longer issued in these areas.
- Mr. Garcia inquired about the financial roles of the two EPA Regions involved (Regions 9 and 6). Mr. Benally responded that an agreement was reached with EPA for the tribe to deal with one lead region, Region 9, to simplify administrative matters. Region 6 does provide funds for the Nation to participate in site clean-up in Region 6.
- Mr. King asked what impact the condemnation and relocation had on the families. Mr. Benally responded that it is essential for the Navajo people to remain with the four mountains on the Navajo land; therefore new homes for the affected residents had to be within this boundary.
- Mr. Edwardson asked whether the federal government returns the land of the contaminated site to the tribe. Mr. Benally responded that once the site is cleaned up, the tribe does receive the land in some cases.
- Ms. Bulka inquired as to differences in the situations of Anglo and Navajo families in the area. Mr. Benally answered that the Anglo family was stabilized and added that there were differences among the Navajo families, depending on the chapter (districts or discrete areas consisting of tribal members) in which they lived.
- Mr. Harrison commented that Native peoples see relocation as "disappearing." It is necessary for these people to stay within the boundaries of the four mountains in order to protect their country.
- Ms. Wells asked how the Navajo Superfund office and EPA have worked together in making decisions. Mr. Benally responded that the office has begun to play a greater role in working with Region 6 and reviews any documents related to Navajo land.
- Mr. Garcia requested clarification on whether tribes are liable under CERCLA. Ms. Kraus answered that it is her understanding that tribes are not considered persons under the law and are therefore not liable as an owner/operator, but she will investigate the issue further. Mr. Benally added that 60% of the mines in the Navajo Nation are operated by Navajo miners.

Johanna Matanich - Navajo Nation Relocation

Johanna Matanich of DNA Legal services discussed the situation of the six relocated families represented by her organization. These families lived near the Prewitt refinery site on the Navajo Reservation and were subjected to soil and air contamination from lead, benzene, and hydrocarbons. The effects were enhanced through consumption of livestock raised in the area. However, no health effects have been directly linked to the contamination at the site.

Mr. Sanchez asked whether ongoing health studies were included in the relocation negotiations, as some effects do not appear for many years. Ms. Matanich clarified that blood testing was done as a part of the initial risk assessment, which found that no significant risk existed. EPA conducted this assessment as

part of an agreement to receive funds from the responsible party. Mr. Benally added that the reason for the families' relocation was partly for health considerations, but primarily because of the land-exchange agreement between the company and the Navajo Nation.

Mr. Benally also noted that one Anglo family still lives near the site. The responsible party installed a water treatment system in this family's house, and they did not want to move. However, the Navajo families were not comfortable with these water treatment systems and wished to be relocated. According to Ms. Matanich, the older family members had originally move to the site to work at the Prewitt refinery; therefore, they fell less of a unique connection to this land and were glad to have the opportunity to move back to the area where their family had traditionally lived. Ms. Juarez asked how the younger children who were born on the site felt about the land. Ms. Matanich responded that she did not know their views.

Ms. Matanich then reviewed the time-line of the relocation. In 1990, a land exchange agreement between the responsible parties and the Navajo nation was established and the residents were informed they would have to move. The offer from the company for funding of the relocation was approved by the Navajo Nation in 1992. In 1996 and 1997, the families were relocated to double-wide mobile homes 20-40 miles away from their original homes. She commented that the funding offered by the responsible parties was not adequate to cover the costs of relocation, particularly in rural areas where many public services must be installed for the new homes. She also emphasized that stress experienced by the residents due to the relocation exacerbated the existing stress of exposure to contamination.

She offered several suggestions for improving the relocation process, including: 1) relocate residents more quickly; 2) establish more specific deadlines for relocation activities; and 3) develop comprehensive plans for using funds. Mr. Sanchez added that relocation plans must consider the costs of building infrastructure in rural areas with minimal existing public services. She concluded by noting that the relocated families are now settling into their new homes, however problems still exist with the remaining residents feeling left out and people harboring resentment towards the relocated residents in their new communities.

Ms. Juarez commented that the Agency does not ensure that all the necessary participants are involved in discussions dealing with environmental problems and that there is never enough money to fund travel for these individuals. Mr. Harrison added that EPA has not provided all the information and documents regarding relocation to tribal and native people. In response, Rick Urbom explained that the major law for relocation is the Uniform Relocation Assistance and Real Property Acquisition Act (URA). He stated that the URA came into law in 1971 and was amended in 1987. The U.S. Department of Transportation is the lead agency for implementing the provisions of the URA. In addition, each state has its own relocation laws. Since the implementation of the URA, thousands of permanent relocations have been successfully completed, providing a good basis of experience for relocation decisions.

Mr. Sanchez commented that tribes should seek out funding to meet with other agencies that affect tribes through relocation. He also noted that Federal agencies should consult more with tribes and concentrate their work on tribal organizations that truly represent the interest of tribal members.

Technical Assistance Grants

In response to requests from participants, EPA staff provided more detailed discussion on technical assistance grants available to communities. Ms. Wells distributed a pamphlet, "Superfund

Today," which includes information about technical assistance grants. She indicated that EPA staff believe that it is important to provide money for technical assistance to communities near NPL sites. Every regional office has a technical assistance grant coordinator. The grants, usually fifty-thousand dollars per site over the life of the project, should fund the hiring of an independent expert who provides technical advice to the community. Two-hundred grants have been awarded in the history of Superfund, with ten of those being for more than fifty-thousand dollars at large, complex sites. She indicated that Haskell University has recently been awarded seventy-five thousand dollars to be part of the Hazardous Substance Research Consortium, a network of universities worldwide.

The meeting participants discussed the issue of "incorporated." Some participants, including Mr. Harrison and Estelle Bulka of EPA, indicated that they disapproved of the requirement of incorporation to be considered for the technical assistance grant. Ms. Wells explained that the requirement exists to facilitate the grant distribution process. She explained that EPA uses the following criteria when awarding grants: 1) history of commitment and work in the community; 2) commitment to informing the public; and 3) infrastructure in place to help manage the grant. A second type of grant, Technical Outreach Support Centers (TOSCs) offer training or the review of technical documents for sites not listed on the NPL or sites on the NPL that will not be grant applicants. Further, Ms. Wells pointed out that grant applications are reviewed at the regional level; they do not receive congressional review, a concern of some meeting participants.

Video, Superfund Relocation Roundtable, Pensacola, Florida

The meeting participants watched a video of portions of the May 1996 Superfund Relocation Roundtable in Pensacola, Florida. Concerned citizens and environmental organization and community group members provided input on their relocation experiences. Most commenters requested greater EPA support and involvement for relocation. Ms. Skelton Roberts requested input about the video from the meeting participants. She asked the group to think about the following questions regarding relocation:

- How would the criteria for relocation be different?
- How would EPA handle clean-up on tribal lands?
- What cultural considerations would be important for EPA to recognize?

After viewing the video clips, Ms. Skelton Roberts asked participants to discuss the similarities and differences between the views of the residents in the video (from a primarily minority area in Pensacola, Florida) and those of tribal and native peoples. Participants noted a number of unique points from tribes' perspectives, including:

- In Alaska, people derive sustenance and economic benefit from the land on which they live;
- For tribes, relocation is often not an option;
- A difference exists between deeded property and trust property;
- Some tribal people many not want to be relocated; therefore a relocation policy must be flexible and site-specific;
- The tribe should make the decision whether it wants to be relocated;
- Special conditions in Alaska, such as deep permafrost, allow for different approaches to removing contamination without having to permanently relocate residents; and
- Ground-water contamination is one circumstance with an increased likelihood of the tribal members wanting to relocate, if their artifacts are also moved.

The participants then discussed ways in which EPA can work with tribes. Mr. Sanchez suggested that when the Agency identifies an area of contamination, it not simply use the cheapest method to respond to the problem. Instead, EPA should explore other methods of clean up that may be better for tribal lands. Mr. Harrison commented that the Agency must be held accountable for accomplishing its mandate to protect human health and the environment.

When asked how relocations might be conducted on tribal land, Mr. Edwardson emphasized that the Agency must find the source of contamination and remove it to prevent migration. If necessary, residents should be temporarily relocated while clean-up is being conducted. He added that relocation decisions must consider how much contamination human health can tolerate; how residents can be educated, housed, and fed; and basic infrastructure needs. He also warned against conducting clean-up actions that may actually spread contamination further, such as through dust. Mr. Urbom noted that the law requires a minimum of 90 days written notice for permanent relocations.

Mr. Sanchez commented that jurisdictional issues also are a factor, such as with Indian and non-Indian members of a community considered for relocation. The relocation policy must also consider that each tribe is different. Mr. Holden added that determinations need to be made as to which tribes have jurisdiction. In addition, a plan for the individual community must be developed depending on the functions and infrastructure that exists in the area. Subsistence issues, such as livestock and marine food sources, should also be included, for some these are the only sources of food and income.

Mr. Urbom responded that the preparation of a relocation plan prior to any actual relocation is required by the regulations, including finding decent, safe, and sanitary housing for residents and the logistics of the relocation.

Several tribal representatives emphasized that a specific determination for the maximum length of temporary relocations cannot be made and that time frames and other plans must be made on a tribe-by-tribe basis. Mr. Sanchez noted that tribes are different than other minorities because if they leave the land, they fear that the government will take control of the land and they will not be able to return. Mr. Benally added that the land actually belongs to the tribes and their culture cannot be moved.

Ms. Singer commented that the responsibility lies with EPA to work with the tribes during clean-up efforts. Mr. King and Mr. Edwardson noted that once a contaminated site is identified, tribes need financial resources to verify the findings of the Agency and hire their own experts. Mr. Harrison added that some tribes do not trust government labs, but it is difficult to find individuals that can verify the work.

Mr. Sanchez suggested that in a temporary relocation, security and monitoring be provided on the land to ensure that the cultural artifacts are not disturbed.

Mr. King added that a primary concern in the remedy selection process is decontamination and conducting a health assessment. Mr. Harrison noted that compensation should be issues for long-term health care and ongoing health monitoring for effects of contamination.

Ms. Skelton Roberts then asked participants to list what should be included in the relocation policy. Participants responded with the following items:

- Provisions for funding to move residents back to their homes;
- Consideration for social needs of senior citizens; and
- Communication of accurate information.

What should not be included in the policy:

- Government dictating to tribal members; and
- State intervention or acceptance of relocation.

Ms. Yuhas inquired if community involvement in the relocation plan is required by law. Mr. Urbom responded that the implementing regulations requires input from the affected community in planning the relocation. Mr. Edwardson asked if this could be waived due to national security reasons. Ms. Wells answered that the Superfund law cannot be avoided for this reason.

Mr. Harrison requested that a meeting be held in Alaska related to relocation before the policy is final. Ms. Wells replied that Agency will always take comment on policies.

Ms. Skelton Roberts ended the meeting with a wrap-up and summary discussion. She reviewed the main policy issues as follows:

- Indigenous people are tied to the land culturally and spiritually;
- The infrastructure needs of the community must be considered;
- Health assessments should be conducted before a plan is developed;
- Relocation is a last resort or not an option and must guarantee that residents will return to their land;
- Address transitional aspects;
- When selecting a remedy, consider that a selected action cannot cause harm to another community;
- EPA needs to play a stronger role in holding PRPs responsible;
- Security and monitoring of land;
- Compensation for ongoing health effects;
- Relocation has to be a community or individual decision;
- The policy should be flexible;
- Qualified personnel can be indigenous people; and
- Funding is needed to verify EPA data.

Tribal representatives added that EPA must enforce tribal standards if they are the strictest standards, honor the trust commitment in trusted lands, and recognize that it has authority in some areas but not in others. Opportunities to partner with tribes also exist.

Clara Mickles of EPA's Tribal Office thanked representatives for sharing their experiences and announced that she will take these concerns back to her management.

Ms. Wells closed the meeting by reminded participants that the goal of the gathering is to understand tribal issues and concerns, and she felt that this understanding has been deepened by the discussions. The participants all share similar goals of protecting the environment and full disclosure of information. She also noted that the relocation policy will reflect tribal issues and concerns in a distinct section that considers three elements: 1) a unique connection to the land; 2) statutory provisions specific to tribes; and 3) site-specific approaches to tribal land.

Mr. Harrison and Mr. Sanchez also thanked all participants for their time and efforts.

