

***National Environmental Justice
Advisory Council Meeting***

July 27 - 29, 2010

***Wednesday,
July 28, 2010***

National Environmental Justice Advisory Council

July 28, 2010

NEJAC Committee Members Present:

Elizabeth Yeampierre, Chair
John Ridgway, Vice Chair

Chuck D. Barlow
Teri E. Blanton
Sue Briggum
Jolene M. Catron
Wynecta Fisher
Stephanie Hall
Jodena Henneke
Savonala 'Savi' Horne
Hilton Kelley
J. Langdon Marsh
Margaret J. May
Paul Mohai
Fr. Vien T. Nguyen
Edith Pestana
Shankar Prasad
Nia Robinson
Patricia Salkin
Nicholas Tart
Vernice Miller-Travis
Kimberly Wasserman

Charles Lee, Director, OEJ, ***ex officio***
Victoria Robinson, Designated Federal Officer, ***ex officio***

NEJAC Committee Members Absent:

Don Aragon
M. Kathryn Brown
Peter M. Captain, Sr.

National Environmental Justice Advisory Council

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M O R N I N G S E S S I O N

(9:09 a.m.)

Action Items from Day 1

by Elizabeth Yeampierre, NEJAC Chair

MS. YEAMPIERRE: From the first hour on the agenda, we are going to go over some of the action items that came out of yesterday's meeting and I know that Victoria has passed out this sheet, so you can go over it. We will start with the first one which is Plan EJ 2014.

Basically for those of you that are new, when we talk about action items it is recommendations with your input on how we are going to move forward on each of them. So, if you could just take a minute and look at it, I will start with this one.

Plan EJ 2014

by Elizabeth Yeampierre, NEJAC Chair

MS. YEAMPIERRE: So this one is due, EJ 2014, is due October 1st and the EPA is seeking advice on five cross agency focus areas and they want to know if those are the correct ones.

If you recall, yesterday there were a number of recommendations that were made, some people said this should be six, maybe seven, a million I do not know but people did have recommendations.

The other is water, some ways EPA can strengthen specific actions within the focus areas. I thought some good recommendations were made within that context as well and how should focus areas be prioritized?

Victoria, John and I met to talk about what some of the outputs, what the product might look like and we thought that one of the things that might be useful since so much time takes place between our meetings would be to conduct two public teleconference calls, one in late August and one in mid September and we were looking at letter of advice, approximately three to five pages.

So, I would like to hear what your thoughts are on this first action item.

MS. V. ROBINSON: Does anybody have any questions? Wynecta?

Questions and Answers

MS. FISHER: Hi, Wynecta Fisher formerly New Orleans Mayor's Office of Environmental Affairs. I still think that we need to have a sixth area that deals with climate change and —

MS. V. ROBINSON: Wynecta before we go on, we are not really discussing the content, we are discussing process right now of how and what to address and handle these action items so that we can be prepared to make sure we get out the kind of advice in a manner that the Agency can use and that is also going to be efficient and effective for you as members.

So, we are asking for this item that the Agency has asked for some advice. They would like to have a NEJAC response by basically the beginning of October and we understand that most people here, if not all, the members are very interested in participating in that conversation.

So, the only way to have the membership participate in this conversation is to have public teleconference calls rather than face to face meetings between now and our November meeting.

So what we are asking, is this a doable process? Do you think we can get this done in two public teleconference calls between now and October to be able to handle that?

MS. YEAMPIERRE: So basically, the recommendation that you are giving you give as part of these two conference calls if this is a process that you think works. But, obviously I agree with you on that one.

So the process, the idea of having two teleconference calls, a letter of advice, any questions, other recommendations that you think. Chuck, yes?

MR. BARLOW: Would we decide during the conference calls who is going to work on drafting the letter? I just hate for things like that automatically to fall on the Chair and Vice Chair, that doesn't seem -- but it seems to me like we could just decide during those calls if there is a subgroup that is just going to work on the first draft of the letter.

MS. YEAMPIERRE: Absolutely, and the letter would come out of that process.

MS. V. ROBINSON: I am sorry, I missed that you were asking about whether there would be determined a need for a worker or something?

MR. BARLOW: No, I was just saying that during those calls we could determine who is going to draft the letter for them for the entire group to review.

MS. YEAMPIERRE: Shankar?

MR. PRASAD: Is it feasible to consider the former months of group discussing, put some ideas on the table for discussion, those who are interested, and have a pre-conference call.

So maybe that small group, so that it does not become like an extra discussion again to start all over. Instead, there will be some concrete ideas and whoever wants to participate they can participate, but it does not have to be a public conference call if it is not according.

So, in essence I am suggesting a lot of informal work groups who are interested to approach that and then bring up some ideas at the first conference call and then we can decide whether to move ahead with those things or some new ideas come, then people can.

MS. YEAMPIERRE: I suppose that is possible, I just want the counselor to consider that we have two other action items that are going to take time from the members and that are going to require some meetings.

So, when we thought about this particular deliberative process we were trying to figure out how we can sort of streamline it and get everyone at the table and get everybody's thinking, but what are people's thoughts on Shankar's recommendation? Sue?

MS. BRIGGUM: If you could get a couple of volunteers, two or three, I think that that would be a good one because we had, I thought, a very good conversation.

If people would just reflect on what was said you could kind of put down the options people talk about, what you thought you heard and then it would be easy to kind of refresh everyone's recollection and just jump into the conversation once you have gotten the call if people were willing to do that.

MS. YEAMPIERRE: Thank you. Stephanie?

MS. HALL: With respect to the work product that stems from that process, will there be opportunity to circulate that among the counsel for comment before it is actually submitted?

MS. YEAMPIERRE: Absolutely. Whenever any letter is drafted, it is circulated among all of the members for input.

MS. V. ROBINSON: Because the bottom line is that the NEJAC as a body is required to provide consensus advice, so you would be expected to review the draft and provide comments and we would incorporate them and then we would have the balloting to determine where you vote on it and that would be it.

MS. HALL: In that regard, looking at the timeline and being cognitive of the date within which they want the comments, are we giving ourselves enough time to get through that process of discussion and reflection on the work product? We may be, I have just raised the question for consideration.

MS. YEAMPIERRE: I think it is a very good question, I mean, we were trying to come up with a schedule that would make sense but if you have any ideas about how we might be able to facilitate it in a way that is more time sensitive, that is fine.

I think what Shankar and Sue just raised, I think is an interim measure that will make the process move a little quicker. Any thoughts? Okay, John?

MR. RIDGWAY: In terms of the bigger picture here given that this is a strategy for four years out and many things will happen over that time period. I am assuming we will have opportunities to observe how this is evolving and it will not be the last time we will have an opportunity to ask questions, get updates on this 2014 EJ

Plan.

But, I agree that we do not have much time so I am guessing that a three to five page letter is going to be somewhat cursory in how much detail it is going to get into. So, we may not get into the depth of every single item that EPA is proposing here because of that time constraint.

MS. V. ROBINSON: So, the game plan we are looking at is forming a small work group, subgroup, of the counsel and it needs to be less than 12 that can work together to kind of draft an outline for the letter so that we have something in hand at the very first public teleconference call.

So what I would like, if we are all in agreement on that, I would like to have people come and indicate to me if you are interested in serving on that subgroup which means that in about a week we will probably have our first call so that we can meet the schedule, it is going to be kind of an aggressive schedule.

Oh and as Charles reminded me, we need to have also somebody to volunteer to share or lead that effort to work with me on that, okay?

MR. TARG: No, this is not me volunteering to lead that effort, but I do have a question (laughter).

MS. YEAMPIERRE: Nicholas?

MR. TARG: Thank you. Will we also have an opportunity to speak further with people at EPA to better understand how this document would fit into the overall architecture of EPA's environmental justice and other strategic planning work?

For example, how this document fits in with the Agency's strategic plan which is tied off of the budget which is also reported to OMB and then up to Congress.

MR. LEE: The answer to that is yes and that can happen when that small group gets together and there could be more background given as well as on the public teleconferences.

MS. YEAMPIERRE: Lang?

MR. MARSH: Thank you. I was wondering about the scope of the questions asked of us because there were a number of points made yesterday that might not have risen to the level of an additional priority area or focus area rather, but which might lead to changes in other parts of the document.

I am wondering, even though the questions are really on the focus areas if there is some opportunity to comment on some of the other areas as well, for example, the little paragraph on science.

MR. LEE: Absolutely. We are asking you to focus on the cross agency focus areas, but you should feel free to offer advice on any other part of the document or anything else that you want.

You are absolutely right Lang, there are relationships between those focus areas and other parts of the document.

MS. YEAMPIERRE: Thank you.

EPA Charge on Incorporating Environmental Justice into Permitting

MS. YEAMPIERRE: So, moving onto the second action item on the agenda, the EPA Charge on Incorporating Environmental Justice into Permitting.

I think that there was a lot of interest in this and we are hoping that we can put together a group that will be able to address the questions that have been raised by EPA which are, what types of EPA issued permits should EPA focus on now? What

types of permits are best suited for exploring and addressing cumulative impacts that are critical to the effective consideration of environmental justice.

We discussed the possibility of a deliberative process where we would conduct two teleconference calls, again, in late August and mid September and convene a working group by October 2010.

We also discussed the possibility of having two of these action items talked about in one conference call because we thought that perhaps it would be too many conference calls and it might be a little confusing or a little overwhelming for folks with a really busy schedule, so that is some of the things we talked about.

The output product would be a preliminary advice letter before counsel and a detailed report drafted by the working group.

If you look below, it has the key questions that we would want addressed, how much time is needed to provide in depth advice? The turn around time, I think, is 60 to 90 days which seems like a very short time for something that is this important and really speaks to the heart of environmental justice and what prospect is needed for a work group?

We have talked about the different background that folks have on the counsel and how that might be able to help advance this issue and listed are the background materials that I believe that Victoria will be providing you with. Any questions? Victoria?

Questions and Answers

MS. V. ROBINSON: Basically the process, after having conversations with several of you yesterday, there was indication that many of you felt that 60 to 90

days was not enough time to give the in depth kind of review that is seated for this type of charge.

However, the Agency also is looking to have some kind of initial input. So as a kind of compromise, one of the things that we were looking at is having a preliminary response to the questions through the whole counsel discussing in further detail the charge.

That report could outline additional questions that the counsel feels needs to be addressed by a work group in a further charge.

We also know that to have the right kind of work group does take time to put one together. We cannot really do it all in 15 days because we need to find the right perspectives.

Do we need to have like a financial perspective? Do we need to have local government perspectives? Those kinds of questions to be able to give the kind of fact finding research for this particular report.

So, we were looking at doing it in two phases giving the EPA enough time to create and convene a work group who would be able to take the preliminary response that the counsel works on and take it further and really drill down deeper.

That is what we were looking at, so we want to get some response from you.

It calls for two public teleconference calls, but we were looking at basically holding two public teleconference calls each with two topics, one on the NEJAC Action Plan and then also on the permitting charge, so that would be two discussion items for both calls.

MS. YEAMPIERRE: Cynthia?

MS. GILES: I just wanted to clarify on this charge, we had envisioned this as a two step process that the initial advice looking for here is what types of permits should we look at and then we would intend to come back to you and other folks about how should we do it.

But, what we were hoping to do is get ourselves started on which federal permits and which other types to focus on. So, we wanted to get started on doing this work and get some thoughts from you on which topics to take on.

So, I wouldn't feel that you need to by September or October have a fully flushed out idea of exactly how we should solve all the permitting issues that we talked about yesterday.

So, we will be having a lot more dialogue and I think more charges back to NEJAC on those topics.

MR. LEE: Yes, just to add to what Cynthia said, I mean, the other thing to think about is this in terms of a plan that there is the next NEJAC meeting coming up in November in Kansas City, so that is a forearm for more in depth discussion as well.

In building on what Victoria said, many of you indicated and I think in terms of past practice getting the right people together in terms of a work group to really dig into this question for the long term sense in terms of what Cynthia says is really important, so that would take time to establish.

So, that is a second overlay to this. So, the first task that this group can really take on right now is what types of permits and maybe you should think about it in the same way that you are thinking about the Plan EJ 2014 which is to get a little group to really do some thinking together and then come back to the folk group.

MS. YEAMPIERRE: Sue?

MS. BRIGGUM: I have the benefit of having worked on three of the four reports so I know them really well, even though it has been a while since I have read a couple of them.

It strikes me that in an odd way the how would be much easier to do than the which because we talked a lot in these reports about the how and the process and we talked about ways in which you would incorporate cumulative risks. It might give you a road map to our understanding of the authorities and the ways in which they could be maximized in terms of a good result.

But, they will not tell you which permit because that comes from a tier that starts with, it is supposed to be the federal permit and it is supposed to be permits not activities that have an adverse effect in terms of cumulative impact.

So, I think that is going to be a pretty serious conversation for us as we talk about the Agency's priorities, is it most important to focus where they already have the most authority?

Is that the largest failing that EPA has authority and is not exercising it well or is it the areas where they don't for whatever reason have authority but there are significant impacts. I think that would be a real useful conversation for us and it then informs the second discussion of how you do it.

But, I am a little worried about how we would go about doing which permits because before we started we would need to know what the federal permits were and then we need to reflect a moment on our past work and say, how would we incorporate some principles that are consistent into that selection process and that is

hard to do in two teleconferences I would think.

MS. YEAMPIERRE: Nicholas? You had your card up.

MR. TARG: I am sorry, that was leftover. But while I have the floor, Sue I was actually thinking that it might be just the opposite way around.

I think folks have given some pretty serious thought to what areas might be most profitable to explore in terms of at least at an initial level, use of implementation of a large number of backlog permits with good geographic diversity and it might be an interesting conversation but I am not sure that it is going to be necessarily — the other side what you thought was going to be easier might be a little bit more difficult, I would love to have that conversation.

MS. YEAMPIERRE: John?

MR. RIDGWAY: A couple of things. One is, well hearing the conversation yesterday I think it might be good to remind ourselves of the scope of permitting. It is fairly broad here and we need to remind ourselves that this is not just about new permits.

Most of the work that we see at the state level is on renewing permits or modifying permits and it is good to understand that this is going to address lots of the older facilities, not just newer kinds of places just for context.

Then also to the point where Nicholas and Sue have brought up, I presume that process wise that might be somewhere to what we discussed with the Plan EJ 2014 where depending on who is interested in working on this topic that there might be some discussions prior to that first conference call as the group gets set up to help address how we would look at what kinds of permits to address.

These initial questions because I think it is complicated and there is a lot of factors there and again we will probably just scratch the surface in this first initial effort to get something back within the 60 to 90 day time frame.

So, do think about volunteering there to help kind of cue that up so we can manage that process in a timely way.

MS. YEAMPIERRE: Thank you. Vernice?

MS. MILLER-TRAVIS: Thank you, Elizabeth. I wanted to just speak to the composition of the group, the kinds of folks. I think it is important to have people who actually write permits in this conversation.

There has been a huge disconnect between the environmental justice constituency and the folks at State Agencies and at EPA and other Federal Agencies who issued the permits. There is a wide gulf in that conversation and we have been flowing into it for at least a decade.

Everyone has assumptions about what other people do, but we have no idea what other people do. We have no idea what those challenges are and they have no idea what it is we are trying to get them to factor into that permit writing process.

So, I just want to speak strongly to having someone from a State Agency on the NEJAC school air toxics monitoring work group. Elvin Lang served on our work group who was working for the State of Alabama Environmental Agency and then retired during the course of the process but he had been a permit writer, so he could bring a lot to our conversation that none of the rest of us had a perspective about.

I also think it is important to have someone who represents EPA or who actually sits down and writes permits like someone in OAQPS who does the Title 5 Air

Permits which is a huge source of contention for EJ folks, but it would be great to have us all in a room together learning, sharing and then coming to some consensus about how to make that process better.

MR. RIDGWAY: Just a question on that process wise Victoria or others, is there any problem with having an EPA employee on a work group of this nature or will we bring that expertise in to answer the questions and guide the work group but they wouldn't actually be a member?

MS. V. ROBINSON: It would have to be the latter because this body is chartered as a body with non-federal members. However, that is one of the reasons we have asked and solicit people from the Agency to serve as resources to assist throughout the process, to answer those kinds of questions.

But, one other category I think we were talking about as well is somebody from local, from local government agencies those who are actually seeking those permits or involved in local land use decisions that have a knowledge that can compliment the other part.

MS. YEAMPIERRE: Hilton?

MR. KELLEY: Also, I think it is important to note that we should be clear on basically what we are talking about on which level because as we know you have state level permits and federal level permits and many of us deal with various types of permits in our own communities.

So, if we could have some type of listing of the Federal permits like the new source review type of permits, flex permits and let the body know exactly what level these permits are on so we know exactly which ones to make decisions on.

MS. YEAMPIERRE: Shankar?

MR. PRASAD: Also to remember is there is this whole issue of air permits and water permits. While the delegation is there on the part of EPA to the states that in California there are hardly any kind of federal permits and also there is hardly any permitting that is done at the state level in the whole state.

So, it is kind of important to think of that not to think only as the air and also to think of the water discharge issues which are also equally important.

So, if you are thinking of being resourceful or something we have to get that part of return now at least as a background and I fully --- the opinions expressed by a wellness of having those kind of people who write departments on a day to day basis is really important.

MS. YEAMPIERRE: Thank you.

MR. RIDGWAY: I would like to follow up on that comment too in that to Shankar's point, he is right. These permits are not generic, they are often for individual facilities with individual conditions relative to the facility they are either dealing with or proposing.

It is going to be hard to get into all the details of each individual permit whether it is air, water, hazardous waste, incinerators, it is going to be a challenge for that reason.

MS. HENNEKE: In Texas, the situation is almost exactly the opposite of what it is in California. There are very few, incredibly few, federal permits there and incredibly few local permits there, they are all state issued permits.

It is one of the things that has been confusing, I think, as EPA in the past

has done public participation, trainings and they do that on the local level but they train for federal permits and then you turn around and the folks they just trained do not have the training required to be able to understand the process that they are going through.

So, it is very difficult to make sure that what we are talking about is in the same language for the same spot at the same time.

MS. YEAMPIERRE: Hilton, you had described a number of permits you think some information to move on this process be provided. That information in advance would be helpful since it is so complex and so layered.

MS. KELLEY: Yeah, most definitely because I know that there are few federal issued permits that kind of impact industries across the country as a whole.

So as a matter of fact, like NSR those permits are a, I am sorry, new source review permit that is critical for a lot of environmental justice groups because it has been a tool that we have been able to use to help bring industries to the table so that we can address various new sources of pollution or new sources of emissions that they bring online.

So, I think it is critical to note that if we can kind of focus on air permits that sort of address all emissions across the board that would be crucial to getting it through the process and also flexible permits.

I think that is key that we look at that one as well because many industries use the Flex Permit Rule to bring on sources that many of us cannot see if we don't kind of dig into it.

So, those are two very important permits that I think we should really, really take a good look at.

MS. YEAMPIERRE: Thank you. Sue?

MS. BRIGGUM: Yes, I think it would be incredibly helpful right at the outset if we could have a list from EPA of all of the federal permits and understanding the list complexity because in some cases there are some states where there is a federal permit, but in many others there are not.

For our deliberations, it would be helpful to know how many states, if the Federal Government only implements two states we might react differently than if it was 24 states.

It would also be helpful to appreciate the complexity I know, for example, at hazardous waste facilities there are relatively few states in which EPA has a role but there are also states in which EPA has a role for maybe two of the 27,000 items that will be in the permit.

It would be helpful to get a sense of that too because that would also allow us, I hope, to be useful in terms of suggesting not only which ones we think but why we think it because we probably ought to have as Charles has often pushed us before, have some principles under which we make the decision and is it scope? Is it impact?

Is it the opportunity to take a program that we think it particularly unthinking of environmental justice concerns and make a major difference or what?

So, that would allow us hopefully to give you the kind of advice that would allow you not only to look at our list but then to inform that as you continue to get more resources, look at more you would have some advice on the principles we think are valuable.

MS. YEAMPIERRE: I cannot help but notice that Jolene is not here and I

think that that is an extremely important perspective that is missing from this discussion. So, if she comes in and we have some time left at the end I am going to want to reserve just a few minutes for her to give her input. Kim?

MS. WASSERMAN: So, I definitely agree with everything that has just been said in regards to getting information on the permits and I would take it one step just a little bit further to say that I think, understanding what John said, that every permit is different and it is custom for each facility.

But, at least it is a basic rundown of what the permit process is like, understanding that we are not going to hold it to every INT but just a basic understanding of how it is done so that when we go in we can get some perspective of where, maybe some more community process could be put in or where different things could be put in.

MS. YEAMPIERRE: Edith?

MS. PESTANA: I guess I would like to hear from EPA. I know that Cynthia Hewitt asked us to look at which federal permits but the EPA Regional Office has to have an idea of which ones have been the most contentious, who the nimbies are and which ones they would appreciate help from us.

Looking at this, this looks like just a huge task and very broad and I think it would be helpful to have a list of those permits that have been historically contentious and have gone through long legal processes and have been where you have had the most degree or the highest degree of frustration from the public just so that we can be more, just target on those.

MS. GILES: We discussed whether we should make a proposal or

categories to you and decided not to do that because we thought it would be helpful to hear your take, for example, it is not obvious to me that the most contentious categories or permits are the place to start, I mean, maybe it is but I think that would be helpful to get your input on.

I just want to say, we are not talking about individual permits. We are talking about types of permits. We do not want and we cannot get the NEJAC involved in ongoing individual permit appeals which have their own legal process associated with them.

I guess if the NEJAC would like us to, we could make some recommendations but we were afraid that that would skew your thinking and we were really looking for your independent view about what you thought would be best.

MS. YEAMPIERRE: Although, I think that having at least a sampling of some of these consensus permits would give an idea of what the challenges are and might be helpful as just sort of an example.

MS. PESTANA: Plus, I am not sure that we are all that versed on EPA's federal permits and which ones are actually — even in my state of Connecticut they are delegated to the State, so I am not sure which ones and in what areas you all are actually involved in and actually have the authority over.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Related to Edith's comment, I think it would be helpful to have representation from the Regional Offices on the fundamental question of how they arrived at finding no significant impact which has historically been an extraordinary challenge for folks when you go back and try to look historically at how a

decision was made to cite multiple facilities and/or a facility that has obviously gargantuan emission issues.

But yet, the Regional Office rendered a finding of no significant impact and once that finding of no significant impact is out there, it really complicates what communities can do and their advocates to challenge the operations of those facilities once a finding of no significant impact has been rendered and historically that seems to be where their trains really run off the rails.

But, it usually happens sometimes as much as a decade before the community even gets to the point of experiencing the emissions.

So, it would be helpful to have some at the resource level, some folks who represent the regional process for EPA in making those decisions and declarations.

MS. YEAMPIERRE: John?

MR. RIDGWAY: I am hearing a general interest in maybe a primer that can be provided to a counsel as to the types of permits that EPA deals with directly but also I think reading between the lines here, there is an interest in where does EPA have in the oversight or how do they exercise that oversight if they are not issuing the permits themselves?

But in fact, they are being issued through the delegated authority from EPA be it to a state or some other local entity to the context of this counsel is advising EPA on that role as well where maybe there has been a very passive oversight due to lack of resources or other dynamics involved.

So again, my suggestion is maybe we could ask before we have the conference call something that could be sent out that would be a few pages to give us a

general sense of how these permits in general work through that delegation process as opposed to getting into the specifics of each kind of permit. That is my proposal.

MS. YEAMPIERRE: Lang?

MR. MARSH: I am wondering if there is sort of a different approach to take here. In reading the particular question to and the charge about looking at which types of permits are best suited for addressing the cumulative impacts from exposure.

What comes across to me is EPA is looking for advice on are there some ideas from our past reports or from some new thinking we might have about how to address cumulative impacts across perhaps a broad range of permit types which have in our judgment the most potential for either addressing or resolving issues of concern to the communities.

So, I am wondering if we do not want to take a little bit of an approach of asking ourselves the question about the current state of knowledge about cumulative impacts and sort of work backwards a little bit from there as to where that knowledge might be best fitted into an array of permit types.

But, it seems to me that that is really the main question that is being asked in question 2.

MS. YEAMPIERRE: Chuck?

MR. BARLOW: I just wanted to point out that what is on our action item sheet as Section 2 is question 2, description 2 is a little confusing to me.

The charge in the first question of the actual charge deals only with EPA issued permits. The second question of the charge deals with all permits that are issued under federal law including delegated permits and just the way we rewrote it in

number 2 on our action sheet does not really make that clear. So, I just wanted to point that out that in the second part of the charge we really are dealing with a broader scope.

Question 1 is EPA issued and question 2 is anything else that is also issued under federal law, pursuant to federal law.

MS. V. ROBINSON: Good point, I kind of abbreviated it to kind of fit into the space, but good point, good reminder.

So, one of the things I think we are hearing is that I think we probably want to have a subgroup to get together to kind of help focus the conversations. Is that correct John?

MR. RIDGWAY: Yes.

MS. V. ROBINSON: I think John was interested in sharing that little subgroup.

MR. RIDGWAY: I am.

MS. V. ROBINSON: I am sorry?

MR. RIDGWAY: I said I am.

MS. V. ROBINSON: Oh, okay, and I know that several other people had expressed an interest to me about wanting to serve on the overall work group whether it is the overall work group or this initial subgroup. Come and see me, I mean I know right now I got, Kimberly has indicated that she was interested in serving, Patti Salkin, I think, you were interested in terms of possibly the land use implications, the permitting --

MS. SALKIN: (Responding off microphone).

MS. V. ROBINSON: Okay, so what we can do so that we do not take up the time today, right now, we can still talk about it tomorrow and come up to me

individually and I will map out how we will divvy up people's times for the next two months based on overall perspective and interest in serving on one to two subgroups, okay? Cool.

MS. YEAMPIERRE: The permitting subgroup is a nuts and bolts kind of subgroup. I would urge you to be really strategic and really think about if you have that skill set that will be necessary.

Jolene has just joined us. Jolene, before we go onto the next item just quickly we were having this conversation about permitting and I don't know if you have the sheet in front of you, if you would just briefly give us some input because unfortunately Don is not here, Peter is not here and so the wait of the Tribal Nations is on your shoulders (laughter), no big deal, no biggie.

But, we want to make sure that that perspective is articulated. So, if you can that would be really great. If you cannot right now, we can do it right after the last action item, just let me know.

MS. CATRON: I guess, and I apologize for coming late I was coming from another meeting. Your wanting input on this item or —

MS. YEAMPIERRE: Well, we have had a very long discussion about how we are going to move forward on it, but if there is anything that you want to flag that is specific to the interest that you represent, this would be a really good time to do it.

MS. CATRON: Yes, could you give me a little bit of time to kind of look at —

MS. YEAMPIERRE: Sure, that is fair.

Interim Guidance on Incorporating EJ and Rule Making

MS. YEAMPIERRE: So, we are going to move onto the third item which is the Interim Guidance on Incorporating EJ and Rulemaking.

Our understanding is that this is already something that is happening as we speak and so if you could just look down to some of the key questions that we might address.

Does this document require NEJAC consensus advice or will an individual comment suffice? One of the things that we are thinking about is should we be providing a letter or guidance as a counsel or is this something that you would want to do individually?

So, any questions you have about that or any comments. Vernice?

Questions and Answers

MS. V. ROBINSON: Before she starts, I just want to add in here, this one has a longer time frame. You will see that there are six to nine months out, this is something that could be if the group wanted to believe that it is important to provide, group consensus advice could start actually around November and would still have to determine how that process would work.

But, we need to find out what exactly how you feel about this topic and the significance of an expert NEJAC group advice.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Not that we have an inexhaustible number of bodies that we can put up to explore these various things and I am very mindful of having interest and wanting to be a part of all these conversations, but you can only do

so much in the context of your own work.

So, I would say also be mindful of whether you really, really, really can participate. But, this area I think it needs a work group and we made a recommendation to the NEJAC in January at the New Orleans meeting that there are lots of people both in the NEJAC sort of realm as well as other folks who are affiliated with us and colleagues who really have a lot to offer to this conversation.

While I want to lift up again what a great job I think the Agency has done. But, that work group is an internal work group of EPA staff but there are no other voices that are a part of that process other than the public comment and dialogue period.

I think this is an area that could really use a work group or some kind of partnership between Agency staff and NEJAC members and/or our other colleagues in the field to really think this through at a very, very deep level.

Obviously, this is a critical area of work for the Agency and I would like to do more than just comment on what the Agency is doing. I would like to be a part of the conversation about how the Agency is arriving at its thinking about incorporating environmental justice into rule making.

So, that is just a thought, not that we were asked to be a part of a work group but I am saying I think we should have a work group on this.

MS. YEAMPIERRE: Jolene?

MS. CATRON: Now I am ready to comment, thanks (laughing). I agree with Vernice and I think she put that very well.

I spent a good chunk of the night last night doing a little bit more research into Executive Order 13175 about consultation with Tribes and I know there is a house

bill being heard right now about the process of formal consultation with Tribes and how that process comes about.

It got me thinking about the rulemaking and the response, the Tribal response, that is needed in this forum. So, I think that this is definitely something that needs to be because of the complexities and the need for more Tribal representation in this process. I would definitely recommend a work group on this and I would gladly volunteer our Tribal Government representative (laughter).

MS. YEAMPIERRE: Thank you, no pressure right (laughter)? Hilton?

MR. KELLEY: Yes, I think it would be to our advantage to somehow pull together a meeting where we can hear voices from the environmental justice community when it comes to NGO's that are not at this table.

Because, I feel that there are a lot of folks out there, particularly in my Region and also in the area of California, that would probably have a lot to say about this and also probably could give us some pretty good suggestions on how we should incorporate environmental justice in the rulemaking process.

So, if we open it up to a larger body just for suggestions, I think we can probably learn a lot from that.

MS. YEAMPIERRE: Anyone else? Wynecta?

MS. FISHER: Something just struck me from a meeting I was at last week and it was a meeting on integrating waste and water and what was interesting was the waste people didn't understand water and the water people didn't understand waste, which is fine but I am just sitting here, and I will just speak for myself because I cannot speak for everyone, I am assuming that everyone that works for EPA understands

environmental justice but that is a bad assumption.

It is a bad assumption, I mean, you know you are passionate about what you know. So, I am saying that to say it is probably a good idea for EPA as an agency to show their employers what EJ looks like for their particular media. This is how environmental justice looks at air, this is how environmental justice looks at water, I mean, it could help them. We cannot expect everyone to know everything, but that is just a suggestion.

MS. YEAMPIERRE: So, unless there are any other questions we have a panel that is starting, I don't know if the speakers are here.

MS. V. ROBINSON: They are rounding them up now but I just want to get a sense of there was an agreement that this issue, this guidance is a document that requires the NEJAC's formal advice about, consensus advice, and that is something that we will need to spend some time thinking about the process to be able to do that and the timeline. I think that is what was said.

MS. YEAMPIERRE: I think there is an interest in creating a work group, it seems like that.

MS. V. ROBINSON: That is something we can talk about. I think Kimberly has a comment.

MS. YEAMPIERRE: Kim?

MS. WASSERMAN: I have a question. Outside of what you just asked or should I wait for the answer on that?

MS. YEAMPIERRE: No, I think this is a good time since we have a little bit of time.

MS. WASSERMAN: So, I have a question and I apologize because I don't know how the process works. Do we only comment on things that are brought to us or can we also comment on things that are not brought to NEJAC?

MS. V. ROBINSON: Give an example.

MS. WASSERMAN: Okay. So, yesterday the man, I am sorry the young man, who presented on coal power plants, for instance.

Ms. V. ROBINSON: Rob, Rob Brenner.

MS. WASSERMAN: Rob Brenner, was talking about how they were going to be talking to us about coal power plants as they move forward and so it occurred to me that coal ash hearings are being held currently and my question is, can we comment on those as a NEJAC without invitation or do we only comment by invitation?

MR. LEE: You know, I think the next panel is starting (laughter) and I don't mean to be facetious about this. There is more time tomorrow when I think we should talk --- through, okay? It is a really good question.

MS. YEAMPIERRE: I think it is an excellent question and frankly Kim, that is one of the reasons why we are here and so I think that we need to keep moving forward figure out how we arrange the space so that we have the opportunity to raise concerns and things that you see that come out of testimony and that come out of the charges and comes out of your own experiences that you think need to be addressed.

I am just before the panel comes up -- Nia?

MS. N. ROBINSON: My question was similar to Kim's, how do we talk about things because there were a couple of things that came up in the meeting yesterday that have not manifested themselves here that I have gotten text messages

and emails about this morning wondering if the NEJAC body was going to talk about it or discuss it.

I am just trying to figure where in the agenda those things come in.

MS. YEAMPIERRE: We have a part of the agenda tomorrow where that is the opportunity to talk about all those things that we didn't have an opportunity to because of presentations, charges and a number of things that are on the agenda. So, I would hope that you create a list and that we can address all of those tomorrow.

Federal Agency Activities to Advance Environmental Justice

MS. YEAMPIERRE: Now, the discussion is going to be about Federal Agency Activities to Advance Environmental Justice and we have with us Patrice Simms, Deputy Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice. No?

We don't? Okay, welcome. Is Patrice here? Rhea Suh? Not here? Beth Osborne? Patrice welcome. Just to give you a heads up, we are really good about starting things on time.

I was told that I was being unfair, so I am feeling the guilt right now, I am going to give you a minute (laughter). Is Beth Osborne here? Do you know if she is coming? Patrice, are you ready? Jolene?

MS. CATRON: Thank you. I was just thinking through the way that you framed your question when I first walked in the door and I would just like to qualify that my seat represents indigenous grass roots and non-profit organizations and there is a Chair seat at this table specifically for Tribal Government.

I think to assume that I speak for Tribal Government is erroneous. That

process is the process for Chair for Tribal Government is through the National Tribal Operations Committee of which I have not attended any of their meetings nor am I invited to any of their meetings because they have closed meetings.

So, I just wanted to make that clear that I do not speak for the Tribal Government Chair.

MS. YEAMPIERRE: Thank you and I apologize, that is an important clarification but it is also an example of how important presence of people who represent that interest is and when I was raising it, and I do apologize for framing it that way, it is a perspective that was just missing from the conversation and without you in the room it felt like there was no one who could address it.

I feel often as the only Latino, actually there are two of us now, I don't speak for all Latinos but I often feel that when an issue comes up that affects the Latino community, I feel like the weight of that is on my shoulders so it sort of came from that place.

But, definitely you are correct then and I think it is a very important distinction.

MS. CATRON: Right, and also you know because that Chair is not here nor is the Alaskan Native Village Chair here also.

I am always very aware that I am speaking from the perspective that I represent and so just because of my knowledge and my experience want to always sit in the next chair.

So, I just wanted to make that clear that I am painfully aware of the distinction and that I wish that there was a greater voice, Tribal voice, at this table right

now because of the complexities and of the government to government relationship with Tribes. The Executive Order of Formal Consultation it is a very complex picture when you involve Tribes at the environmental justice table and so I just want to appreciate that.

MS. YEAMPIERRE: Thank you, Jolene. Beth is stuck in traffic but she is on her way. So, Patrice? Thank you.

Comments by

***Patrice Simms , Assistant Attorney General for the Environment and Natural
Resources Division, U.S. Department of Justice***

MR. SIMMS: Good morning everyone.

(A chorus of “good morning”.)

MR. SIMMS: It is really a pleasure to be here and I thank the NEJAC very much for inviting me to come and speak with you.

I know Ignacia Moreno, my boss the Assistant Attorney General for the Environment Division hoped very much that she would have a chance to address the counsel during the DC meeting and expressed to you her continuing commitment to and support for environmental justice efforts and she wasn't able to make it yet and hopefully she may yet be able to come talk to you but we will see.

For those of you who don't know me, and I know some of the folks around the table and others I don't, I joined the Department of Justice this past February. Most recently, I was a Professor of Law at Howard University School of Law teaching environment law and among other things environmental justice.

Just as an opening note, one of the things that I was really struck with

over the last year or so teaching environmental law and environmental justice was the enthusiasm with which the students, my students and I know other students as well, really embrace the principles of environmental justice and were enthusiastic to find ways to get involved.

I think that is a really encouraging sign of the times that we are seeing that among, I see it among students, I also see it among the young professionals that I engage with these days in my job at DOJ.

So, I wanted to start with that. I think that we are in something of an exciting time and hopefully we will be in a position to make the most of it.

We have been talking about environmental justice for the last several months and I am sure you have heard many people who are a part of this Administration express their commitment for environmental justice.

I have had lots of interactions with people over the course of the last year and they have been tremendously encouraging and I think the commitment that we see these days is a genuine one, I mean, it certainly is from my part and the activities that are happening in the Department of Justice are sincere.

That commitment, as you all know, in order to be meaningful needs to be more than a philosophical commitment. It needs to be a commitment to action.

Many of you who have participated in NEJAC over the years, perhaps since its inception in the mid 90's, have a feeling that you have waited a long time for action and I appreciate that feeling.

As you know, it is no small task to turn this ship but I can see the hard work of many people that I work with on a daily basis and many of the people in this

room, many more people not in this room beginning to do just that.

I don't have illusions nor do my superiors who are equally committed to environmental justice that we will be able to accomplish everything, we can accomplish a lot.

Among the things that we can accomplish that will be very significant is pointing the ship in the right direction, setting a foundation for future positive developments in environmental justice as well as tackling those big issues that we have the opportunity to tackle now.

We are DOJ and EPA and Transportation and the Department of Interior and elsewhere across the Federal Government as we work to make environmental justice an active part of our Agency's respective missions. I think the NEJAC has an opportunity to play a very important role and the people in this room who are committed to environmental justice and for whom it is a personal passion.

We need your insight, we need your ideas, we need your support and we need your continued commitment to hold our feet to the fire.

We have an opportunity to make a real difference in people's lives and communities across the country and I am hoping that we take advantage of that opportunity.

I want to talk a little bit specifically about the Environment Natural Resources Division at the Department of Justice. I think a good starting point probably most of you around the table have a sense of what ENRD, what the Environment Division does, but it is worth a little bit of background explanation about who we are.

The Environment Division of DOJ essentially are the Nation's

environmental litigators. It is one of seven Litigating Divisions within the Department of Justice. We have roughly 440 attorneys and some 700 or so employees.

Our core missions are strong enforcement of civil and criminal environmental laws to ensure clean air, clean water, safe communities, vigorous defense of environmental wildlife and natural resources laws and agency actions, effective stewardship of our public lands and natural resources and respect for management of the U.S. Trust Obligations to Native Americans.

Obviously, one of the most important aspects of our mission when it comes to environmental justice is our enforcement work. By no means is that the only important aspect, but it is one of the obvious ways that we have the ability to address environmental justice issues and it is through this work that we seek to protect the environment and communities from pollution.

This enforcement work provides one of the most obvious ways to deal with environmental justice and I want to talk a little bit about some of the things that are happening that we are working on at DOJ now to facilitate our ability to focus on environmental justice more effectively in our enforcement work.

I want to talk about three areas of focus in those efforts. One of which enhancing our capacity and effectiveness at community engagement in the context of our litigation work, particularly our enforcement work.

Our focus on crafting remedies that will have the greatest impact for affected communities and building our capacity and effectiveness at working with and coordinating with other Federal Agencies on issues relative to environmental justice.

With respect to community engagement, it seems fairly obvious that

engaging a community that is affected by pollution in association with the violation of environmental laws is a mechanism through which we can both learn what the impacts of those violations are on real people and gain insights into how to more effectively pursue our litigation strategies.

It has been, however, traditionally not something that the Department as been terribly good at and something that we are in the process of really scrutinizing how we can use these tools to help give our attorneys the skills that they need and work with our sister agencies to enhance our ability to really begin to look at opportunities to reach out to communities where we see violations and where we are becoming engaged in enforcement activities.

To begin to understand how those violations that we are pursuing are having real life impacts on communities, therefore, help inform our litigation but also help inform how we pursue remedies, how we structure settlements, how we most effectively use that litigation not just to stop the core violation that is happening but actually to begin to make the community whole that has suffered from the violations that we are pursuing.

With respect to remedies, one of the things we traditionally see in environmental enforcement cases, you may think of a pollutant discharge into water or an air discharge or an air emissions in violation of some statutory requirement and the remedies that we traditionally seek often are simply remedies about stopping that discharge and don't look beyond that core question whether the discharge is in compliance with the law.

One of the tools that we are looking at at the Department is how to be

more conscious about how we pursue remedies in our litigation so that the remedies that we are crafting be it a settlement grievance with parties, be it a judicial injunctive relief that we seek in response to a violation can be crafted to target the most significant adverse impact that the community is experiencing.

In some respect, that can have to do with what remedies we pursue, how remedies are phased in, where remedies focus first in terms of seeing changing the behavior of the violator and it is an area that the Department is actively engaged in pursuing and with input from folks in the environmental justice community.

We have over the past year had a couple of meetings. My boss, Ignacia Moreno, before I arrived had a meeting with a number of environmental justice community folks and we more recently had a joint meeting with DOJ's Civil Rights Division which couldn't be here today, but also plays a very important role in that they administer for DOJ the Title 6 Program, the Title 6 litigation side of Title 6.

And that continued input into our efforts will be tremendously important as well and something that we are looking forward to continuing and pursuing.

One aspect of that effort is enhancing our ability, enhancing our relationships with our sister agencies, EPA certainly, but other agencies that we regularly deal with and engaging in the dialogue in the context of the litigation role that we play about how we can with respect to the activities that we engage in, with those agencies enhance our capacity to look deliberately at opportunities to make a difference for environmental justice and for communities across the country.

These are not by any means the only things that the Department can and is doing to begin to make environmental justice a more active component of our

mission, but there are things that I think are very important and that we want to engage with you and with members of the audience here about and I am very happy to have the opportunity to be here to talk to you about these issues and hope that we have a robust and dynamic conversation.

With that, I will not take up any more time in my comments and will pass it on to the next person. But, thank you very much again for inviting me and I look forward to working with all of you in the future.

MS. YEAMPIERRE: Thank you. I just want to say briefly, and I should have said at the outset, that this panel is extremely important for us because from an environmental justice perspective we understand that issues don't happen in our communities and that more interagency coordination is absolutely necessary.

We would like to hear in your presentations examples of how that has happened, some milestones, some accomplishments, something that provides us with an example of how you have incorporated environmental justice as a priority in your Agency.

So, our next speaker is Rhea Suh, Assistant Secretary of Policy, Management and Budget at the U.S. Department of the Interior. Thank you.

MR. KELLEY: Excuse me, are we going to have an opportunity to ask questions?

MS. YEAMPIERRE: Nancy Sutley is coming in at 11:15 and so we are going to hold all of the questions and comments to the end of the panel. Thank you, before Nancy but yes, thank you.

Comments by

Rhea Suh, Assistant Secretary for Policy, Management and Budget,

U.S. Department of the Interior

MS. SUH: Thank you and thanks to everybody for inviting me here, it is an honor and a pleasure and I only wish that I could have joined you earlier to get the benefit of the conversations that you have already been having, but hopefully I will be able to stick around a little bit and will do some questions and answers.

It is great to see a number of people that I am familiar with including Vernice, my gosh I haven't seen her in years it is so lovely to see you and it is really a pleasure for me to actually try to talk about some of the issues that you just flagged in terms of where you think the interest of the panel will be.

The Department of Interior as you may or may not know, is a relatively huge agency. Interior manages roughly a fifth of our Nation's land mass, 30 percent of the electricity is produced off of minerals within the Department of Interior's management per view, 30 percent of the water deliveries in all of the western United States are provided through our Bureaus and we hold Nation to Nation relationships with nearly 600 Tribes across the country and upholding our trust relationships with Native Americans.

So, Interior is a very broad agency with lots of different mandates, but lest you kind of think of the more familiar things that most people usually connect Interior with which are things like Grand Canyon or Yellowstone or the big kind of national treasures.

I would like to just remind everybody that the Department of Interior is just

as urban as we are nearly every single county in the United States as our federal land manager.

This kind of balances being in so many communities where people live both in an urban sense as well as a rural sense, I think, provides us a unique opportunity to really start thinking about the difference that we make within the context of people's lives and the difference that we make within the context of communities and to actually take that responsibility on in a much more, I think, profound manner than we have in the past.

So, really thinking through this place face activism in the role that Interior plays within so many of these places in our country is really I think the place where Secretary Salazar certainly wants to point the Department in moving forward.

I would actually like to start off by former remarks by just citing the discussion about environmental justice within the whole broader context of the unprecedented environmental disaster that is occurring in the Gulf Coast.

While we often view environmental justice potentially on a smaller scale with refineries, toxic waste, et cetera, I think the BP disaster has really turned our attention to the real damage that environmental disasters can have on the lives of people.

This is not an abstract, a minimalized or remote concept. For all Presidents in particular, many of whom families have inhabited the Gulf for generations, this spill affects their way of lives, their livelihoods, their health and the well being of the entire community.

We look at environmental justice not just as a remote concept, but as a

real and tangible impact on how people live their lives and it is this notion of environmental justice, I think, that informs the work that we do at the Department of Interior.

Our mission broadly is to protect and provide access to our Nation's natural and cultural heritage and to honor our trust responsibilities to Tribes and our communities, excuse me, and our commitments to Island communities. This is at the heart of what we do and what we are.

So, I would like to talk briefly about a couple of different initiatives I think you might be interested in that we are taking on at the Department of Interior.

First, again while Interior is often seen as the keeper of natural treasures and national parks, we are committed to making sure that our refugees, sanctuaries and federal assets are used to support all communities in all ways and in this way we are specifically targeting efforts to support the First Lady's Let's Move Initiative to end child obesity in a generation.

Specifically, through a concept called Let's Move Outside the Department of Interior is able to leverage our outdoor spaces to help combat childhood obesity by encouraging youth and their families to recreate on public lands. What better place, after all, is these public lands belong to all of us.

A recent study found that children with low neighborhood amenities or those lacking neighborhood access to sidewalks or walking paths, parks or playgrounds had a 20 to 45 percent higher chance of becoming obese or overweight compared to children who have access to these seemingly basic amenities.

It is important to note that every state with childhood obesity rates over 35

percent has a wildlife refuge within its borders. These again are both rural and urban.

In fact, many of the 551 national wildlife refuges across America that we hold for the American people are in places like cities like Detroit, New Orleans, Cleveland, Denver, Sacramento and Chicago.

These refuges offer activities such as hiking, bird watching, canoeing and fishing. But beyond this, they provide clean air, wildlife and places of peace and solitude to residents who live with traffic, smog and the noise of city life.

These opportunities reconnect with nature and escape the day to day clamor and stress of modern urban life.

The epidemic of childhood obesity disproportionately impacts minority groups and those living in poor communities. For example, a recent study found that obesity is more than two times common among Native American Native Alaskan children instead among white or Asian children.

In 2002, more than 100,000 American Indians and Native Alaskan adults are nearly 15 percent of those receiving care from the Indian Health Service were estimated to have diabetes.

Because American Indian and Native Alaskan children are especially susceptible to childhood obesity and related diseases we are at Interior launching a particular Let's Move Initiative into high gear in Indian country.

We are utilizing video conferencing technology at 184 Bureau of Indian Education Schools to share information about the importance of eating healthy and exercising regularly.

We are expanding BIA's popular I Care If You Graduate Program to

include health related workshops and are increasing opportunities for physical activity for children attending BIA schools in Tribal lands and throughout DOI assets.

In conjunction with the Department of Agriculture, we are integrating healthier food and more traditional food options to Indian schools through a pilot program at select BIA boarding schools. This pilot will also seek to expand on opportunities for green exercise outdoors.

Our work on the Let's Move Initiative helps to get people healthy, builds lasting memories and reconnections with the outdoors in simple ways that all of us may remember as children.

The next issue that I want to flag is a more recent development that involves Native Hawaiian Lands and NEPA. As I mentioned at the beginning of my comments, we have a special relationship and special responsibilities to Native people that we hold and take very seriously.

Just last week, the Office of Native Hawaiian Relations received special notice of approval to amend the departmental manual to facilitate secretarial review of land exchanges executed by the Department of Hawaiian Homelands in compliance with NEPA.

This new amendment provides policy and procedures that when followed assure departmental compliance with the spirit and intent of NEPA while executing our responsibilities under the law to beneficiaries.

In practical terms, this amendment means that it is possible for the Department of Hawaiian Homelands to utilize land exchanges as a way to obtain land for Native Hawaiians to settle on.

For those of you who are familiar with this issue, it is obviously a long standing issue in the islands and while it may seem something benign I think it is pretty profound in terms of just an area of movement that we are making some progress on and that really can tangibly make a difference in the lives of people.

Just a few other areas that I wanted to flag for you that demonstrate ways that we were trying to reach out to a broader and more diverse community includes the broader Americas Great Outdoors Initiative that some of you may have heard about.

The President launched it in early spring calling on all of the Federal Agencies to work together to define a new 21st Century conservation vision from the ground up.

This is translated into meetings that we are having around the country, public meetings from Asheville, North Carolina to Los Angeles, California and Annapolis, Maryland to ask people about their priorities for conservation and open space.

I would just like to say that I was in the Bay area just last week where we held a specific youth session to talk about Americas Great Outdoors and what is interesting is I have been to a couple of these different sessions and the adult “sessions” are usually not as diverse as I think we would like even though we go to some fairly diverse communities.

But, the youth sessions are more than 85 percent people of color, young people of color which for me gives me just a huge sense of hope, not necessarily despair on the adult side, but hope given just the context of who we see in the room and what they say to us and the passion of what they have to say is really quite striking.

So, it is these types of meetings that the President has asked us to do and he specifically has asked us to pay particular attention to young people out of this Initiative and I think it is translating to some really interesting things that we will be rolling up into a report for the President later this fall.

I also want to flag a little bit of a broader concept of youth at the Department of Interior's launch under Secretary Salazar's leadership. We have a new youth program at the departmental level that focuses on three areas in particular.

First is employment. The Secretary would like to increase employment of young people by more than 50 percent over the next couple of years, really trying to bring in a new generation of young kids into both Federal Government and into a conservation ethic that hopefully can translate into permanent lifetime career opportunities within the Department of Interior.

In addition to that, the Department of Interior already educates more than three million kids a year. These are kids that go through our parks, our refuges, our public land and we hope to expand that number to reach a broader level of engagement throughout the country for young people as well as volunteer activities.

Again, the opportunities to just get outside and explore the resources that we all own and treasure is one that Interior takes very seriously and thinks this is a huge opportunity for reconnection.

The youth program ties directly into another Initiative that I want to mention and end with which is the Department's Diversity Strategy. I guess I will just be very straight forward, we have a very challenging situation with diversity at Interior.

Our total workforce is roughly about 70,000 people, of that about 74

percent are white and you can kind of go down the statistics of people of color from there and you will see that the figures are lower than the national civilian workforce.

This has been the case for some time and the Secretary and certainly the senior leadership of the Department of Interior do not think that these numbers are acceptable in any way.

So, really trying to commit our resources to find diversity strategies that can take us out of, I think, the rut that we seem to be in with respect to not attracting diverse candidates of color or retaining diverse candidates of color are really some challenges that we have taken very seriously on and it is compounded by the fact that over the next five years over 40 percent of our workforce is projected to be eligible to retire.

So, I think given this kind of challenge of demographics we also see a huge opportunity in really trying to recreate a workforce that is more reflective of the America that we serve and you will hear the Secretary often talk about the fact that he thinks the Department of Interior is really the Department of America in terms of all the things that we manage.

But, in order to really fully be the Department of America we need to look like America and that is one of his most prominent priorities moving forward.

There are lots of other things that we have ongoing including our efforts to revisit the diversity and EJ strategies that we had ongoing in the 90's.

We are an active effort to really try to update where we were and to try to kind of leap frog over some of the more dormant years that we had to really try to take our responsibilities on in a much more meaningful way.

This is again not just with respect to our trust relationships with Tribes, but with respect to all of the communities that we serve. We see it as one of the biggest opportunities within Interior and also one of the biggest opportunities for the Federal Government.

So with that, thank you very much for your time and I would be happy to answer any questions at the end.

MS. YEAMPIERRE: Thank you so much. Next, we have Beth Osborne. Beth is the Deputy Assistant Secretary for Policy at the U.S. Department of Transportation. Beth, welcome.

Comments by

Beth Osborne, Deputy Assistant Secretary for Policy,

U.S. Department of Transportation

MS. OSBORNE: Thank you very much. It is ironic I was held up due to traffic (laughter), so someone should work on that.

First off, thank you very much for inviting me. I would just like to start off by pointing out something that is kind of obvious when you have a Department of Transportation person up here that within the infrastructure world, environmental issues, EJ, historic preservation, local concerns have many times been seen as a stumbling block to a transportation or an infrastructure priority.

I have also found that one of the places where people are most likely to engage the NEPA process just exacerbates the problem because it is so far down the line in the development of a project that people have already lined up on both sides and it is too late.

So, what I would like to focus on today is how do we move meaningful involvement for vulnerable populations up to when the real decisions are being made?

Two, how do we do that through more than just setting basic minimums and telling people, you shall consider the needs of, looking for more than that and looking at ways to serve low income populations in a more holistic sense, not just in terms of keeping pollution out but in terms of a much more affirmative agenda of figuring out what to bring into their communities and linking those communities to opportunity.

People agree that we need to do those things, the how is the question and the how is often the complex part. There are ongoing efforts within the Department to improve the performance of Transportation Agencies in these areas.

Our DOT Agencies work with state and local transportation agencies and metropolitan planning organizations to ensure that Title 6, the Civil Rights Act, and environmental justice considerations are integrated into our surface and air programs.

As I mentioned, EJ is principally addressed through the Transportation Planning Process and NEPA, I think preferably through the former rather than latter.

FAA, Federal Highways, Federal Transit are updating their environmental justice guidance to communities and they are joining efforts to provide more resources to citizens to help them understand where they can be involved in the planning process and how and they are also working with states and localities to help them understand the best techniques to involve populations that have traditionally been left out.

But, this is not enough. This is kind of going toward the minimum. We need to go beyond that tradition of telling people that you should reach out. We need to find a way to reward those that do more.

Just telling people that they should tends to result in those that want to do the right thing, you know, taking the charge and doing great things and those that are not inspired by our directive choosing to do the bare minimum and checking the box.

We are looking for ways to go beyond the minimum. DOT wants to partner with those who are willing to go the extra mile to coordinate transportation considerations with local land use decisions, with economic development decisions, with housing decisions, with environmental decisions to include populations that have not traditionally been involved in that planning in a very meaningful way early.

What we are seeing as we reach out to partner with those who want to do more, we have a strong reaction from the transportation world and more people want to compete and try to find a way to be in that elite that does more.

Through DOT's Multi Modal Discretionary Grant Program that was created under the Recovery Act, a program that we call TIGR which as an LSU grad I like a lot (laughter).

DOT can target its support to communities that are addressing the needs of low income and minority populations. We traditionally manage a Formula Grant Program so the idea of directing resources is something that is not particularly common to our world.

One thing we did in the last round of TIGR is a reconstruction of a roadway in the Pine Ridge Indian Reservation to improve automobile access, but for the first time pedestrian access.

We are seeking to encourage places to create more affordable housing opportunities in places that have more affordable transportation opportunities and

access to work and school.

Projects like Kansas City's Green Impact Zone which includes affordable energy efficient homes that are being built with Transit and by ped improvements to create a more livable affordable community.

We have spent the last several decades worrying about housing affordability in terms of housing alone which has led to affordable housing being located so far outside the core of communities that the transportation costs overwhelm the savings of the affordable house.

It has resulted in foreclosures in the more affordable car dependent communities being much more substantial than in areas that are Transit served and are lockable.

We cannot afford for our policies and our advocacy to be so siloed. Looking at only the housing costs and not the transportation costs often leaves someone really vulnerable.

Transportation costs are often the number one household expense for low income households and our policies need to start to reflect that and that is because those communities don't have alternatives to single occupancy driving.

The demand for neighborhoods that have multiple transportation options, housing options and destinations that are located close to people's homes is on the rise, but the supply is lagging desperately behind and the result of that is when there is a whiff of a rumor of a new transit line, housing prices go up in that community.

We are having to work very closely between FTA and HUD to help communities grapple with that problem to make sure we are reserving areas for those

who most need those affordable transportation options feel they live close to them.

But, we also need to make sure that more of those communities exist so that we don't have this wacky demand up here, supply down here. As long as that divide is there, only people with means will be able to move into those communities. We need the supply to catch up to the demand and that is going to require a big change in the way we think about all of these investments.

We have made well intentioned mistakes in these areas and we are now looking for ways for our policies to reflect what we have learned.

Last year, DOT joined with the HUD and EPA to create the Partnership for Sustainable Communities. We have looked to identify ways we can better integrate transportation, land use, economic development, water infrastructure and housing decisions together.

This way we think about the whole community and how our Agency's investments impact the community and each household even if that impact is outside of our traditional silos.

We have also looked to break down some barriers. One thing we did very early on is partner between DOT and EPA on the creation of new café standards and we are now looking at new standards for medium and heavy duty trucks which in terms of freight movements will ensure that those movements are not as polluting.

We have also coordinated with HUD on this very strange little glitch in our laws where at DOT we are not permitted to consider local hiring practices when we contract for our projects. We can only consider the cost of the bid.

At HUD, when you use HUD funds you must consider local hiring

practices. As a result, if the community wants to put these funds together they are forced to violate one or the other, that is ridiculous and it was not intended for that to be the case.

We are looking now. We have created a pilot program to allow HUD's rules to be applied on a case by case basis to DOT projects so that we can demonstrate that considering local hiring processes does not necessarily interfere with the competitive bid process and hopefully by demonstrating that can bring that to the scale in the next re-authorization.

In terms of new programs to build capacity and to help people get into those earlier phases of planning, HUD was the fastest out of the gate creating a Regional Coordinated Transportation Program, sorry, Regional Coordinated Planning Program.

They are providing a hundred million dollars in grant assistance to communities who are going to coordinate these various infrastructure and development investments.

One thing that they have done is include DOT and EPA from the beginning in the development and were insisting on strong minority and low income participation in those plans.

Those communities that can show that they can do better and do more will do better in our program. In catching up with HUD, DOT proposed in FY11 to create a capacity building program within the Federal Highways Administration.

This way we can help those communities with the least resources be a meaningful player in the planning process, build their own staff capacity, their own data

collection, their own ability to analyze that data and determine what will make the best sense for their community.

HUD is requiring the regional effort to be inclusive. DOT is funding the skills that strengthen communities so that there are more included and when they are included they are full participants in charge of their own destiny.

Whether grappling with what to do with vacant properties or brownfield(s) or with pressures from new development of population growth, HUD's Regional Planning Program and DOT's Capacity Planning Program will shift the discussion from the negative to the positive.

Instead of reacting to a developer or to an industry that wants to move into a community and arguing why that development should not occur, we can empower communities to decide what should occur.

Instead of arguing why a road should not accommodate trucks and freight movements, we can help these communities determine where to accommodate trucks and freight movement.

Instead of fighting a new rail line, we can help these communities determine where freight movement should occur on railroads and waterways.

These programs should help communities to make these decisions affirmatively and early and as I mentioned earlier we have found over and over that when NEPA comes about these choices are too constrained and too much has already been decided. We would like to be more empowering of that.

Through programs like TIGR we are also moving. I know that you all focused a lot on freight movements, towards freight movement that moves a more

efficient mode of transportation.

We are moving people to more efficient vehicles and even to more efficient modes of transportation than electric vehicles through Transit and bike and pad and we are moving freight to more efficient modes.

We are now in the midst of our second round of TIGR and are expecting to have a third round next year. Multiple years of these sorts of programs have created a strong desire in state and local communities to think about how to get more bang for their buck and to go beyond the minimum that might be set in law.

Through this competition, we strive to encourage innovation but we don't come with all the answers. We are learning as we go and we recognize that there are difficult questions and challenges left to grapple with.

For example, what do we do about an intermodal facility that might increase emissions locally but decrease emissions greatly over the region?

What do we do if an industrial facility is taken away from a community where a lot of their workers live and as a result they have to drive significantly further putting a great cost impact on their travel and if they can even afford to make that much travel in the first place?

How do we create meaningful strong outreach and participation in the planning program that goes beyond nimbyism, nimbyism that can result in new development taking place on the fringes causing more environmental degradation, driving up household transportation costs, especially for low income households and requiring city and state and federal budgets to accommodate more and more induced infrastructure demand as opposed to fixing the infrastructure that already exists and

maybe even investing another program all together.

Frankly, that is one of the reasons I came here today is to engage in that conversation with you all. I think we have learned a lot, but we have a lot left to learn and I look forward to working with the folks around this table to figure out the answers to those questions. Thanks.

Questions and Answers

MS. YEAMPIERRE: Thank you, Beth. That was worth waiting for. I am sure there are a lot of questions, I know I have some but I want to defer to the members. Pat?

MS. SALKIN: Thank you all for coming, Patty Salkin from Albany Law School. Great information and thank you for sharing it.

I think that the law school side my brief comments or questions are going to go to Patrice at DOJ to give my colleagues an opportunity to ask some questions as well from other folks.

I just have a few questions, comments or observations and so it may be public perception, it may not be reality. One of the courses I teach is Land Use Law at Albany Law School and so I follow a lot of stuff that comes out of the Civil Rights Division in particular and I have noticed they have the Freedom Focus Newsletter, they have a whole training program on the religious land use and institutionalized persons at, very aggressively enforcing the Fair Housing Act Amendment. Why can't we get some sort of sure initiatives or visibility for EJ?

Maybe it is going on internally, I don't know. Again, my perception is it is not because I see all of these other initiatives in a very public way. I attended one of

their Valupa trainings in Massachusetts, I mean, I see all of these things and there is such great potential if we could get EJ up there as well.

I know that there is an infrastructure and I am hoping that from a policy standpoint that there will be the political will to maybe elevate EJ concerns up that.

I am also curious as to whether or not there is any kind of effort or the possibility of any kind of effort to engage in training and outreach to legal service entities across the country, to law school clinics and other opportunities for you to A) you need help and so that is a place to get help and B) it is a place where appropriate cases for DOJ might filter up in partnerships and other kinds of things.

So the case identification, the training and then this sort of public education, public information and just making it a serious policy issue for the Department.

MR. RIDGWAY: Excuse me, I am just going to interject for a moment here Vice Chair while Elizabeth is out. We are in a tight time schedule and boy that was a heck of a good question there, but we have to keep the questions and responses relatively brief, if possible. Thanks.

MR. SIMMS: Those are fantastic comments and I will not take up the next half an hour talking about them. I think as to your first question about elevating EJ and having EJ be more of a showcase issue that DOJ deals with are some of the issues that you mentioned at the Civil Rights Division that has been engaged in over the years.

That is absolutely something that we want to do and one of the things that we have begun to do within the Department is work much more closely with the Environment Division and the Civil Rights Division on issues related to EJ.

Much like many other agencies around the Federal Government and the Federal Government generally, there tends to have been this silo effect within the Department and there are obvious reasons why the two Divisions should be working very closely and very closely towards a goal of making EJ something that is very visibly and publicly something that we are doing and that is something that I expect will happen and you will begin to see that emerge.

As for the training and outreach, I would love to have more conversations with you about that idea, it is a very interesting one. Thanks.

MR. RIDGWAY: I am going to try to call people in the order here, the cards that went up, so Father Nguyen please.

FATHER NGUYEN: Thank you. Listening to all of you, I am from New Orleans. I am from New Orleans East, Bayou Sauvage is right next to us and so I hear this and all that you have said, I said this is so wonderful.

At the same time my question, I know that you are moving toward that direction, my question is where were the Federal Agencies in relation to the EJ communities at the ground level?

Actually, you are normally invisible except for when we are to fight against you and that is the thing that is really strange this happening, shall we say.

And then there seems to be a disjoint between the agencies, so when a landfill was allowed to be open right next to Bayou Sauvage, the open wildlife refuge the largest one, the people who oversee Bayou Sauvage probably under your Department were there when we called them. They agreed with us but they were very hesitant in saying anything because they didn't want one Federal Agency to critique another.

So, the issue here is that in our area it is not just that landfill but the 7,000 acres of wetlands being dumped on with landfills, legal and illegal, auto shops, all of that and when we go to the Federal Government the Federal Governments says well it is the State's responsibility.

We go to the State, the State says well it is the Federal, well we don't have the money. How do we seek remedy?

How do we seek redress would be the question because normally the burden to bring this to the surface, the burden of fighting against these injustices somehow land on the shoulders of the EJ communities that are already low income, that are already struggling. How do we seek remedy? How do we seek redress?

MS. SUH: It is an excellent question and I think it gets a little bit to Patrice's earlier point of the silos that exist in government.

I think we all have to admit and acknowledge the fact that even within our own agencies we don't tend to work with each other very well, let alone with agencies outside of our Departments.

I think when it gets to the community level, that is really where we obviously see the kind of most profound challenges. I think that while there are some better examples of Federal Agencies working more collaboratively together on the ground, there is still a long way to go.

There is a broader Play Space Initiative that the President has launched and his Domestic Policy Council has been working on for many months now to really try to dive deeper into specific places around the country that Federal Agencies can kind of collaborate and work together in trying to find kind of a common pathway of coordination

with communities.

I would say it is still a work in process, but it is something that certainly has been flagged at the highest levels of the Government to try to improve and I think looking at the Gulf, in particular, potentially the next chapter we hope that we are turning into, I think it is a prime place for us to really begin to think about what we look like as a Federal Government to communities and how to interact with communities in a much more meaningful and straight forward way.

I hear your concerns, I don't in any way want to diminish them and I think that they are absolutely things that we need to do a better job on and we need to really think through in a coordinated fashion across the Federal Government.

MS. OSBORNE: I would also like to say that once the community is reacting to something, you are already in the hole and that is why we have developed the programs we are developing with HUD to build your capacity to affirmatively determine what you want and where you want it so that when this interest happens you know where to shuttle them, you know where to put them and you are not constantly in a reactive mode.

It is really important, the communities that have been most successful have very strong regional plans, they know exactly where every part of society from an intermodal facility to a dump will go and needs to go and that is what we really need to do is empower you to make those decisions and then steer us.

That is why I feel like these programs are so important. I just have to say, I am actually from New Orleans as well and if you know Mildred Osborne Elementary that is my grandmother.

MS. YEAMPIERRE: Paul?

MR. MOHAI: Yes, thank you. Thank you to the Panel. I am a professor at the University of Michigan and one of my earliest efforts was actually to teach and do research on public land issues, so I wanted to ask a question of Assistant Secretary Suh about the Let's Move Outdoors Program.

As you mentioned, a fifth of the land mass is managed by the Department of Interior and a lot of those lands are in fact close to urban areas, so there is a lot of potential for people going outdoors and exercising.

The question I have has to do with the lands that are managed by the Bureau of Land Management, that by far is the greatest portion of that one fifth and the acreage of the lands managed by the Bureau of Land Management are twice that of the National Forest.

But, I also discovered very early on that they are the least visible of any of the public land categories. You don't see them indicated on any maps. If you take out a road atlas, you will see where the parks are, you will see where the natural parks are, you will see where the wildlife refuges are but you don't see where the boundaries of the Bureau of Land Management lands are and you don't have signs, those grand signs indicating you are crossing into a national park, for example, or a national forest but you don't see those kinds of signs for the Bureau of Land Management lands.

So my question is, is the Department or the Bureau of Land Management, are there any efforts to try to make those lands more visible particularly in those spots where they have a great deal of recreation, outdoor recreation, potential?

MS. SUH: Another great question. Absolutely. I have to admit that some

of my most favorite places are not national parks, they are actually on BLM lands, they are part of the National Landscape Conservation System that was created by Secretary Babbitt about 14 years ago.

Actually, when we launched Let's Move Outside with the First Lady we did it on BLM lands with Senator Reid just outside of Las Vegas. So, a really good example of a very well used public land park that is BLM owned, again it is part of the National Landscape Conservation System, it is called Red Rock and again it is just on the outskirts of Las Vegas.

So, the proximity to a huge population and a population that really doesn't necessarily have a lot of parks to choose from is great and so I think that that is really one of the things that we are trying to emphasize with Let's Move.

It is not just, you have to fly four days to get to a spectacular national park but they are actually lands in your backyard. They are lands that you own and they are lands that we help manage and again I think this message of accessibility is clearly part of what we are trying to do with Let's Move and BLM lands are kind of central to that.

MS. YEAMPIERRE: Unfortunately, we only have 10 minutes and we have about seven people. So, I have to urge you to keep your questions brief and the responses is an example of the need to interact with you guys on the Panel. Savi?

MS. HORNE: I was fortunate to attend the Great American Outdoor meeting in Asheville, North Carolina and I must say I was very, very disappointed in the level, well non-existent if you exclude me and another African American woman we were the only two persons of color, and Asheville as you know has a very historic African American community and while they spoke about the need to encourage the use

of the outdoors by people of color there were hardly any people of color.

So I would like to just kind of -- I guess the problem, the disconnect for me is that with these initiatives if you do not have an adequate transportation system that would allow people of color, low income community in a far flogged state such as North Carolina where you have the coastal communities and the mountains communities and it takes four hours of transportation to get there.

If there is not that kind of coordination to build a public transportation access to reach these national parks then they will be a place where essentially more affluent and non people of color go to recreate. I think we need to change that equation.

I also wanted to just comment on, and I hope I am not stepping out of bounds Jolene, I kind of think I can ask this question since I had participated in the 2008 Farm Bill with the Intertribal Agriculture Council and there were some very good provisions in that bill to encourage the reintroduction of cultural appropriate foods to Native American communities.

What I have noticed about the healthier food for Indian children, it is more sort of a court driven model so the Department of Agriculture goes out and source these so called healthier foods from outside of the community and then it is being introduced.

So, I think that kind of conversation needs to be had within your Agency, for example, to encourage on our public plans and Indian trust land the introduction of Native food sources as well as to assist and encourage next generation young people in agriculture. The programs are there at USDA, it just needs coordination.

With regard to Patrice, I just wanted to make a comment and I guess in

North Carolina we deal with CAFO's concentrated animal feed lot operation and we have an agency, Department of Agriculture, who through their support system of assisting in role development, economic development in farming communities have encouraged by the use of these support system and subsidies the rise of CAFO's which impact the water and air in our community.

It seems to me there needs to be a more proactive way in which your Division could interact with Department of Agriculture to protect these communities who are being subject, whose natural resource base is being impacted by an activity of that agency and it shouldn't be like, I have to go and file a lawsuit for you to respond and work within the agency.

There seems to be some need, some high level need, and maybe one of it could be to work with EPA on just that whole issue of --- and doing something about CAFO to improve the quality of life in these communities. Thank you.

MS. YEAMPIERRE: We are trying to debate what should happen here since we have three minutes left --

MS. HORNE: I just thought I would make the most since I wanted to use my two points.

MS. YEAMPIERRE: No, no I think Savi the questions are excellent and need to be presented, but we have about three minutes left and Nancy Sutley is here so I think I am going to call on one more person and then I would invite you to stay so that we can have an opportunity to speak with you after and I am going to call on Hilton who has been waiting patiently. Thank you.

MR. KELLEY: Thank you. I just had a couple of brief comments. To

each of the respective Departments, I would just like to encourage you all in this age of wireless information and what have you, to sort of maybe give some thought to visiting various communities like your rural areas, small towns, suburbia and some of your urban areas and try to get some ideas for your Departments on ways on which you can improve the transportation mode, our parks and what have you because I think that personal experience and seeing things first hand really can help spur ideas in ways in which you can do things a different way or a better way and sort of incorporate community involvement.

I think we need to have some kind of community outreach and employ the community in sharing ideas with you on what they visualize for their communities when it comes to transportation, bike routes, in some areas like in Texas there are some national parks and bird sanctuaries that are in disarray, they need help, they need manicuring, people don't visit them.

As a matter of fact our organization, the Community In-power and Development Association in Port Arthur, Texas, we are stewards over our bird sanctuaries but yet we have no funding to really sort of prep it up to make it palpable for people to visit.

So, there is a serious need for funding to help make these areas neater, cleaner and more accessible. So, I would like to encourage you all to give some thought to visiting communities, getting communities more involved in a decision making process. Thank you.

MS. YEAMPIERRE: So, I don't know whether we should take one more question, I guess what I would like you to do is listen and then provide us responses

later on and I certainly think that there is a need for more time for the members to ask the questions.

I have a million questions about transportation living in New York City and just really feeling what you were talking about specifically because we do national transportation work as well.

So, I guess we will take one more and please include that in your notes and please stay so that we can engage you. One burning question — I am also trying to get people who have not spoken for a while, so I am going to call on Kim.

MS. WASSERMAN: So, I just had one question and one comment and the comment is to what Hilton was talking about, I think that they are taking it a step further from talking to communities.

I can tell you that there are networks within the EJ community that are organized, willing and ready to speak to the Department of Transportation specifically around invoking environmental justice and looking at funding priorities for public transportation particularly.

So, I would really recommend reaching out to those groups that are ready together and organizing together around this issue, particularly transit riders for public transit.

My second question, obviously you can answer later, is really understanding how within DOT folks are talking about community involvement and environmental justice because I want to make sure that it is not just the same folks around the table making assumptions on EJ, but really having a conversation with folks on what that looks like going back to what Wynecta was talking about. So, thank you.

MS. YEAMPIERRE: Thank you so much. There are actually seats on reserve seating and hopefully after Nancy Sutley presents and the questions are asked there will be some time. Thank you so much, so stick around. Is Nancy Sutley here?

MR. RIDGWAY: I am going to just add for future consideration for this Council, obviously the enthusiasm of these questions regarding interagency issues on EJ are of very high interest.

This is the first chance we have had in many years for the Council to actually hear from other agencies on this issue. I expect we are going to get this on the agenda some more, we have to do that.

We are just scratching the surface and by no means is it my interest to think that this is good enough as far as the opportunity to ask questions, let alone have some dialogue about these issues.

I was out of the room for a minute, but for our guests and other Federal Agencies, I would like to put in the record a question which is, how are you doing in implementing your environmental justice strategies that are required under the Executive Order for all the Federal Agencies? I think this Council would like to know how they are doing on that.

MS. YEAMPIERRE: Since apparently we have a minute, let me just say that as an organizer I would give people as long as they need to ask all of the questions that they have and get all of the answers they need, but I move the meeting along based on information that I receive, so it is unfortunate because I think we could have had some more questions presented.

So, until she gets here I think that if the Agencies are in the room that you

might just want to ask the questions and then put them on the record. I am sorry, Margaret?

MS. MAY: I think that this is a strong indication that this agenda item, not specifically what has been discussed, but an inclusion of a broader group of agencies in Kansas City would be most appropriate.

At the moment, certainly HUD needs to be at the table, Department of Energy, Department of Agriculture and have these folks to come back and allow sufficient time on the agenda for us to really drill a little more deeply and to have a more broad conversation about the importance of the interagency cooperation in so many respects.

MS. YEAMPIERRE: Absolutely Margaret, and we have talked about Department of Labor, OMB, all of these Agencies and we have asked for their presence at every single one of our NEJAC meetings but you are absolutely right and we will do everything that we can to try to get them for the next meeting.

MS. V. ROBINSON: I was going to respond, ask a question regarding that real quickly. How do you see that operating and working? We have three people speaking and there is a lot of deep questions that are being asked. Do you prefer one or two agencies to be represented to get into a deep conversation with them or three or four? That is the question I was going to ask given the time frame that we normally have at a meeting.

MS. YEAMPIERRE: What I was actually hoping was that because I think that that is something that we can discuss tomorrow in terms of what it would look like, what I was hoping was that everyone would have an opportunity since they didn't have

the chance to pose the questions to do that now and then in terms of how we handle it I think we can talk about that tomorrow. So, Vernice?

MS. MILLER-TRAVIS: Ms. Rhea, this question is for you dear heart and the intensity of the question does not belie my affection for you, but this is a tough question.

I think you remember in our previous life together as philanthropists that I was deeply committed to the Individual Indian Trust Litigation against the DOI, I know that case has been settled. I want to know how the process is working in terms of getting the settlements to the Tribal members whose those dollars are committed to.

I want to know where the agency is with the Tribal Trust Litigation, oh I don't know that there actually has been litigation but I know the Phase 2 of that is the Tribal Trust Settlements which are another whole level of that issue, so I would like to know about that.

Secondly, in terms of a relationship between Department of Transportation and DOI and these questions are coming from a report that I am going to make sure I send to you, now is the time that make a series of EJ recommendations about policy or cost the Federal Government.

The relationship between the expansion of the Federal Rail System into Indian country to reach new coal bed methane sources but not meeting the public transportation needs of Tribal communities but yet getting to the coal to get it back to power plants but not serving the people.

I know that is a really big issue particularly for the Cheyenne Nation in Wyoming and so many issues, but I would like to know about that.

Lastly, the loophole in the Federal Railroad Law that allows trains that are stopped with toxic chemicals to stay positioned in communities particularly in Mississippi and Louisiana and South Carolina that presents huge issues around safety, but also compounds emergency preparedness because people cannot get out of their communities because these huge trains that are storing toxic chemicals are allowed to stay there.

There is a loophole in federal law that allows that to happen without local jurisdictions or states being able to speak to that, so those are just some of the issues that I hope we can dialogue about more.

MS. YEAMPIERRE: Thank you.

Dialogue with the White House Council on Environmental Quality

by Nancy Sutley, Chair

White House Council on Environmental Quality

MS. YEAMPIERRE: We are happy to be joined by Nancy Sutley. Nancy Sutley is the Chair of the White House Council on Environmental Quality. In her role as Chair, she serves as the principle Environmental Policy Advisor to the President.

Prior to her appointment, Ms. Sutley was the Deputy Mayor for Energy and Environment for the City of Los Angeles, California. She represents Los Angeles on the Board of Directors for the Metropolitan Water District of Southern California and served on the California State Water Resources Control Board from 2003 to 2005.

Ms. Sutley also worked for California Governor Gray Davis as Energy Advisor managing state and federal regulations, legislative affairs, finances and press relations.

She served as Deputy Director for Policy and Intergovernmental Relations in California EPA from 1999 to 2003. She advised on Water and Air Pollution Policy and established budget and legislative priorities.

During the Administration of President Clinton, she worked for the EPA as Senior Policy Advisory to the Regional Administrator in San Francisco and Special Assistant to the Administrator in Washington, DC.

She received her bachelor's degree from Cornell University and her master's in public policy from Harvard University and from my perspective the coolest thing about her is that she comes from New York City (laughter) and that she really is someone who has a long history and commitment to environmental justice. So, welcome Chairperson Sutley.

MS. SUTLEY: Thank you very much and I should know I grew up in Queens and went to high school in the Bronx, so I kind of reached out across.

But, it is really a pleasure to be here. I feel a little lonely over here but it is really a pleasure to be here to join you today and to be in the company of such a great group who is really working hard to make sure that all of our communities are safe and healthy.

I sincerely want to thank you for the time that you take out of your busy everyday lives to help the Federal Government give us advice about how we make sure we are doing what we need to do in this area and I will just say, I usually say when people read my bio they make my mother very happy.

But, I also wanted to say that NEJAC has been an important part of my professional history. When I was the Deputy Secretary at the California Environmental

Protection Agency, California passed what at the time was the first, one of the first environmental justice laws by any state that was sponsored, by the way by now Labor Secretary Hilda Solis who was a member of the California Assembly at that time.

As we at Cali EPA were trying to figure out how do we breathe life into this very important policy statement in California? We set up a California Environmental Justice Advisory Committee because we knew how important and valuable the NEJAC has been over these many years to EPA and to the Federal Government in helping us think through how to integrate environmental justice into the work that we do.

The Council on Environmental Quality, we have been around a long time. Our mission has really not changed since we were created in 1970 and that is to help the Federal Government help the President set environmental priorities for the Nation and to coordinate across the Federal Government.

The work of ensuring that environmental justice is part of that agenda and part of those priorities is a very important thing for us at the Council on Environmental Quality.

I think too often environmental issues in the National Policy discussion are sort of viewed as removed from everyday life about focus on mountains and rivers and critters and things that are important, but have little to do with our everyday lives.

I say it often enough that it ends up in my remarks that people care about the environment as they experience it and that is something we should never lose sight of when people care about their homes, about their blocks, about their neighborhoods, about their cities and their communities.

Everyone wants kids to be able to play outside without worrying about

asthma or other health effects from dirty air, that the water that comes from our faucets will sustain us and not make us sick.

We know there are just too many places in this country where pollution and environmental degradation fall disproportionately on low income and minority communities and particularly on the children who live in there and we have a responsibility, we as the Federal Government and we as Americans, to those communities because they are all of our communities.

So in my role as Chair of CEQ, I am committed to ensuring that environmental justice is not just an afterthought for the Federal Government in its environmental priorities but an integral part of them.

So, we have just announced along with EPA that we would be holding a meeting to reconvene the interagency working group on environmental justice. We will do that in September so that we can ensure that we are engaging all of the Federal Agencies on environmental justice.

What is very exciting about that for me is that the work group is chaired by the EPA Administrator and of course with Lisa Jackson there is really no better person to lead that effort in engaging Federal Agencies and CEQ will continue to support EPA in that effort.

As you all know, the EPA also announced a significant step recently in issuing its interim guidance on integrating environmental justice into EPA's rulemaking process and we are excited and thrilled to see the effort and the activity of EPA and proud to support them in that.

This guidance of course is important, it is an important step because it will

help to ensure that the communities that carry the greatest environmental burdens will have a loud voice in the policies that affect them.

But this discussion about environmental justice, and I know I am sort of preaching to the choir here, is not just about what EPA does but really what we do as a Nation and as a Administration.

So, I wanted to talk about a few other things that are going on across the Administration that I think they are important for environmental justice efforts as well including the efforts to build a clean energy economy and we look at things like energy efficiency.

Through the Recovery Act, we have directed billions of dollars to the Energy Efficiency and Conservation Block Grants which give states, local governments, Tribes and U.S. territories money to improve energy efficiency and install renewable energy system.

It is a way that we, the Federal Government, can help to empower local communities to make investments, strategic investments, not only to meet our national long term energy goals but also to build a market for energy efficiency for equipment and services and grow the good green jobs that will go along with that and I think that is good news for all Americans.

It has particular impacts in communities, for example, electricity bills cost African American families 25 percent more of their income than other groups.

We are also working with other agencies, with the Vice President, on an initiative called the Recovery Through Retrofit that will help to lay the groundwork for a self-sustaining home energy retrofit industry.

Really, it is a serious action plan to try to make retrofits more affordable, to give homeowners straight forward information about the benefits of energy efficiency upgrades, how they will make their houses more comfortable, they will save the money and help the value of their homes and to build a skilled workforce to help get that job done.

We are recommending, making recommendations, for worker training programs to provide entryways for workers and provide a clear pathway to career attract jobs.

I think importantly to try to link the workforce training to real world job opportunities and also outlining how we will try and will make the real effort to engage small and minority and women own businesses in this effort to make sure that they have a seat at the table and really do what we can to ensure that they have an opportunity to participate in this growing market.

In another area we understand how important it is for communities, for them to thrive that they have access to parks and other green space and we know that many of our urban communities are lacking outdoor space and meaning that many children across the country lack a place to play, to run around, to connect with nature and to develop healthy life habits.

The President in April launched the Americas Great Outdoors Initiative to really focus a conversation about conservation and about open space and particularly for me and Lisa Jackson, who is a part of this is, is to ensure that the urban part of open space is not left out.

My colleagues Ken Salazar, Tom Vilsack, Lisa Jackson and I have been

traveling across the country to communities all over to gather ideas for conserving outdoor spaces and helping to connect young people to them.

We are finding that the right thing in these areas rewards all of us. We know that people who get sick in polluted neighborhoods are often the same people who rely on emergency rooms for healthcare, for example, and that dries up healthcare costs across the entire system.

Children with asthma or allergies miss school, their education suffers as does their economic potential and not to mention the toll on their families and their parents who have to stay home to take care of sick children.

In neighborhoods that have poor air quality or polluted water and little green space, often businesses do not see them as attractive places to invest and the economic opportunities can be stifled and we see more crime, more violence and more drug use and that cycle continues.

But, there are of course solutions to all of these things and not that open space will solve all problems but it is an important part of helping communities to feel more whole.

A few weeks ago as part of the Americas Great Outdoors Initiative, Ken Salazar, Lisa Jackson and I visited with a number of youth groups in a very densely part of Los Angeles and we met at a place called Rio de Los Angeles State Park which is a new park created out of a brownfield that used to be a rail yard in one of the most densely populated parts of Los Angeles.

We were there on a Thursday afternoon and the park was full of kids playing and I remember when the park opened really what a huge day that was for that

community to finally have some green space in the midst of a lot of -- you know it is just your basic urban landscape, you can get your windshield repaired there.

If you are ever in L.A. and you break your windshield I can show you where to go it is close to that park (laughter).

But, a street lined with auto body repair shops and windshield repairs and train yards and things like that and in the midst of this a beautiful green space that is well loved by the community and a real asset.

So, I think this Americas Great Outdoors Initiative gives us an opportunity also to engage communities and communities that have been left out and left behind in this discussion not only about conservation and open space, but about environmental protection and how it affects them and those communities and how their needs should inform and affect our work because it is not just about the environment, it is about our health and our children and our value as Americans.

We built this country on the promise of equal opportunity for all and we need to continue to make sure that we can keep that promise for everyone.

So again I thank you for everything that you all are doing, the time that you take out of your busy lives to be part of this discussion and I thank you for inviting me.

Thanks.

Questions and Answers

MS. YEAMPIERRE: Thank you so much for joining us. You raised a number of things that we have been talking about and are extremely important like the interagency work group. I just have one question about that.

Will that work group be incorporating climate adaptation and community

resilience because we do not see them as separate?

From EJ, we are thinking that if we are planning moving forward and if we are trying to address environmental remediation in a meaningful way as we speak in our communities, that we also need to be thinking about adaptation and resilience.

MS. SUTLEY: Thanks. That is a very important point and I think an important discussion for all these agencies. I would just mention that we have been, CEQ along with the Office of Science and Technology Policy and the National Oceanic and Atmospheric Administration have been co-chairing a task force on climate adaptation.

We have been added probably about a year now and we have a report that is due to the President in September and different agencies come with different things, but there has been a significant focus on this as it relates to urban issues in not only infrastructure but urban communities and we are very fortunate to have a very active group not just from EPA but, for example, from the Department of Housing and Urban Development.

So, I just would point to that as well and invite you all when we get that, we have actually put out an interim report which is on our website, but if you have thoughts on climate adaptation I would invite you to share those with us. Thanks.

MS. YEAMPIERRE: I will be happy to. Langdon?

MR. MARSH: Welcome Nancy, it is good to see you. We had a presentation just before you came from three panelists from different agencies.

Beth Osborne from DOT talked a little bit about the Partnership for Sustainable Communities which looks to me like a really great model for interagency

collaboration around issues including environmental justice.

Yesterday in our conversation around the table, one of the issues that came up that was hardest for EPA to address, and our advice goes to EPA of course, is the issue of land use in communities around the country being used to either perpetuate or in some cases even to create further burdens on distressed communities.

What occurred to me is that the Sustainable Communities Partnership has more power perhaps through its grant programs and collaboration on policies to be able to assist communities to do the right kind of future forward looking planning that does alleviate or it certainly prevents new problems from occurring. So, I just wanted to get your comment on that.

Also, as you know of course but many people may not know, CEQ is in charge of coordination of compliance of the National Environmental Policy Act and the opportunity for EPA and the other agencies, DOT, HUD and so forth, to use the need for process to heighten addressing concerns of environmental justice, I think, is there and has been happening a little bit.

But, it seemed to me that a lot more could be done to move that along. So, those are my two points.

MS. SUTLEY: Thanks. Just quickly on the sustainable communities, I think in addition to it I think some very good things that the agencies are involved in that are doing and to me it is a demonstration I think of something that has changed significantly in terms of, I was in Washington and then I left for almost 15 years and went to California and now I am back, I do not know how I feel about that (laughter), but I will let you know in a few more years.

But, I think it shows — to me it is a demonstration that I have seen throughout this Administration of agencies who do not necessarily have the strong environmental mandate in their mission taking on, I think, in a very profound way these kinds of very important environmental issues.

So, we have seen this not only on the sustainable communities but on the climate work as well as agencies like HUD and DOT think about how important sustainable concepts are to the work they do everyday.

So, I think that is a real shift in thinking over the last 15 plus years that the environment is not something over here, it is fundamental to what so many agencies do.

Your comments about NEPA, we are always interested in discussing ways that NEPA can be strengthened in its application and of course it has in it some concepts that are important to the environmental justice movement such as cumulative impacts and that has been part of NEPA from the beginning, so that is a conversation where we are always very interested in. Thanks.

MS. YEAMPIERRE: Nia?

MS. N. ROBINSON: Good morning, I have two questions. My first question is as an Environmental Justice activist, I am becoming more and more weary.

On a federal level we are hearing conversations about the clean energy economy empowering ourselves into the future and then in the very next breath we are hearing what a lot of us in Environmental Justice communities are calling false solutions because people are beginning to talking about clean coal, carbon capture sequestration, nuclear and biomass.

I am interested to know what the Administration's ideas are around what

clean energy actually is and how you feel those false solutions fit into that category.

My second question. Very often, I feel that people of color, especially low income people of color, are trapped into particular types of green jobs.

I am interested to know what the Administration is doing to ensure that Tribal colleges, Latino serving institutions and historically Black colleges are given the resources to do the research and to build their curriculums to really stake their claim in the green energy economy. Thanks.

MS. YEAMPIERRE: Nia, if you could just state your full name and your organization affiliation.

MS. N. ROBINSON: Nia Robinson, Environmental Justice and Climate Change Initiative.

MS. YEAMPIERRE: Thank you.

MS. SUTLEY: Thanks. I think on your first point, I think we are in a period of transition and what we are hoping is that we can help to speed up the transition from an economy that is largely dependent on not particularly clean sources of energy.

But, I think two things just to say about that transition, one is that we are committed. The President has said many times they are committed to doubling renewable energy capacity in the country but it still even with that would remain.

It becomes then still a fairly small part of that in that we have to grow the clean energy industry, we have to make sure that the U.S. has the capability to grow that clean energy industry if we are to get I think where we need to get in, hopefully not too long term which is a much cleaner, much more efficient energy sector.

But in the meantime, it means that we have to make the best of the other

sources of energy that we have and I know that that is a high priority to ensure that as we have to continue to rely for some period of time on fossil fuels that that is done as cleanly and as efficiently as possible so the work that EPA does in its normal course of business. But, also things like the increase in the fuel efficiency standards for automobiles and as the President announced working on trucks and the next set of automobile standards.

The benefits of those in addition to the greenhouse gas benefits, the biggest co-benefit is that the reduction, the improvement in fuel economy means you have to produce less gasoline and so the co-benefits of reduced activity at refineries and certainly know where a lot of those refineries are. So it is a transition, it is one we need to keep working on and paying attention to.

On your point on the green job training, I think it is a very important point and the work that we are doing through the Recovery Through Retrofit I think is one where we will reach into those communities to make sure that, as you point out, there are a lot of institutions that can provide training where necessary, so we are happy to work on that.

MS. YEAMPIERRE: Thank you. Wynecta? If everyone could just introduce themselves to the Chairperson, I would appreciate it. Thanks.

MS. FISHER: Wynecta Fisher, formerly New Orleans Mayor's Office of Environmental Affairs.

Actually, I have two questions and I apologize if I missed it Chair Sutley but what is clean energy?

MS. SUTLEY: Well, it is something that is cleaner than what we are doing

now.

MS. FISHER: Like for example, we heard it yesterday and Teri kind of alluded like there is no such thing as clean coal, So I guess how is the Administration defining clean energy? That would be my question.

But also, I would like to ask you a question about the need for process and Beth Osborne mentioned that by the time the community gets involved in the need for process it is basically too late and I am going to agree with that.

But what concerned me in New Orleans, is that after Katrina there was an expedited need for process and it seemed like that expedited need for process never ended and I do want to commend you, I actually contacted someone at your office and I got a call back within 24 hours, because I asked them, I said how did you come up with this process?

I was thankful not only did he call me back, he told me that they reached out to some community groups. Unfortunately, they only reached out to two community groups and two community groups do not speak for all community groups and the community groups they reached out to have a very myopic view of things.

I do not know if there is a way that when we are dealing with emergency issues that you could possibly have a list of community groups already that you can touch and have access to ASAP. I do not know if there is a process in place, so I would like you to answer those if you can.

MS. SUTLEY: On the question with clean energy, I think that as I said before that we have to grow the clean energy economy. It is renewable energy and we need to use energy more efficiently and use it more cleanly.

As I said, I think we are in a period of transition in that I would not necessarily, I do not think that -- other people have labeled it clean coal, I am not sure I would necessarily agree that that is real.

But, I do think as long as we have to continue to rely to some extent on those sources of energy that we can do more and should do more to make those as clean as they possibly can be.

But, I think in the long run not just for the United States but for the world that developing and making sure that there is access to these sort of inherently cleaner sources of energy is very important.

That is the purpose I think of both the investments in the Recovery Act but also in the President continuing to call for a cap on carbon and putting a price on carbon to make sure that the investments are going to cleaner sources of energy.

On your NEPA point, I think there is a process which was used in the aftermath of Katrina for alternative arrangements in the course of an emergency and we will use them very sparingly because I think to me the most important part of NEPA is it does allow and does create this affirmative obligation for public process on agencies in dealing with the environmental impact.

So, while those alternative arrangements are appropriate in some emergency situations they should be used very sparingly and thank you for letting me know about the quick response. We have a small NEPA staff, but they work very hard.

I think also one of the things that we have tried to emphasize at CEQ is, we are never going to have the resources to run NEPA for the entire Federal Government and in fact NEPA is not structured that way. It is an obligation on the

agencies themselves.

So, we can help to ensure that the agencies are carrying out their NEPA responsibilities and urge them and our urging has some impact on them to do things as you suggested in terms of making sure there is broad, the information is distributed broadly and that there are attempts to reach out across communities.

So, it is an important function of NEPA and one that we are very committed to.

MS. YEAMPIERRE: Jolene?

MS. CATRON: Good morning, my name is Jolene Catron and I am Executive Director of Wind River Alliance in West Central Wyoming.

I am not so sure that I have a question specifically, but just a couple of comments that I am thinking about.

I am thinking what struck me with your comments is that working in a very rural, very far away place as Central Wyoming is, in the middle of the Wind River Indian Reservation, where we are two hours from any interstate and it is really interesting to hear your comments and see how they work down to the community level.

I have seen these programs for the retrofitting and the work force creation and I have seen these programs come to our community and the communities that I work in have a lot of social issues.

What is interesting is that even though these monies come in for this work force creation, that is really important and I cannot stress the importance of this and trying to get the people in front of those programs to apply for these programs.

One of the issues that we are running into is that they are unable to pass

the drug test and that is a huge, huge issue in a lot of our communities.

So while I do not advocate the use of drugs, the fact that that is a rampant problem in our communities, in our environmental justice communities, I think is something that we do not talk a lot about, the social problems that go along with environmental justice.

In the work that I have done nationally talking with elders, they have always shared with me that our communities are only as healthy as our environment and as our water is and so I really appreciate the fact that you talk about how getting outside, being outside, and appreciating that is just as an important part of our environment.

The other thing that I wanted to talk about was this access to the program, the Let's Move Initiative, and I was just in Albuquerque a couple weekends ago and I read in the newspaper after the fact on the Saturday that it happened that the Let's Move Initiative was in Albuquerque seeking comments and had I known that it was there I would have been first in line or had I read the paper earlier I would have been first in line.

But, is there going to be access to that facilitated input on the internet? Is there other ways that we can submit our opinions on that other than just first hand, other than just being at the actual meetings that are happening because a lot of those were going to large metropolitan areas and a lot of rural Native people have no access to that at all?

MS. SUTLEY: I appreciate that. I actually do not know the answer to that, but we will look into that but I hear your point and we will be sure to communicate that to

the First Lady's Office, but thank you.

MS. YEAMPIERRE: Chairperson Sutley, I have been advised that you are needed elsewhere and I would like to thank you for joining us today and we look forward to working with you and moving forward.

MS. SUTLEY: Thank you, and I am sorry that we could not get to everybody's questions or comments and I appreciate you inviting me and I know this will not be the end of our conversation.

First of all, our door is always open at CEQ. Nikki Buffa on my staff is our lead for environmental justice and her staff, so if there is something you want to let us know or a conversation please get in touch with us and I hope you will invite me back. But, thank you very much for your attention.

MS. YEAMPIERRE: Thank you so much. So, we had asked the interagency, well some of the folks that were here from the Agencies, Beth Osborne, Patrice Simms and Rhea Suh to stay and I understand that Beth had to leave, Patrice is gone, is Rhea still here? Okay, everybody is gone.

I think that this would be a good time for Victoria to make some administration announcements and then we can break for lunch, I think.

MS. V. ROBINSON: Just real quick, we need you to take a look at your travel summaries. We want to try to prepare your vouchers today, so if you can get them done during the lunch we do have access to green spaces.

I think it is very important as we talk about environmental justice and get out to moving about that just because you live in a rural area does not mean you have access.

MS. YEAMPIERRE: Correct. I also want to say something before you all leave, I hope you all can hear me, it is really difficult to see the cards up and for you not to have an opportunity to ask your questions.

I sit here really conflicted. It is really difficult for me on a number of levels, but I really have to urge you that if you know we are time limited that you be sensitive about the needs of the collective and not ask long questions or go on.

I know that everyone is very passionate about the issues that they are raising, but when you do that you prevent other folks from having the opportunity to have their say and the Council is now larger, we have 25 people, we have 25 opinionated people who feel deeply about everything.

You don't know how difficult it is for me, someone who has an opinion about everything, to bite my tongue but I do it because in the interest of making sure that the collective has an opportunity to have their say.

So, I would really urge you moving forward that you become a little bit more disciplined and I hope I am not being perceived as being disrespectful because I don't mean any disrespect, but when she left I had this long list it just broke my heart that people didn't have an opportunity to weigh in or to even introduce themselves.

So, please let's be more aware of that. Maybe you need to start talking like a Puerto Rican, talking a lot faster, I say that jokingly. I joke a lot because a lot of the work that we do is so deep and sometimes so painful that I always try to add levities, it is just the way that I am.

But, really be a little more thoughtful guys because you are going to have one or two people and it is not the time, we need to be more brief.

MS. BLANTON: I would also like to add that when we are building the agenda, the actual physical building of the agenda, the questions I am always looking at is, is this enough time for the conversation?

So, particularly when we had the Steering Committee getting together to talk about the agenda and looking at it, to actually look at not only for the content, who is speaking, but only allowing adequate time for the conversation.

We have added some extra time from what was originally given to me like, oh a half hour for this? I am like, no the members will want at least an hour, so trying to build that time in to be able to get those kinds of questions in.

So, we need to be thinking about that as well strategically for future agendas. I think Jolene had a question.

MS. CATRON: Yes, I think what would really help as we facilitate these discussions is if you give us a clear amount of time that we have available.

MS. YEAMPIERRE: I was under the impression we had so much time and I get notes about, oh you only have four minutes left for this person is here.

For example, with the interagency folks I thought we had, I thought my impression was the Chair was right there and she was at the entrance and we could have actually had everyone weigh in but I was given information, basically I was under the impression she was already here from what I was told.

MS. CATRON: Yes, but what I am saying is when you call on somebody or time for responses, can you say we have approximately 15 minutes for this conversation and then that will give us the opportunity to say, all of these people are here now and the cards are up and is my question really relevant?

MS. YEAMPIERRE: But, we will do that more often. We have been doing it, but what happened was that there were changes. We were told we had a certain amount of time and then informed it was different than what we had anticipated. So, there were some changes and we had to just change it at the last minute.

MS. CATRON: Yeah, I understand that. That will be helpful for us to gauge what that time limit is.

MS. YEAMPIERRE: Kim?

MS. WASSERMAN: I just wanted to agree with what I think I heard Victoria say and I apologize because I didn't completely hear her which was, if we could designate particularly when Departments are replying to how they are moving EJ forward in their Departments.

If we could definitely designate more time because I felt like that was the one question that didn't even get to get asked of the three of them which was aside from telling us in your report like asking a direct question of, okay well can you give me specific examples.

So, I definitely agree with Elizabeth's thought on the questions but I think Victoria's point is if we could allow for more time because if we are requesting for more Departments to come in I definitely don't want us to have to go through this again where we are buying for more time and don't have it and the fact that they left.

MS. YEAMPIERRE: We have time, I was told the Chairperson was right there and she wasn't. We had a good 10 minutes where everyone would have had an opportunity to ask those questions. Margaret?

MS. MAY: I think that the size of the group, I agree with your comment

that the lengthy questions or comments I think we are all going to have to be disciplined.

I haven't been a great talker in these meetings to this point because I am new and I feel the need to learn before I have a lot to say, but I hope I can remember once I feel like I know more to realize that with the size of the group having such lengthy comments or questions is not going to allow everyone to speak.

I would like to suggest in that regard that when there appears to be a lot of interest in making comments or asking questions and we have time constraints, perhaps we should have a facilitator that gives us a maximum amount of time.

For example, if you have 15 minutes and 10 people want to speak then obviously about a minute or so is going to be the maximum time and then if we could have cards that we could write the more detailed comments on and turn those in, then everyone would have an opportunity to be heard.

MS. YEAMPIERRE: I think that would be helpful Margaret because really I think that people just sort of get lost in their own issue, in their own passion and they lose sense of the fact that there are five or seven other people with their cards up and we need to be more sensitive to the fact that everyone has a right to weigh in. Savi?

MS. HORNE: I don't know what the process would look like but it seems to me that quite a few people came with prepared statements, so if we were able to get those in advance and could submit questions to you that could be asked of these people then that would help to organize their thought.

As we were speaking to Ms. Sutley, there were quite a few questions on clean energy and then if you have a particular question I just thought while it is not answered or addressed because I was going to renewable energy and when you have

states jumping into the band wagon as a part of economic renewal and increasing the burdens to communities.

But, it was sort of like --- gently dealt with other people's comments and you might want to step back and let others go forward, I don't really know. I mean it is a judgment call that we all have to in the midst of the business kind of interrogate our asking the question.

MS. YEAMPIERRE: I think Savi that speaks to our need to be strategic in how we ask questions because this is a very limited opportunity that we have and we need to be able to work with each other in a way that we are working with strategically.

So, sometimes there is almost like a little dance going on, like for example this group over here on this side (indicating) they started asking questions about the permitting earlier today and for me it looked like a dance, it was perfect. One person raised one thing, another one and it all complimented each other and together the recommendations were very useful.

I think we need to be able to compliment each other that way. That doesn't mean that we don't disagree or that we don't bring up different points but that we try to stay on point and try to be really strategic in taking advantage of the opportunity. That is just in my humble view as I see it.

MS. HORNE: Can I make one other point because I haven't really engaged that much?

MS. YEAMPIERRE: Oh, yes sure.

MS. HORNE: As we were told that the intergovernmental agent work group is about to happen, is there a process as we as NEJAC could sort of shape some

guidance charges to this group so we can kind of get our issues into place?

MS. V. ROBINSON: In terms of the interagency work group, the relationship between a NEJAC and the IWG is not such that the NEJAC can charge the IWG with questions.

However, we do recognize that there needs to be a relationship of sorts between the NEJAC and IWG. I don't really know how that is and how that will work, but in terms of specific charges now is one thing but asking questions or being strategic about the kind of information you want to get from the IWG when we ask them and we bring them here all representatives of the IWG to speak, that is another story.

I wanted to touch on what Elizabeth has said about being strategic in our thinking about our conversation. One of the things that I have been tempted to do in the last six, eight months is deal with discussion framework so we can plan the conversation in advance.

A couple of those documents in your binders, we did not get an opportunity to really do one for all of the presentations particularly this one, I agree we need to get the information, the presentations, from them earlier if we can get them.

But, very often when you have talking points that is one of the last things that gets prepared, but to think of the questions that we want them to address in their conversation and typically on a discussion framework we have anywhere from three to eight questions that we want them to focus the conversations on.

It also gets to the question of how many people do you really want to have on a panel when you have a lot of deep questions that need to be asked, is it really fair to try to ask three people to sit there while we ask them all very detailed questions or do

you want to kind of strategically plan out your conversations with the interagency representatives so that you can get that kind of detail.

Those are the kind of questions that we need as a body to think about and work and to move forward from so that we are not feeling frustrated by the process.

MS. YEAMPIERRE: Hilton?

MR. KELLEY: Yes, I just wanted to throw this out there. Back on the topic of communicating to our speakers and Q and A, I think we might want to entertain a thought of maybe trying to divide up the process by having Q and A and comment period.

I mean, because many times I don't necessarily have a question but mostly it is comment suggestions and I think if we look at a way in which we can divide that up, like okay all comments at this time and once the comments are said and most of the time the comments are real brief, then we can look at Q and A and Q and A could possibly have more time so that people can get their questions out and the speakers can respond.

MS. YEAMPIERRE: Can people really do that? I mean sometimes the preface to the question is a speech, so I mean let's be honest. So, do people have the discipline to do that? Jolene?

MS. CATRON: I was just going to say, Hilton knows that I ran public meetings like that in Texas and yes you can make us do that and it really does help organize, it really does help organize your thought process and make you think about whether you have a question or whether you are making a statement.

MS. V. ROBINSON: Why don't we try that this afternoon? How do

people feel about that?

MS. YEAMPIERRE: Teri, I am sorry, I know you put your card up a while back.

MS. BLANTON: I think I want to answer the first question you put out there about time and you said, do you think we need to have more time for discussion after we have speakers and if we went from 12 to 26, of course we need more time for comments, questions, whatever.

I think when you have this many opinionated people sitting around the table, you can expect for some comments and some questions and some speeches.

MS. N. ROBINSON: Just looking at the idea like I know there are times and other spaces talk a bit, so I do a lot of self-policing. So, I look at the agenda and I say well I know that there is probably a place where I am going to want to ask a question which then makes me feel entitled to my two part question that I asked to Chairwoman Sutley and don't feel about it because the truth is there are people at every point of question and answer that ask very long questions.

So, we cannot just do the policing per section, we have to talk about the respect that is given all day when there are people who take up and rightfully so we all have issues, we have all been doing this work, we all have questions and concerns.

But, there is a lot of space taken up by quite a few people and then there are other folks who don't get the space and so they wanted time to really ask a two part question and I am sitting here, well is she talking about me or what is going on because I am trying to be conscientious of what all is happening don't necessarily feel like everyone else is doing the same thing.

MS. YEAMPIERRE: I also look around to try to see who hasn't spoken and as that card goes up I might bump people to give that person an opportunity to speak especially if that person is new, I use that discretion to do that just because I want them to have an opportunity to get their sea legs and get in the rhythm of it.

So, I try as best I can to balance it out. Sometimes I forget people especially if you are sitting right here (indicating) and I don't see you and John lets me know, he puts it on the list or if I think there is an issue that this particular person really should speak to that issue, I will look in your direction like I did Teri yesterday, isn't this one yours just because I think that we all come from a background where we have something specific that we have to add to the discussion. Shankar?

MR. PRASAD: I think the agenda is basically so packed and that is the fundamental problem, I mean, we are all sitting here and trying to talk about within that is the problem we have here. We want to get into some discussion, so we have to limit the agenda items.

Second, if we do not have the items that are given to us prior to reading I don't think we should take that item. That says to owners that the people who want to get us to volunteer and be here and give of our time and be on the work groups, be on the --- and then mark to get some material in that needs to postpone to the next conference.

We cannot be functioning without getting the information before and we meaning --- that is one part on the part of that side which will force the people but for us to be policing ourselves as well as to be much more concise in our either comments or the questions and that also puts the staff that comes there and they work the time but

we want to be sure that it is kind of two way traffic.

The other part is if we are asking for this the --- of the high level to come here and be there, their time we cannot expect them to be here for a long time, that is given. That is political structure, that is not going to change and so to the extent possibly if we are going to continue with I think from other agencies maybe we want to ask the OEG to send them a note as to what --- so that they can in their presentation we can expect and this Steering Group and the Agenda Sitting Committee can think about what questions we want them to address.

MS. YEAMPIERRE: The ironic thing, Shankar, is these are the people who are coming before us and talking about meaningful community engagement and they are not providing us the information in advance.

I think the first step in really wanting to engage the NEJAC in a way that is meaningful is making every attempt to provide us the information that we need to review in advance. Wynecta?

MS. FISHER: Well, first I want to apologize because actually I have never talked this much at a NEJAC meeting which is actually scaring me. I am not going to say anything for --- movements but I have a lot of Gulf of Mexico questions also.

But, I am just thinking about I asked the question, my only question to Nancy which I wanted answered yesterday was about the need for process, but when she did not give me an example of what clean energy was it was tearing at me like I have to ask the question and I have people ask me, Wynecta, what is clean energy? I am like, you know, good question. But, she didn't answer the question.

You posed the question to the three Agency people and said, I want to

know how and we never got the answers, so I am sitting there thinking you know do we tie them to a chair and say answer us, answer us or what?

Maybe, I am really going to go out on a limb with this one, maybe we have a meeting that focuses, I mean, wouldn't it be nice if we just had a meeting and each Agency came up here one hour, gave us concrete examples of how they are integrating the Executive Order into their agency, what type of training they provide because I have a polyanna view of I give people 100 percent and then I let them bury themselves.

So, I am going to assume that most of the Agency people don't know anything about environmental justice and that is why we have the issues we have and they are in need of training.

So, have you provided them with training? Okay, so you didn't provide them with training, now they need to be trained so we don't continue to create issues.

It seems like we need to have each agency that is part of that Executive Order and each of them needs an hour because how are we really going to address EJ's issues if we don't get them on board and what Jolene said, that is a problem we face in Louisiana and you get both sides.

It is like my tax dollars are paying for people to be trained for green jobs but yet they cannot pass the drug test. So, how do you call that an effective training program?

Now we cannot address that in an EJ piece, but where is there an opportunity for us because most of us are holistic people, we don't just look at things in silos.

MS. YEAMPIERRE: I think that in the past we have asked very specific

questions asked them to come to respond but I think we need to let them know before they get here and repeat here again when they get here what they are here to answer.

I raise that question because after the first presentation I felt like I can get on a website and get all of that. Why am I listening to all of this? Why are you wasting my time like this? Why are you disrespecting the breath of knowledge that is at this table?

I just really felt that we were being disrespected by that presentation and I didn't even know I could bear getting through it to be honest. Was I the only one?

(A chorus of "No.")

MS. YEAMPIERRE: I am talking about the Department of Justice presentation, don't make me name names I don't know the person but I was just sitting here thinking what? Like what were you thinking? Did you prepare how you thought about this? This is a waste of an opportunity and I was just really stunned and I just thought I don't think I can even make it through.

Anyway, so that is why I raised the question and I even think when I do that, am I being out of line as Chair because at some point I think Hilton thought that I was going to start asking questions and not engage everyone and it was just this moment where I felt like I had to say something because I was like, oh hell no we are not going to go through two more presentations of what we can find on the website. I just had that moment.

But, you also have to trust that I am going to look out and that at the end like maybe I get information that I cannot share with you at the moment, but at the end certainly I am going to say, okay everybody can ask questions because I know you are

like can we ask questions? Yeah, of course but I get little notes from Victoria, you know I caught Victoria at a loss.

Anyway, Sue, I am sorry.

MS. BRIGGUM: Actually I thought when you said that it was an enormous relief and I thought it was helpful guidance and I got the sense that it might have been a couple of the speakers who were able to respond to that to some extent, I mean, it is hard they come with prepared remarks but I thought I saw a really honest effort to follow your lead and think I should be a little more specific.

It just strikes me and this is what Shankar articulated, this puts us in a really tough situation because we don't know ahead of time who will be here. We don't have materials that allow us to prepare on the substantive policy issues.

This is supposed to be a policy dialogue, not an opportunity for any of us to bring our own particular situation to someone important the Government to have a chance to flag our issue but we are supposed to be kind of developing a policy dialogue?

But, the structure isn't as conducive to that as it could be and I know that there is not a whole lot you can do to the heads of a lot of organizations.

But Elizabeth, if there is something you could do to try and take what you mentioned to begin with and say we need to get this back on the policy front not just a laundry list of things and then we come up with whatever we feel like saying but we should be advancing the National Policy discussion and creating some ideas.

MS. YEAMPIERRE: There are times like when I am hearing the presentation where I actually want to interrupt the presentation and I want to say, and

so this is actually good?

I want to say I am sorry to interrupt you but can you answer the following questions and can I do that? I want to do that. I just don't want to be rude and disrespectful but I feel like saying, thank you for that background but can you stop for a second and answer these questions because honestly I just felt like kill me now, of course I exaggerate.

MS. V. ROBINSON: I am a little hesitant to say yes or no because one, working for the Federal Government I would say, can you say that to the Chair of the CEQ? But, there are other folks it is like that fine line.

But, I think what you did you handled it well when you thanked them and said, you know we would like to focus on these issues and making sure it was reiterated.

The funny thing was those were the very questions that she asked that we had asked them to prefer for. So, great minds think a lot. She didn't know either but she did pick them out.

But, yes that is something we need to think about as how you want the Chair to handle those moments so that she feels comfortable in doing so and not feeling guilty or like she might be stepping on somebody's toes or what so that it is a comfortable moment for everybody and that is something you want her to figure out a way to do that in a polite way then we will see, we will come back.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: I just want to weigh in on behalf of my colleague Patrice. I thought he was somewhat incoherent to put it mildly, but I do want to say this

for those of you who don't know him he is moving an agenda at the Department of Justice that is extraordinary on our behalf and he is doing extraordinary work there particularly around knitting together the Civil Rights Division and ENRD.

I am not sure why he didn't say more about the level at which they are working and how they are cracking the whip over there with Ignacia Moreno and really substantively moving this dialogue, digging deep with EPA to get them to show more enforcement cases, et cetera, et cetera. There is a lot of work going on but you wouldn't necessarily be able to discern that from the presentation.

So, I will happily communicate back that we would like more substance and we would like a really much more focused presentation in our ongoing dollars but I just didn't want folks to walk away and think that 1) he doesn't know what he is doing, 2) that he doesn't respect this body and 3) that he doesn't have a tremendous personal commitment to environmental justice that he is articulating every day in his job.

MS. YEAMPIERRE: And Vernice this is not personal and not everyone here at this table has a personal relationship with everybody in these Agencies and I think it is a question of respect when you come before a body, let me give an example.

When people who are technical and people who are sort of in worlds where their policy wants come before my community and my community doesn't understand what they are talking about, I think that they are intellectual failures.

I think that a sign of intelligence and a sign of being able to actually be impactful is a sign of somebody being able to make information accessible at the most grass roots level and I think a sign of respect is coming prepared.

So, regardless of whether or not someone is nice and whether or not you

know something about them personally, there are some new people on this table and there are some other people who don't have the benefit of that experience and I think that it is not something that he owes to you as someone you know but he owes to everyone who is at this table.

So, I would hate if every time that there is a problem like that that you would be the go to person to resolve that problem. There needs to be a message that comes from the NEJAC that says that these are people that serve as volunteers, they are giving up their time, they are leaving their families, their jobs, access to email, all kinds of things and are coming to try to provide some guidance and some move in EJ agenda and you have to respect that.

I think maybe that comes in how we share it differently, maybe a little bit more aggressively. I am sort of feeling my way through, but it has to be that kind of respect and response has to be something that is had for everyone who is on the NEJAC.

MS. MILLER-TRAVIS: But Elizabeth, I would just push back a little and say that it is not merely the fact that I know him and I have known him for a few years, not as long as I have known a lot of other people in the movement.

But, I think he would be crushed if he knew that you thought and others may have thought that his presentation reflected a lack of respect for this body and these people and the commitment of the people sitting around this table, he would be crushed if he knew that that is how you felt and that is how he came off to you.

MS. YEAMPIERRE: I think a lot of people felt that way on this body and like I said it is not personal, I don't know who he is, it was just this feeling that I thought

-- anyway Wynecta?

MS. MILLER-TRAVIS: I wasn't finished.

MS. V. ROBINSON: Wait a second, Wynecta, before we go on, this is an opportunity for lunch and I think what we want to do is go ahead and just shut down for recording and so people who did not order their lunch can go out and take their lunch and come back here.

But, those who are still here and eating can have this conversation. This becomes a conversation over lunch, okay? We will make sure that the person doing the transcript is doing that, okay?

(Meeting adjourned for lunch at 12:22 p.m.)

AFTERNOON SESSION

(1:30 p.m.)

MS. YEAMPIERRE: Before we begin with this afternoon's panel, Assistant Administrator Giles would like to take a few minutes to provide the Council with information and update on the array of charges that are being considered right now by EPA and a number of other initiatives that you might not be aware of.

She will not be able to stay, but I believe Lisa Garcia is going to be here so if you have questions for her after the panel or whenever we are able to get those in, Lisa will be able to answer those. Cynthia?

MS. GILES: Thank you. I just thought it might be helpful to give you a little bit of information for when you conduct your deliberations later today and tomorrow about the formation of work groups and how you want to organize yourselves.

There is a huge demand within EPA for a desire to give charges to this group, you have no idea. What we tried to do for this meeting was to give you what we thought was a very ambitious but hopefully doable three questions.

So, one on the plan and two charges, short term charges, with respect to permitting. We fully expect after getting that feedback from you that we are going to be coming back to the NEJAC with charges growing out of the plan, other charges growing out of permitting and other topics that are in the plan along with a host of other issues that we are getting from other National Program Managers that desire to ask you about.

So my suggestion would be, when you are thinking about what you want to do in the next few months that you consider that there is a big pile of other work that

we are trying to sort through and come to you with what would be most efficient and effective and helpful to the Agency in advancing environmental justice.

So, we are going to take all the recommendations including recommendations that you may have coming out of this meeting to the Administrator and come back to you with additional charges, hopefully not too much.

MS. YEAMPIERRE: Thank you. I am really happy to introduce the next session which is EPA's Responses to NEJAC Recommendations on the Goods Movement Report.

I would like to ask if in making your presentation if you could be specific about what parts of the NEJAC recommendations made it into your analysis, your thinking in your reporting and if you could just point them out as you go along in your presentation. We would be most happy to see that we somehow made it in there, so if you could share that information with us that would be great.

We have with us Gina McCarthy, Assistant Administrator of OAR, Gay MacGregor, EPA Office of Transportation and Air Quality, Mike Bandrowski, EPA Region 9, Anthony Furst, U.S. Department of Transportation and so we are going to start with Gina. Welcome.

EPA Responses to NEJAC Recommendations on the Goods Movement Report
Comments by

Gina McCarthy, Assistant Administrator, OAR

MS. McCARTHY: Thank you, Madam Chairman. Thank you for the opportunity to be here and thank you to all of your work on the Goods Movement issue.

It is going to be hard for us to say what recommendations we are actually

paying most attention to, frankly because we are paying attention to all of them. I have to congratulate you that the subcommittee that worked on this did an incredible job at getting to a level of detail that not just made it impossible to ignore, but it also provided us a tremendous road map that influenced our thinking.

So, we are coming here to talk to you about it in detail, how we are going to be responding to that report but also to tell you that we have taken it so seriously that it is already making its way into the considerations of the Agency in decisions we are already making.

So, I just wanted to thank you for that. I know that there is a lot on your plate and I know as Cynthia and others generate great ideas for us to think about, we are going to be challenging you.

But, I hope you with the breath of the work that we are going to ask you to look at, I hope you always take it as seriously as you did this Goods Movement Report because this level of detail sparks action immediately in the Agency and it was tremendous.

Now, I know that time is limited so I am going to introduce this and then turn it over to others to walk through. But, I did want to tell you that just a few weeks ago we had our Regional Administrators that met in Baltimore and they talked about the Goods Movement issue.

We talked extensively about some of the recommendations that were in your report and we already have created a 2010/2012 Poor Air Quality Plan that is guided in many ways by the prioritization that your Committee put on these issues and I do think that much of what you have raised is also going to guide our toxic strategy.

We talked about that a lot last time that I was here and we are moving forward but you are really going to be providing us not just a report on Goods Movement but it will have much more extensive impact in how EPA is looking at prioritizing our work.

I did want to remind you that I think the Report recognized the value of DERA, the Diesel Emission Reduction Program, and DERA is the act itself. That is actually up for re-authorization in 2011 so that may be something that individuals in the community want to take note of because obviously that is something that EPA will be following closely.

I also wanted to recognize that in terms of DERA, I think we did a pretty good job in the air program of making sure to do some set asides for the Tribal communities so they would be more competitive for this funding and we did recently announce that four Tribes were selected for DERA grants.

So, that is a good thing and it is a lesson for us to learn, I think, in trying to reach some communities in making sure that the funding is spread across to different levels of funding and programs and projects.

But as I said before, the report was challenging us not just in terms of what we are doing on Goods Movement but really looking to think differently across agencies as well as across OAR and within the Agency.

I don't know whether you realize it, but in response to your report we had a cross agency team that worked on our response and that involved more than 100 employees in the Agency because it was an issue that we find has tremendous value and it also is an issue again that challenges us to think differently.

So, the co-leads were OAR and O Tech in Regions 9 and 10 plus we involved OAQPS, OECA, Civil Enforcement, Federal Activities, our EJ Office, obviously, ORD for research and development and the Office of Policy.

So, we have developed as detailed a response to your report as you gave us, so I am happy about that and I think it will go a long way to advancing this conversation.

So, I would like to ask Gay and Mike to sort of walk you through our response and after that Mike Furst is going to say a few words and let me just tell you that having -- I am sorry Tony, did I call you Mike?

MR. FURST: That is quite all right.

MS. McCARTHY: Mike last, I am sorry, Mike first, Tony, Tony Furst is here from DOT. Tony is the Deputy Director for Transportation Policy at the Federal Highway Administration and he is also going to speak to you.

I just want to thank DOT. For quite a while, we have known that these Goods Movement issues required not just the interest of EPA in terms of the environmental impact that the transportation sector has on our communities and our air quality in general.

But, knowing that DOT can be a really major player in this discussion and that we have an obligation to look across our agencies with this issue and I think Tony being here is a clear indication that the Obama Administration is listening and that Secretary Lahood is responding to the requests of the Administrator and I just want to thank him for his presence. Gay, should we start?

MS. MacGREGOR: Sure.

Comments by

Gay MacGregor, EPA Office of Transportation and Air Quality

MS. MacGREGOR: Okay. Well, Gina went through the extent of the response team that we developed and I think we talked to you about that in April, I will go through it again a little bit.

The charge to the team was to respond as fully as possible considering EPA's authorities and recognizing the resource constraints faced by the Agency. The first set that we took was to inventory what we were already doing to address the recommendations and the reason for that is that since the Goods Movement work group was formed many of us at EPA have been following that work.

Some of the people from my office and from the Office of Policy attended those work group meetings routinely and we have some cross agency groups of our own like the Clean Ports USA Program under the National Clean Diesel Campaign where we would get updates as the process was going on about what recommendations were being discussed and ideas that were coming out.

So, we were able to incorporate them into some of our programs as the work was being done. So, the first step was to inventory what was being done and then to identify the gaps and expand the activities that we had going on as feasible.

Just to remind you, Gina went through all of these offices. Many of the representatives from these offices are sitting behind me in the row, they are my lifeline when it comes to time for questions.

In Regions 9 and 10, I don't know how many of you are familiar with the Sublead Regional Concepts, the Regional Concept that we have at EPA but Region 9 is

lead Region for environmental justice and sublead Region for mobile sources and Region 10 is the lead for air.

So, those two Regions were involved in reaching out to all of the other Regions as we developed the response. Hence, as Gina said, there were well over 100 people considering these recommendations and trying to come up with activities that we could do that would be responsive. Next slide please.

So, you asked Elizabeth that we try to identify by recommendation that we are included and literally we considered every recommendation. The response document which I apologize for your not having right now, it has some computer file problems and as soon as we get those resolved, they are working on it in Anne Arbor, we will get it to you.

But, it is completed and it is organized by the same themes that the Goods Movement Report was organized by. So, it does kind of call out the recommendations and then we respond by theme.

One of the reasons the report is so long is we did include an Appendix, the actual recommendations, so that the reader who had not read your report would be able to refer to them.

So, even though I think Victoria told you it was 125 pages long it is actually more like 57 without the Appendices. So, you will be able to see exactly how the responses translate to the recommendations.

Now these recommendations, there were 41 recommendations by 7 themes and I often said, well 41 recommendations with 41 subparts each they were quite detailed and we hope that our response will be as detailed as you expect. Next

slide please.

As Gina already mentioned, and this is one of the places where we were able to benefit from the work, the Goods Movement work group was doing in its process. We developed a 2010/2012 Port Air Quality Strategy which really has three themes in it, air quality and climate, healthy communities and environmental justice in the global environment.

This plan is included in one of the Appendices of the report which you will see and it has very, very detailed commitments on the parts of the Region and on parts of Headquarters to meet many of the recommendations that you have in the plan. For example, Region 7 will visit the Port of St. Louis and will identify the Goods Movement communities surrounding the Port and so it gets very down to that level of detail with actual actions and milestones.

The other thing that we were able to do is expand it to include more Goods Movement. When we talk about Ports, we are also talking about the supply chain that goes along with the Port, so there are activities in there that are specific to the supply chain as well.

Then Gina mentioned we briefed the Regional Leadership Forum on Ports in Baltimore. They had a background paper on the Goods Movement Report and we discussed for a full day the issues surrounding Goods Movement and much was discussed about environmental justice.

As a result of that, it was not just the RA's it was also many offices recommended that were there and the Office of Water and my office, the Office of Transportation Air Quality are pursuing some joint activities. So, I think that speaks to,

oh Meg I don't know where you are, but some of your multimedia concerns.

We have taken it a bit further with other offices. We have had projects since we have on in the Gulf right now with the Office of Water, fuel switching between the Ports of Houston and Veracruz, so we are working cross office to reduce some of the diesel emissions and that is all captured in, much of it is captured in the Port Air Quality Plan. Next slide please.

Now the first theme, I want to go through it theme by theme and the first theme is the Effective Community Engagement and I want to assure Langdon that the report does actually acknowledge the important contribution that NEJAC made in thinking and providing us with some models in the document like the community facilitate strategy model that really broadens our understanding of how we might work with environmental justice communities.

But, I am going to turn it over to Mike because Mike actually, I forgot to mention there were several subteams created and Mike led one of the subteams that specifically was addressing the recommendations related to effective community engagement.

Comments by

Mike Bandrowski, EPA Region 9

MR. BANDROWSKI: Thanks. Mike Bandrowski, Region 9 and I manage the CARE Program in Region 9 and I am going to talk about the community engagement part of the recommendations and those are recommendations 1 through 6.

So, as you have heard throughout the meeting under EPA Administrator Jackson there is a real focus on engaging and working with communities and in order to

solve many of the difficult environmental issues that communities face, it is important that we empower communities and bring them into the decision making process and this is particularly true for Goods Movement and the impacts.

So, EPA has been involved with communities in the areas of Goods Movement for a number of years through programs like CARE and through our EJ small grants and CPS grants.

So as we were preparing the response to the recommendations, one of the things that we did was do a survey of all 10 of our Regional Offices to find out what sort of community based Goods Movement projects they were working on and when you get the final report you will find that there is a table in there that lists almost 20 community based projects and these projects are similar to the approaches that are recommended by the NEJAC, in particular, the community facilitated strategies approach.

Yesterday during the public comment period, Omega Wilson spoke about the importance of community facilitated strategies and the need for EPA to continue to be involved in those types of efforts and we would like to share that sense of importance.

We would like to also continue the discussion with Omega and others that are interested to further explore what are the key concepts about community facilitated strategies that are laid out in the NEJAC recommendation that we can incorporate into our future efforts with CARE and some of our other community based projects like the CARE Program. So, hopefully we can continue to have that kind of discussion going forward. Go onto the next slide.

As I said, the CARE Program which I am involved in is closely aligned with the concept of community facilitated strategies. When we did that survey of the Regions we found a number of projects that had that similar approach.

In Region 9, the one that I am most familiar with, is our project in West Oakland where we are working with the community near the Port of Oakland and with Margaret Gordon, she is the co-Chair of that project and she helped develop the recommendations and she pointed out the good aspects of that project and working closely with the community.

We are also involved in a Goods Movement project with the Environmental Health Coalition and San Diego is one of our other CARE projects.

Throughout the U.S., there are 12 projects at this point and there will be probably more in the coming year, but 12 projects currently that are CARE projects related to Goods Movement and there is over two and a half million dollars being put into these projects at the local level to deal with the impacts of Goods Movement.

So as I said, we would like to continue working with Omega and others to try to get the key concepts out of the recommendations and build that into the future of the CARE Program.

One other area that we are looking at kind of for the future, is the development of a Healthy Community Consolidated Grant Program and this is something we are just starting on. But, what we are considering is taking the CARE framework, the idea behind the CARE model and some of the key concepts and using it to consolidate at some of our other community based programs.

As probably many of you know, there are lots of different community

based programs. It gets sometimes difficult for communities to understand the differences between all of them.

So, we are exploring how we might bundle these programs together to use a framework like CARE to better deliver these grant programs to communities and work on at least three areas, developing capacity at the local level, assessing and then mitigating impacts and particularly the impacts from Goods Movement and then working toward long term sustainable healthy communities.

So, we are just getting started on this effort but I am sure as we move forward we will want to get input from the NEJAC.

The last point that I want to make before turning it back over to Gay is that EPA can address the impacts on the Goods Movement by ourselves.

We certainly have our efforts and we will continue to do those, but we need to involve all the Federal Agencies and that has kind of been a little bit of the theme of the meeting today and we heard from the other Agencies this morning.

There are some good examples where we are working together, certainly the HUD, DOT, EPA Sustainable Communities Partnership is a great example of where we are coordinating and we have Goods Movement projects that we are working on in San Diego and we just started another major effort in the Fresno area around Goods Movement and transportation.

So, we will look for other opportunities to coordinate both on programs and also on funding as we look at our grant programs as we move forward. So with that, I will turn it back to Gay.

MS. MacGREGOR: Thanks Mike. One thing, the final bullet on this slide

is about our Federal Advisory Committee. As you know, NEJAC is not the only one the Agency has and I personally have been over the years involved with the Clean Air Act Advisory Council and the Mobile Source Technical Review Subcommittee which is the Office of Transportation and Air Quality's work group basically in giving us advice.

We are committed and our adding community members to that subcommittee. I don't know who they are yet several people have been nominated but once they are cleared we will have community voice in that subcommittee which I think is a really good thing. Next slide please.

When we looked at the recommendations, one of the things we noticed is that in many of the themes there were recommendations about education information and getting communities engaged, for example, in things that our Regional Diesel Collaboratives were doing.

One of the things about DERA funding is that community groups are eligible for DERA funding by law only if their principle purpose is either the promotion of transportation or air quality.

Therefore, the collaboratives are a really good way for community groups to partner with eligible entities and apply for funds. One of the actions in our 2010/12 Ports Air Quality Plan is for the Regional Collaboratives to do more outreach to community groups to try to engage them in the process.

The Diesel Collaboratives also have a number of other things that can be very helpful to communities, the promotion of idle reduction initiatives, contract language you can include in contracts if you are doing super fun clean up, all kinds of different tools that are available through the collaboratives as well as nationally.

So, there are seven collaboratives and we talk about ways to get engaged, but also we are relying on our Diesel Collaboratives to reach out to communities. Next slide please.

So as I said, we noticed that there was an awful lot about communication strewn throughout all the report, it was a very common theme that went across a lot of the recommendations.

So, what we did is we looked at them all together and basically created a response section about communication because effective community engagement really has to do with two way communication and you can tell us a lot. We can learn a lot but also we have a lot of tools that it became clear to us in the process they are available but not usually seen.

If you visit our website you might not find them, but they are there. So, we are creating a Goods Movement communication plan in air, the Air Quality Planning and Standards and OTEC has been talking about it.

One of the things that you recommend is that we do outreach to community decision makers, local decision makers, state decision makers, other people MPO's with authority to make decisions that impact transportation policy and thus part of our plan to try to educate and distribute the recommendations of your group to as many people as possible.

So, that is one of the things that we will be doing and we also will be making more effective use of the list served. I think you all probably already got our proposed PM Hotspot Guidance which I will talk about in a little while notifying you that there is an opportunity to comment, but we are intent on making better use of that.

Well, one of the recommendations you had was for us to establish a Goods Movement Clearing House. We have a Goods Movement Clearing House that has a lot of the things that you have asked for, the best practices, the case studies, the tools, information and we will be making that more available and making sure that it is linked through what we are going to be having soon, I think, this fall perhaps which is a community portal.

One of the things that we discovered in talking with everyone across the Agency is that almost everyone has some kind of tool, some kind of thing that could be useful. We have a state and local tool kit, for instance, that talks about how you set up a diesel program.

So, we want to make those more readily accessible but sometimes even I cannot find the things on our website so there is an effort underway to establish a community web portal and this web portal is funded by four offices at EPA as well as the Centers for Disease Control, so there would also be on that web portal health information, CDC information as well, so look for that sometime in the fall I think. Next slide please.

There was a set of recommendations along the themes of health research gaps and education. We tried to fold some of the educational things and I did forget to mention that there was recommendation and translation into other languages and we are actively in the Office of Transportation and Air Quality seeking funding to translate materials into Spanish, that will be our first priority and then we will move onto other languages as we can.

But, there is under the theme of health research and data gaps, the first

recommendation was that we identify and have the Regions identify all of the Goods Movement centers within their Region. That is also something that was incorporated into the 2010/12 Ports Air Quality Plan and they are in the processes. What you see here is the map of the Portland area identifying and they are using GIS.

They are also working with state and local governments and ground truthing, what is a distribution center versus what is an administration office so that there will be accuracy in the locations of these facilities and once this is done they are overlaying the maps with census tract data, social vulnerability data to identify the communities, the demographics of the communities surrounding these areas and that will feed into our planning process as the Regions prioritize and choose in their future planning. Next slide please.

I think you are all familiar with the Air Toxic Monitoring Money. For a number of years, we have had Air Toxics Ambient Monitoring Grants. The past couple of years I think that money has been used for school monitoring and now that money is again available for doing more community scale air toxics ambient monitoring.

We also, I think, we have talked before about the fact that the near roadway NOT monitoring will require 40 additional monitors in EJ communities. Next slide please.

In this section, there was a request to EPA to update the Diesel Health Assessment. In 2002, we published the Diesel Hazardous Assessment document and in that document we recognized the need that once the new regulations for diesel engines had gone into effect that it might change the emission characterization of diesel.

That fleet is just starting to turn over, so it may be in the future that we would revisit that but in terms of the technologies that are, honestly right now really the first truck technologies that went into effect in 2007 and many of our rules don't go into effect and phased in through 2014 so the fleet in order to look at the different characterization the PM, the size of the particles mostly, the time we will need to pass and research studies will need to be conducted.

To look at whether or not we should be updating the HAD now, we convened a team of people from the Office of Research and Development, the Office of Air Quality Planning and Standards and my office, the Transportation and Air Quality.

These are people who had been some involved senior level people, some of whom had been involved in the original 2002 diesel HAD and other technical experts who have been following the diesel research over time.

Basically, when we did the HAD it allowed us to do all of the standards that my office has done relating to heavy duty trucks and non-road engines, locomotives and marine engines.

Those standards have had a huge impact in terms of the number of times that are reduced to pollution and you can see on the slide 300,000 tons of diesel PM, 21,700 avoided premature mortality and the statistics are pretty good.

So, we have been able to accomplish with our existing hazardous assessment some pretty major things. Next slide please.

Ultimately, the group of experts that we convened concluded that there wasn't really any new information that was different at this point that would allow us to quantify cancer risk.

There are a couple of pending epidemiology studies underway, but it is not clear that those results will be usable for the development of a unit risk.

The NEJAC report also recommended that we evaluate the non-cancer health outcomes which we are doing. The PM NAICS Assessment is underway now and I think it is scheduled to be completed in 2011 and that will inform our thinking about whether we want to do a more focused update of the non-cancer risks, so we are looking at that through the PM NAICS.

There is ongoing research on risk and exposure related to diesel PM emissions. My colleagues from ORD can answer your questions about that after if you have any. Next slide please.

We do have a fairly robust program of looking at the health effects of Goods Movement on populations. A couple of examples basically there has been a rail yard study in Dearborn, Michigan, a Region 5 was recently awarded a grant, a RARE Grant, to do more rail yard work in Chicago.

There is quite a bit going on interagency, we will be doing future work in Atlanta and the rail yard. Next slide.

Then, of course, we will have a lot of information and a lot of studies going on through the STAR Program and one of the ones is a Port emissions in Los Angeles.

It showed large impacts from heavy duty trucks around Ports and we are working through our Smart Way Program and our diesel program to try to address some of those things. Then also there are toxicology studies underway that were conducted around the Harbor. Next slide.

Just to review some of the regulations very quickly and I will move through

this because I know the time is short, we do have a comprehensive scheme of regulations to deal not only with light duty vehicles but with heavy duty vehicles and vehicles used in Goods Movement, just to review some of them. Next slide please shows you the scheme.

They have had tremendous health benefits. This slide basically presents the health benefits of all of our regulations including the light duty tier two standards in 2030 and you can see it has huge health benefits. Next slide, and they are very cost effective.

When you start looking at regulating non-road vehicles and ocean going vessels and you see cost benefit ratios of 40 to 1, it is a pretty good investment. Next slide please.

The one thing to point out, and I think you guys have seen this map before, but this is a map of how far into the country the benefits from just doing our emission control area which was also one of the recommendations of NEJAC, how far into the country those benefits extend.

We did fully address that recommendation I believe the IMO did accept the ECA and we are moving forward with implementing it and we are right now working with the Coast Guard signing MOU's for enforcement. Next slide.

One of the things in this section was to try to accelerate the deployment of the cleaner technologies that were regulated through the new engine rules into the existing fleet. There was a specific recommendation about having credit and State Air Quality Plans for early introduction. We do have that credit available.

It is within limits, certain limits, I think right now three percent of the total

reductions required can be from voluntary measures. However, if someone comes forward with a proposal we will consider raising that limit.

We also provide tools and guidance to help quantify the emissions and help us get the credits into the State Air Quality Plans. Next slide.

One of the things in this section was expanded enforcement. I just wanted to call your attention to this project which is a multimedia enforcement strategy that is a collaboration between EPA and several California State Agencies including the Toxics Control Agency.

It is along the I-710 corridor and they actually have got, it is a community driven enforcement effort where community members actually get on a bus with the Agency officials and they spot the facilities that they are concerned about. The Agency officials then look into those facilities and whether or not there is an issue and then the “squish.”

So, the term in Southern California used by the Agencies is called “spot and squish” and then account and the account is the Federal and State Agencies get back to the community about the enforcement issues that they had, whether or not there really is an enforcement issue at the sites where the community was concerned about.

We funded about 30 million dollars in projects to reduce diesel emissions along this corridor through our Diesel Emission Reduction Program, so that I thought was a very interesting approach to enforcement and one that was really community driven and I think we will see more efforts like that. Next slide.

Technology. When we started out in the diesel program there were very few technologies for anything but heavy duty trucks. We have an emerging technology

program through out National Clean Diesel Campaign that really tries to bring forward technology so they are not yet quantifiable. Am I running out of time? Yeah, okay.

We just announced a number of grants in that area last week. There are salt water sea scrubbers on marine vessels, there are hoods to capture rail emissions, there are a lot of new emerging technologies coming into play. Go ahead, switch slide please.

Again, there was a recommendation about EPA using its own research to try to move technologies forward and our lab in Ann Arbor we developed something called a hydraulic hybrid. That technology is being used to reduce emissions on UPS trucks and on Yard Hustlers at Port of New York and New Jersey. Next slide.

And then finally, the California Technology Initiative which is again a broad based initiative with EPA Region 9 in California and we are looking at in San Bernadino, California along within the San Joaquin Valley a number of new cutting edge technologies we are trying to demonstrate them and make sure that we are looking at a broad range to try to move things forward and accelerate the turning of the fleet to cleaner technology. Next slide.

Land use planning and review. I think we heard from Beth Osborne this morning that she felt that moving community engagement into the planning process was really a better way to go than looking only to NEPA.

We are, and in the report you will see, we are committed to looking at our guidance and we are preparing sensitive receptor guidance for schools and they do consider transportation impacts. Also, we have published the Hot Spot Guidance which you all have been asked for comment on. Next slide.

This is just a summary of the Hot Spot Guidance. One of our main roles is to provide tools and Our Moves 2010 which is an emission estimating model provides us the ability for the first time to do quantitative hot spot analysis.

It is only required in non-attainment areas and maintenance areas but it can be used to estimate localized impacts in a quantitative way which has not been possible before for transportation projects. Next slide.

School siting guidance. I think you are going to hear about that, so in the interest of time I will just say we are doing it and I will skip through it. Next slide.

And then the environmental performance and management. This was really about promotion of environmental management and integration of environmental considerations in decision making. We are doing that through several of our programs and we are also providing the tools so the companies can capture and quantify their own emission footprint. Next slide.

We have talked a lot about diesel mitigation funds. This basically, one thing I would just encourage you, is that the states get diesel funds as a path through. EPA gives diesel grants and one of the big efforts we are going to be pushing towards is getting more applications from eligible community groups and from community groups that have partnered with eligible entities under the DERA Program.

We have done a lot of steps, there are a lot of recommendations in here about SEP's. We have done over 100 million dollars in diesel SEP's and we have special dispensation from Congress to be able to do diesel SEP's even though we have a special appropriation for diesel. Next slide.

This is just a map of where our diesel projects are. In the report there is

an Appendix that contains all of the diesel grants that we know that impact environmental justice communities. There are 90 for 120 million dollars. Next slide.

One of the great examples, I think, that we talk about in the response and that we would like to see more of is there is a collaboration in Chelsea, Massachusetts where we are retrofitting a lot of, we are making plug ins for a lot of the produce market trucks and there is like 2,500 trucks a day that come through this distribution center.

So, that is a good example of how community has brought together everybody and basically collaborated to get a grant that is really making a difference. Next slide.

Finally, on resources and incentives we have the Smart Way Transfer Program and we are doing what the recommendation said we should do which is providing low interest loans and innovative finance through that program and that information you can also get to that through the diesel web pages.

So, I am sorry to take so long but there was a lot in the report, a lot of detail and I will turn it over for Tony so he can make his remarks.

Comments by

Anthony Furst, U.S. Department of Transportation

MR. FURST: Thank you and it is a pleasure to be here today. I thank you for the opportunity to address the group and thank you Gina for the remarks you made earlier.

First and foremost, I think it is important that we recognize and I will let you know that the Department of Transportation recognizes the importance of this issue.

We most assuredly get it and I can tell you from the job that I have in Federal Highways rendering a freight office, growing numbers of the freight community get it as well.

They do not consider this a bolt on issue, something that they have to consider after the fact, they consider it very much a part of how they do business on a routine basis.

We have been working with a lot of the transportation community, the transportation stake holders, EPA and the business community to help reduce the environmental impact of Goods Movement.

Now, from the Clean Ports Initiative which I am sure you all are aware of to the Pier Pass Initiative that Southern California put together, to the Smart Wave Fleets, to some of the fleets, the private sector fleets, COPE for example in Atlanta is looking at ways where they can route their trucks more efficiently through the urban areas to reduce the amount of emissions that they have.

We are working in Kansas City with the four class railroads that operate there and all of the --- operators to find a way to move goods more efficiently through the City of Kansas City because it is a major interchange point for the West Coast railroads and the East Coast railroads.

They have cross docked the cargo from the West Coast railroads to the East Coast railroads and we have been working with them as a convener to help bring all of the players together to find a more efficient way to move those goods through that community in a way that reduces the number of emissions, reduces the congestion and improves energy consumption all at the same time.

A lot of the large shippers that operate in the United States are pushing their suppliers and their carriers to be more green in the entire supply chain.

So, I can tell you that the freight community is definitely making an awful lot of inner roads of themselves to help alleviate this problem and to deal with it.

As Beth said earlier, the MPO and the State Transportation Planning Processes are places where I think you should make a lot of headway and make a lot of push.

The NEJAC recommendation stress collaborative governments in finding ways to get the local community more involved. Through the public outreach part of the Transportation Planning Process particularly the MPL level, the communities have a mechanism to engage in the transportation planning and decisions.

They should take that opportunity every chance they get. The planning and the need for process are designed specifically to accommodate the kind of community participation and outreach that the NEJAC Goods Movement recommendations propose.

Now with that said, we fully recognize that there is considerable variation in how the MPO's implement the provisions for public participation.

Continued efforts are needed on the part of MPO's, State DOT's and the US DOT to improve outreach and community participation. However, working through existing organizations can be the most effective way to improve community involvement in transportation decision making processes.

Within that planning processes, funds are already being programmed to help resolve the issue. The CMAQ Program and the TIFU which is a loan program

within DOT, both have put out funds to help alleviate a lot of the emission issues and to improve Goods Movement opportunities.

FTA's research and funding of advanced bus technologies has not only reduced emissions from buses, but has demonstrated technologies that can be used in heavy duty truck engines as well and DOT is part of the U.S. leadership internationally to develop engine emission standards and recommended practices that reduce air pollution for aircraft and ocean going vessels.

I think what surprised us the most in the report is that there is no acknowledgment of the importance of Goods Movement to the national economy. Transportation is the economy in motion.

Goods Movement provides benefits to the Nation and to all communities providing jobs and economic development. In 2007, more than 3.3 billion ton miles of freight were shipped domestically in all modes.

Globally, more than 8 billion tons of freight moved in international maritime and air transportation in 2008. We expect that growth and worldwide trade will resume and will likely create more demand for Goods Movement.

Earlier this year, President Obama announced the National Export Initiative would set the goal of doubling exports and supporting 7 million new jobs in 5 years.

Exports in the first 4 months of 2010 increased almost 17 percent from the same period last year. Transportation is a major part of the economy and a source of many, many jobs.

More than 4.5 million U.S. jobs are in the transportation sector and it is

almost frequent -- we will just leave it at that.

Many of the large facilities cannot move, it is either a function of geography or a massive amount of infrastructure that is already in place. It is important that when we as a Nation work to solve the adverse impacts Goods Movement that we balance with that consideration the benefits of Goods Movement.

As has been noted by DOT officials before, we are interested in moving goods on the most energy efficient and environmentally sustainable modes possible and we will continue to work toward that objective.

What we cannot afford is to put these two issues on a seesaw. They are both critically important issues and they need to be solved together.

DOT will be putting together written comments on the Goods Movement Report which we will get to you later and I thank you for the opportunity to participate in the panel and as my comments indicate, the Department is committed to a range of activities that enhance mobility, safety and the environmental footprint of the transportation system. Thank you.

Questions and Answers

MS. YEAMPIERRE: Thank you for your thorough responses. Before I call on the Council to ask questions, I would like to recognize the contributions of Omega Wilson. Omega was relentless, enthusiastic, committed and really an example of the kind of environmental justice leadership that is not just transformational on the ground but brings that experience to a place where one can shape policy and make it impactful throughout the country. So, I just really wanted to recognize his contribution. Shankar?

MR. PRASAD: Thanks Elizabeth and I want to thank all of you to be here today and also the level of the participation essentially shows the importance that you have given to the report and also it is nice to see two agencies sitting side by side and trying ---.

Being the co-Chair of the report, for using the report, I also want to acknowledge how Omega kept us on our toes to make sure that at every point of the report that the primary importance was given to the environmental justice and that is the piece and we want to keep that focus on this report.

We never fail to recognize the issue of the importance of Goods Movement, we do recognize that but at the same time we wanted to make sure that it has its role in the context of environmental justice. So, that was the primary intention.

I want to thank Gay that was being engaged with us all the time and while I appreciate this whole thing of you explaining the difficulty in isolating which particular recommendation made it or influenced a particular decision.

It is equally important for us to kind of understand, so hopefully we will get a little bit of idea as we move forward.

But, however from your presentations it became clear that you will be moving ahead in the context of identifying the Goods Movement centers part of it.

But at the same time, we also made it a second part of the recommendation was very clear in saying that prioritizing those in each of the Regions where the Goods Movement which is a major piece of the --- of the emission and exposure exist today because of the past actions and where the potential is there for the expansion so that we do not create the same kind of problem.

So, that is the primary intent of that. So, I want you to keep it not to put it as a back burner, we don't have the tool, we don't have this, it is so easy to put it off so that we do not create that problem again.

And I also gather that you are willing and you will be engaging a little more in the context of collaborative problem solving and CFS I think more of those comments will come from, therefore, --- who was also part of the team which prepared the report.

MS. MacGREGOR: Can I just say one thing? Actually, the full report does address the prioritization issue and basically I think that is the intent of the Regions is once they have identified these to use them in their planning process to try to figure out where to target efforts.

MR. PRASAD: Also, as you know because the reason behind that approach was one size does not fit all and each place would require a different strategy in our --- issue, that was the primary intent of asking for that particular accommodation.

MS. YEAMPIERRE: Lang?

MR. MARSH: Thank you. I would like to say that I am really pleased at the seriousness with which the two agencies took this issue and the response to the report is really, as far as I know, unprecedented in its scope and depth and the number of people working on it astonishes me, but it shows you put a lot of effort into it.

It seems like from what Gina said, our report may have had some effect too in just highlighting this issue throughout the Agency and DOT as well and I think that in itself is something we can be pleased about as a NEJAC.

I was also pleased to hear today that the Community Facilitated Strategy is going to continue to be a part of the discussions that go on about how to move

forward with the report and I am going to make a suggestion in a minute.

But, I wanted to expand on something that Shankar said which was one of the perceptions we had about the Goods Movement problem as it affects communities on the ground is that, as you recognized here a lot of legacy issues, there are a lot of problems with expansions either within the footprint or outside that are very difficult for communities and hard under our system to address very well.

So, we recognize that the Federal Agencies do not have the ability to affect a lot of local decisions, land use decisions, decisions about putting in buffers and even relocation of uses or people.

So, part of the reason for putting so much emphasis on the community facilitated strategy and the collaborative governance.

We put those first in the report because it was really intended to address a gap in our overall system and that is to give community members and others the ability to participate in a meaningful way in influencing decisions not just by the Federal Agencies through grants and other things, but also state and local entities and authorities so that some of these hard decisions about siting, including siting the transportation facilities, as well as figuring out what to do in relation to the legacy issues, that there needed to be some kind of process to do that.

I think what we were looking for from EPA is an acknowledgment of that sort of broader purpose for these two strategies and then to work on how that might be implemented without changing EPA's authorities which of course you cannot do easily or without changing the relationships you have with state and local entities, that is by way of background.

I think my suggestion is that in addition to the planning, which I agree is very important for communities to participate in, but at the same and this is recognized by the member of the Sustainable Communities Partnership but a regional meeting in Portland a few weeks ago.

The Agencies have enormous budgets, granted EPA has the least enormous of those three HUD and DOT and so forth, the HUD representative said, well we put out 300 million dollars for community planning, regional planning improvements, but I look at it as we have a 40 billion dollar budget for implementing things and all of that budget is involved in this Partnership.

So, what my suggestion is that perhaps we can work with you to think about how the Sustainable Communities Partnership, for example, could be used to support these community convened processes that Omega talked about and the collaborative governance pieces where they are appropriate to deal with projects and grants that your Agencies are already doing and to support them in some small way so that they can address more local issues at the same time as you are accomplishing your project needs.

So, that really I think I don't need to say more. I think that was the purpose and I think we would like to continue to engage with you about how to make that work and I am really glad that Omega is willing to do that as well.

MS. MacGREGOR: I was going to say, I think we are running out of time and what Victoria and I had worked out is that some of us would stay around and answer these questions a little bit later and there are some people that need to leave.

MS. YEAMPIERRE: Thank you and thank you for moving so quickly on

this and the resources —

MS. MacGREGOR: There was a lot I didn't get to.

MS. YEAMPIERRE: I am sure, but Assistant Administrator Stanislaus has to leave and has a limited amount of time and so does Gina, but thank you very much. Thank you.

MS. V. ROBINSON: So for the members' purposes, we are just going to take a quick break from this Q and A for this presentation. We are going to hear from Mathy on the Gulf Coast because he has to leave at 5 till to go to another meeting and then we will come back and deal with the questions. I know you had a question Teri up there.

MS. YEAMPIERRE: Mathy Stanislaus is Assistant Administrator for the Office of Solid Waste and Emergency Response and welcome. I know that I heard that you were in the Gulf for about three weeks straight. Happy that you have the opportunity to join us today.

Update: EPA Activities Related to Gulf of Mexico Oil Spill

Comments by

Mathy Stanislaus, Assistant Administrator, EPA Office of Solid Waste and

Emergency Response

MR. STANISLAUS: Thank you. Thanks for asking me about. I always enjoy coming to the NEJAC. As you know, I am a former member so I thought I would first kind of walk through all of the issues with the BP spill and then talk about some other issues. I know some of you are actively engaged in the BP spill.

First, what EPA did early on and let me just underscore that the ---

coordinator is the Coast Guard and so they take the lead and make the decisions. The EPA provides advice as evaluation. A couple of key issues I am going to kind of evaluate that.

The key thing that EPA did initially was we felt there was a tremendous need to do independent monitoring, so we really stood up immediately a series of monitoring, air monitoring, the series of air monitoring programs.

We have the fixed monitors. We have some hand held monitors. We also have a portable bus, so we had buses going around the Gulf to do a number of air monitors. We also have an airplane that looks at monitoring of air quality with a particular focus on monitoring the issues with the burning of the oil.

We tested a fairly wide list of pollutants looking at the constituents associated with the oil itself as well as the constituents in the disbursement. So, all of that information we posted regularly if not daily and as quickly as possible on our web for a variety of reasons and one is we believe we need to be as transparent as possible.

But, 2) we felt it was really critical to provide information for the local community to independently evaluate and for them to hold us accountable and 3) to be honest I think there is a community who has been impacted by Katrina, has been impacted by a series of events and we feel there is a real critical need to rebuild trust in communities who went through a pretty bad situation and is going through another tragedy right now.

We continue to be open to see how we can do things better. So, just kind of a brief overview of the current structure. The Unified Area Command in New Orleans is essentially the place where operational decisions are made and it is a place I spent

numerous weeks to really kind of push the role of more effective oversight of Waste Management, more effective outreach to communities, really pushing hard the need for the Federal Government to independently and have direct authority over kind of waste issues working with the Coast Guard and to make sure frankly that BP is held responsible for the things it needs to be leading on and that it needs to be disclosing information in a regular way.

To be really frank, it took a while for BP to begin posting information. We continue to press BP to post information on a more regular basis, more comprehensively and that was the reason why, I will get to it later, we found a need to issue the Coast Guard and EPA a waste directive.

So, let me touch on the big issue of disbursements. EPA evaluates various disbursement products and lists them on what is called a product schedule and listing them on a product schedule what the EPA does it looks at toxicity information and effectiveness information and lists this on the product schedule.

It cannot be used without a Federal On Scene Coordinator making a determination that a particular product is applicable and needed for that particular situation.

The disbursements as listed what is called the J Schedule of the NCP is only for surface application. So, the Federal On Scene Coordinator can look at this list and make a determination to apply a disbursement for service application.

The rationale for disbursement is essentially it is a trade off among bad choices. It is a trade off to prevent more catastrophic impacts on the shore and the wildlife, but it is a choice that we pushed that it be the choice after other applications

where you don't have to rely into chemicals being put into the Gulf.

So, one of the things that we push really hard up front is the maximized skimming capacity and utilization and the rigor of making available so that you can use skimming to the greatest extent possible.

The next is the use of --- burning so that you can burn again among pad choices, burn the oil so that you don't have impacts to the shore.

If these tools have been maximized and if you still have oil available, the choice of disbursement has been in the federal regulations so that you disburse the oil, it doesn't hit the shore and you increase the degradation of both the oil and disbursements.

Disbursements do break down in a few weeks. Oil treated with disbursement result in increase degradation of the oil. So initially, the Coast Guard approved the use of Corexit for surface application.

At the same time, BP approached the Coast Guard about applying this disbursements in an innovative way and that Sub C. EPA's view is that there needs to be significant analysis and field test before we would recommend to the Federal On Scene Coordinator that be approved.

So, a series of tests occurred. We were not happy with those tests, we did not believe those tests after demonstrating effectiveness, so we required a series, I believe, of four total tests only upon I believe the fourth test where the Sub C application was proven to be successful in terms of effectiveness did re-concur conditionally on the use of Sub C disbursement.

So, there were a couple of conditions to that, 1) there needs to be a

rigorous monitoring program, dissolved oxygen on toxicity and that we reserve the right to withdraw a concurrence should there be any accedence of dissolved oxygen or toxicity information. So, in the monitoring to date this has not exceeded this criteria.

In terms of service application, there was what we characterized fairly high volumes earlier on. The Administrator made it very clear to BP in a meeting with Thad Allen that we need to maximize other tools first and minimize disbursement only when it is the only remaining tool in the tool box to prevent these worst case impacts.

This led to a directive to essentially say, you don't have pre-approval to use service application, you have to make a daily demonstration that you exhausted all other options and you still have oil that if you don't apply disbursement it could result in surface impacts.

Since the directive has been put in place, it has been roughly about 72, 73 percent reduction from the highest volume that was used in their initial period of time.

There was also a push, the President pushed to really have the Coast Guard make available skimmers from around the country so that again you use non-chemical means to the greatest extent possible.

So, this was not only a spill of national significance, this was probably one of the worst, it is the worst, oil spill in this country's history. So, the President felt that we needed to maximize all resources to be made available.

In terms of whereas, we identified earlier on that we need to have a really aggressive approach to waste management.

Earlier on, it was frankly unknown about the total volumes, so we work with the states to put in place a waste management plan that consists of EPA working

with the states evaluating all proposed landfills, evaluating temporary staging areas, looking at compliance history, looking at monumental justice issues and based on our evaluation did we concur with the Coast Guard to allow the landfills that are listed in the waste plans to go forward.

We also put in place a waste director for the first time in history that we are aware of to direct federal oversight over solid waste. Typically, solid waste is the province of state governments, but we felt given the magnitude of the event that it was critical that we have direct and independent ability to oversee the management of solid waste.

So, that led to the Coast Guard and EPA issuing a directive providing the direct authority to oversee every aspect of the management of solid waste. It also called on BP to aggressively post information as quickly as possible, develop a community engagement plan, develop a sampling plan, so that is in the works right now.

We also felt it was necessary to have independent EPA oversight and independent testing of the waste. So, we are working with the states and we have been doing that for a period of time inspecting what the states have been inspecting, the landfills and the staging areas. EPA has been doing assessments of the staging areas and landfills regularly.

We have also been independently testing the waste. To date, the waste has determined to be non-hazardous and have been sent to non-hazardous landfills but we are going to continue this waste program as long as we need to.

Am I running out of time? Let me just quickly touch on a few other things. I will close on the BP spill, I will just touch on kind of a few other items.

I have this Community Engagement Initiative that I put forward and implementation plan that has been posted. So again, the intention is to operationalize community engagement within the core of our program.

It was my feeling that we need to really integrate within our decision making framework in a more rigorous way to really, I would say, change the --- of community engagement, that community engagement must have a value added component to our decision making process and everything from risk assessment to remedy selection as two kinds of obvious examples.

Quickly mention coal ash regulation, we went forward with a proposed coal ash rule. We are currently scheduling five community meetings in Arlington, Denver, Dallas, Charlotte and Chicago.

We have gotten a request for additional community meetings, public meetings, we are currently evaluating that and we are going to try to accommodate at least to some degree more community meetings.

Let me see, the CARE Program continues to move forward very successfully. I think it is --- model. One of the things we are trying to look at in terms of the CARE Program, not only could you advance a CARE Program and I know you guys don't want money for that and we are struggling with money generally, but will it take the lessons, the great lessons, of the CARE Program?

That is, it is a community based partnership program to do problem solving and try to figure out how we can operationalize that within all of our programs, I guess Bob Purchaseppi* says, how do we use community as an organizing principle for our programs? How do we use the CARE Program and some of our other really

successful programs to develop a community organizing principle, how we do all of our programs? So, that is the high bar we have set for ourselves.

I think with that I have a bunch of other stuff that I can touch on later, but I know I want to give you some time for your questions. Thank you.

Questions and Answers

MS. YEAMPIERRE: Absolutely, and imagine an Assistant Administrator talking about using a community organizing principle. It is always a pleasure to hear you, thank you for that very specific presentation. I am sure that the members have lots of questions. Sue, we will begin with you.

MS. BRIGGUM: Thanks. This is actually a reflection, I think, on the usefulness that NEJAC has been to the Agency and to also acknowledge your leadership when you were a Chair of an important work group.

Your response to the BP spill particularly with regard to kind of the aggressiveness and creativity and accountability to the principles we have talked about in terms of transparency of testing and community engagement in a plan that came out so quickly from OCR was really impressive and I think that you took charge of the emergency in a way that is highly beneficial.

Those of us that are involved in helping really appreciate the clarity of the leadership and I thought the NEJAC should feel happy about the fact that our work has been beneficial.

MS. YEAMPIERRE: Hilton?

MR. KELLEY: How are you doing Stanislaus?

MR. STANISLAUS: Good, how are you?

MR. KELLEY: The question I have is, the solid waste that was generated from the oil spill when it came to the material that was used to sop up the oil, where are the landfills located where this material was brought to? I am very interested in that.

Also, I live on the Gulf Coast, Port Arthur, Texas, and there are a couple of businesses that opened up in the area that hired quite a few folks to help make these paths and also a lot of our young people were recruited to go down to the New Orleans area to help clean up some of the spills. But, there were some reports that got back to our organization that stated basically they were not allowed to wear any type of protective mask because the fumes were really, really pungent coming off of that oil and yet they were restricted from wearing any type of respiratory gear. Is that true?

MR. STANISLAUS: Let me address the landfills first. The list of landfills is found on our website as part of the waste management plan, so there are landfills throughout the Gulf that we evaluated, so you can look at that. I did show you my list.

In terms of worker protection, so it was more that --- has been OSHA has been really more directly involved. We have some role in terms of our workers, so there are different kinds of worker protection requirements depending on the nature of work that was done.

There was a lot of concern by OSHA in terms of the vessels of opportunity and could folks be exposed to mostly the volatile organics that come off of oil.

There is a greater concern at the source of the oil where you have the benzenes, so OSHA and you can look at that data, looked at that testing and there were circumstances close to the source of the spill where the accedence of certain levels and basically all activities stopped.

In terms of shore activities, there weren't really great concern, our monitoring doesn't show volatiles because you simply are not going to get volatile organics once whether it comes to shore.

But, there were concerns about oil getting the skin so there were precautions put in place regarding that. There were also big concerns of heat stress as you know that we had to really kind of protect against.

So, the recommendation was made that respirators were not necessary because volatile organics were not present at the shore and that there was a recommendation by OSHA that put in respirators would actually put people in harm's way given the high heat index that was occurring there.

MR. KELLEY: So, is there any information being given to those workers in the event that there is some type of long term or short term impact that they may inhabit?

MR. STANISLAUS: There is a daily, and I visited a number of these staging areas, there is a safety health professional that oversees the total amount of time that people can work.

There have been people put in the hospital because of heat stress, so there is a very regimented, I forget the number of hours, so that people don't work beyond a certain period of time.

MR. KELLEY: Thank you.

MR. STANISLAUS: You are welcome.

MS. YEAMPIERRE: Thank you, Father Nguyen?

FATHER NGUYEN: Thank you. As someone who is on the ground with

community directly affected by this oil spill, I have to say that EPA's response has been tremendous.

The Administrator was down there immediately and repeatedly. Sometimes I feel like there are too many meetings (laughter) but it is good. Thank you for that.

But, my concern I know that the fisher folks right now are concerned about claims and immediate needs. If we look back to the Exxon Valdez situation, it is 22 years later and still affected by it. The shrimp only returned two years ago. A number of species have not returned.

How are we looking at the environmental, the ecological, even the health impact for the next 20, 30 years? What will happen to the seafood industry if the same effect is felt there as in Alaska?

MR. STANISLAUS: Well, I think that is a major concern to the President and the President has really pushed forward with the claims process and the FOSC being in a Unified Area Command one of the things we heard consistently was the claims process was not working as well as it should have been.

So, that I would say improved a bit. The claims process has improved a bit, having attended a number of claims events myself and providing better information and translation was really critical.

For instance, also made a commitment of the long term restoration. This is an area that needs to have a commitment from long term restoration presence actively looking at long term restoration while we are looking at the shorter term issues.

Public health generally and mental health specifically has been a specific

concern that, not my Agency but other Agencies, really working with local health professionals.

You have a circumstance of the trauma of Katrina covered with the trauma of this event which is really compounding events for folks, so the Federal Government generally is trying to work with the state and local officials on those kinds of issues and thanks for your leadership.

MS. YEAMPIERRE: Teri?

MS. BLANTON: So, I hope that you take into consideration the environmental justice when you talk about where exactly you will have the hearings around the coal ash issue and Kentucky is ground zero for coal ash and there isn't a hearing anywhere near our state and we have 44 coal ash impoundments with 7 rated at high risk.

So, I think that you really need to take a good look at where those hearings take place and especially in impacted communities.

MR. STANISLAUS: Sure. I completely get you and we got a number of --
- we are trying to balance how many resources, how many meetings we can have.

So, we want to move forward with as many meetings as we can given our resource because it will also provide other opportunities to do so, maybe doing some webcast and some other vehicles, so we can do it multiple different ways of really engaging and giving communities the opportunity to write comments.

MS. YEAMPIERRE: Do you want to remind the members that when they speak they should say their full name and their organizational affiliation so that the Administrator has an opportunity to get to know who you are and where you are coming

from? It is really helpful. John?

MR. RIDGWAY: John Ridgway, Washington State Department of Ecology. Thank you Mathy for a very succinct and comprehensive update.

We had the NEJAC conference call open to the public about a month ago and I don't know if you were able to listen in on that, but one of the questions that came up was regarding the barrier islands and the wetlands and a concern about how those are going to be protected and I certainly understand that this event is not over by any means, so assessment is not known.

But, any initial indications on how that is going?

MR. STANISLAUS: The barrier island and wetlands impact itself?

MR. RIDGWAY: Yes.

MR. STANISLAUS: Well, I would say in terms of the restoration in this ongoing analysis, I would say, I think we are still in response mode and probably will be until the relief wells are in place and the top kill and bottom kill and whatever kind of kills are finally done (laughing).

I think once that happens we can take a harder look and kind of begin the restoration activities. There have been a couple of activities that the Administrator has convened a bunch of experts in terms of our remediation strategies and trying to pull together with NOAA some strategies to deal with wetlands restoration.

I will give you some kind of preliminary conclusions. One is, physical restoration of wetlands is probably more harmful than applying some remediation kind of strategy. Nature tends to have figured out how to restore wetlands.

So, one of the things we are trying to balance is expediting the wetlands

restoration without causing long term damage. So, we are looking at that in terms of restoration, we are working with NOAA and the states.

MS. YEAMPIERRE: Vernice?

MS. MILLER-TRAVIS: Thank you. Vernice Miller-Travis, Maryland Commission on Environmental Justice in Sustainable Communities. I am just following Elizabeth's instructions (laughter).

I have a question for you Mathy, part of it I don't know if you have even had a chance to read the paper today, but in today's New York Times there is an article, Delta's Black Oystermen Seeking Clean Up Work and Clinging to Hope.

Hoping for a piece of the clean up action it seems to have bypassed their little stretch of the Bayou at Point la Hache, Louisiana.

In May, I attended the Coalition of Black Trade Unionists annual meeting and their community action and response against toxic teams which is many of them are funded by worker trading grants from EPA and from NIAHS.

They are technically trained to go and clean up the stuff, but they have been barred from all kinds of local ordinances from being able to work and be a part of this and now we hear from some of the black oystermen who were there, they are also being left out of the spill clean up process.

So, it seems like there is the possibility that African Americans who are there on the ground, some of whom are trained, are being left out of the spill response process. Have you seen that? Have you heard from anybody about that and what can you and EPA do to make sure that they are included in this process?

MR. STANISLAUS: Well, I have definitely heard that repeatedly,

attending numerous meetings down there, African American residents, Vietnamese residents, Fishermen, in terms of getting opportunities by BP.

Significantly, over 90 percent of the jobs are BP contractors. So, one of the things that we have pushed with the Federal On Scene Coordinator is within the Federal On Scene Coordinator's authority is a really advanced more local hiring and more diversity in the hiring.

I am trying to think, I believe two weeks ago Thad Allen issued a directive to BP to take that seriously and so we are working with the Coast Guard to really push BP to really advance more local hiring.

MS. MILLER-TRAVIS: Thank you.

MS. YEAMPIERRE: Jody?

MS. HENNEKE: Jody Henneke with the Shaw Group and this is partly in response to John and partly in response to some of Mathy's comments.

As a person who is also there on the ground, the State of Louisiana has been putting in what are in effect sacrificial berms in front of the barrier islands on both sides of the map of the Mississippi and obviously everybody knows that is not a quick process and there is the intent to put in somewhere around 145 miles of barrier berm.

The plan, the permit, is for those berms to be six foot elevated about water level and depending upon the particular location of the individual berm determines how much sand you have to put in place to get to water level.

So, those berms have a 6 to 1 slope, excuse me, a 25 to 1 slope and they are about 20 foot at the crest on width.

How the general plan, the intent, was for those berms to be put in place in

about 150 days and that is without weather events and there have already been two weather events to give you a little more information on the barrier islands and the number of parishes have efforts in place as does the state.

MS. YEAMPIERRE: We have time for one more question and so Mathy, if you could just respond to the two of them because I understand you have to run. Wynecta?

MS. FISHER: Wynecta Fisher, formerly New Orleans Mayor's Office of Environmental Affairs e squared. Mathy, thank you for the report.

I really have a question/concern and it is that the people that our fishermen -- these are people that live and breath, they have ideas on how to stop these issues and I think what has been a little frustrating on the ground is it is almost as if no one on the federal level is listening to the local voice as to how to address these issues or where to go or some methods to use.

Everything has to be tested and proved and then once it is tested and proved, then we can find it reliable then. Well, you know, with any type of wave action, as a wave comes in and a wave goes out things are moving forward and I am thinking about what Jody is saying about the berms but parishes have been asking for those barges at the very beginning to block the oil.

I think sometimes we have to, if it is not going to have an environmental impact relax the rules of you having to go through, I am exaggerating, 50 permits in order to put a barge in place to block some oil so it doesn't impact your wetlands because we are losing coastal area.

So, because we are losing land mass and then on top of losing land mass

we are now going to have wetlands that are impacted by oil, that is a double whammy for us. So, just a thought maybe.

MR. STANISLAUS: Okay, one of the things we tried to do is really not let process get in the way of solutions and earlier on there was some slowness by some of the decision making, but we did stand up looking at technological innovations and I think the recent list is about 10,000 different technologies have been reviewed by EPA.

But, I am not sure that we want to waive underlying substantive requirements. When we look at bi-remediation as an example, I mean, there needs to be a balance between the amount and potential detrimental impact.

So, we have to evaluate the underlying potential substantive and negative consequences versus streamlining the process and I think we did in fact try to push forward streamlining of the process kind of evaluate various kinds of solutions to the greatest extent we can in a response mode.

Again about the barrier islands, I mean, that is going to be an ongoing issue and we are going to be working with the Army Corp and NOAA in terms of evaluating, both in terms of shorter term and take the long term opportunities. How can we connect it with the Gulf restoration plan that was in the works before this happened? So, that is something that we would really like to push forward.

Thank you all, but I actually have to deal with another spill in another part of the country.

MS. YEAMPIERRE: Thank you, Mathy.

MR. STANISLAUS: There is a bad spill up in Michigan right now, but thank you all. Take care.

MS. YEAMPIERRE: A little time check, we have about 15 to 20 minutes that we can use to ask Gay MacGregor and Mike Bandrowski more questions and to have some comments if they could join us and then after that we are going to break for 10 minutes and then we will be back. Sure, Lisa?

MS. GARCIA: I just have a quick follow up before we move on just on the BP spill. So we do have, we are working through a Q and A on the waste stuff that we will be able to provide hopefully by the end of the week and also we do have a list of the landfills, I am sure that not just Hilton is interested, so we will make sure that we get those documents out for dissemination. Thanks.

MS. YEAMPIERRE: I am sorry, what was the distinction? You said it was on the website and then you said —

MS. GARCIA: Yes, we do have information on our website, EPA.gov/BPspill but we will just make sure in case it is hard to navigate, we will just make sure that we get some of the stuff directly to you.

MS. YEAMPIERRE: Vernice, you have a question?

MS. MILLER-TRAVIS: Paul and I were just conferring about the question, thank you Elizabeth. This is about Slide 27 in the report, the slides that Gay walked us through, and it is the school siting guidelines and Paul and I were wondering, Paul Mohai, and I were wondering we have been serving on the school air toxics monitoring work group and the slide seems to talk about looking prospectively forward about how you think about transportation routes and corridors and Goods Movements corridors and new school sitings.

But, we are concerned about existing schools that are already near in or

adjacent to those routes now and who are absorbing tremendous amounts of toxic air pollution because they are in those corridor pathways now. So, how do you blend sort of that work with the school air toxics monitoring work and this work about school siting looking prospectively? Does that make sense Gay?

MS. MacGREGOR: Yes, that makes sense. I think you are going to hear about from Chet Wayland, right, and also the school air toxics guidance, I mean the siting guidance, I also thought you were going to have a presentation on that today, but maybe I am mistaken about that.

But, basically I mean I think one of the things that we do with our diesel money is to try to work with schools. We have a big program to work with anti-idling and we have a tools for schools kit that includes the anti-idling and we funded a lot.

In fact, in the report you will see in the Appendix of all the projects that have been identified affecting EJ communities, many, many of them have to do with retrofitting school buses.

So, I am not sure once we get through the school air toxics project it may inform us some about how we target some of those schools to try to recruit applications from them for diesel funding.

MS. MILLER-TRAVIS: But Gay, I want to lift up for you that it is not just the school buses, so I will just give you an example.

We did a project in Northern Manhattan trying to measure particular pollution near schools from transportation sources and we found that two of the major streets in our community in Northern Manhattan and Harlem were major sources for Goods Movement truck traffic in the area, so we tried to do a comparative analysis

looking at a middle school that was near a source and a middle school that wasn't so we could have a controlled school.

It took us a year and a half to find a school in the community that didn't have the absorbent levels of particular pollution that they were being exposed to, these are existing schools that are right there where these trucks are moving goods in and out now, so we are talking about schools that are absorbing that pollution now, not necessarily from idling buses but just from the normal transportation of trucks and movement in and out of the neighborhoods where those schools are.

MS. MacGREGOR: And I think that when the Regions do their analysis of where the Goods Movement centers are that part of the demographics about what they look at will be things like what schools are near there and that would be part of the planning to try to figure out how in the future to deal with that, but you are right there is a good nexus between some of what is going on with the monitoring project and where we might move in the future.

MR. RIDGWAY: Thank you. Shankar?

MR. PRASAD: I think there is a project that was underway or just completed in the South Coast Air Quality Management District where they installed some different type of HVAC systems in the schools and saw some kind of a reduction in the interior of the classrooms.

So, I think your next question if I had to run that in my mind is, will the DERA money or that part of the money can it be used in a way that would help such schools in the future, if we identified them as being primarily affected by that?

I mean, any of your funds that go into the question of --- partly because

that is ultimately what we are looking at in the sense of how do we address the issues with the existing Goods Movement corridors and schools being --- the primary sites and sensitive receptor is that a way for you to consider when the funding portion of that data ---?

MS. MacGREGOR: You know, I can only speak to the DERA funding and I am trying to think if we could stretch it that way because we have been able to include some stationary source generators in retrofitting that. I would have to go back and look at the law to see if you could retrofit with an HVAC system but I am not sure that you could.

But, there maybe other money that we could use for that purpose.

MR. PRASAD: No, the reason I brought it up is you said yesterday that it will be coming for re-authorization, so should we be looking at that re-authorization language in order to inclusory of such things?

So, we want to put that seed in your mind not that we expect you to answer it today, but certainly it is an idea that is what is considering for all of us.

MS. MacGREGOR: As we have looked at the program, and I will tell you a little story of how DERA came to be which was there was a group and still is, it is the clean diesel work group and that is a subcommittee as your Goods Movement work group was of our Mobile Source Technical Review Subcommittee and that Committee in 2004 and Terry Goff who was co-Chair with Shankar was part of this Committee.

They put together a report that basically was supposed to be about incentives for reducing diesel emissions from the existing fleet and after they got done putting together that report, a number of them banded together and they were the ones

that actually got us the money.

So, you might want to talk to your co-chair about the things that he is considering.

MR. : Just mention briefly, the HVAC systems, the heating ventilation and air conditioning systems you mentioned, have been effective at least in reducing indoor exposures from what we have seen.

We are going to work to demonstrate that technology as part of the California Innovative Technology Initiative they mentioned in the San Bernadino area and hopefully by doing that, we can publicize what some of the benefits are.

Regretfully it doesn't have children out on the playground and there is still a great concern, but at least during the time they are indoors we can significantly reduce the exposures.

MR. BANDROWSKI: One other area that I wanted to mention, Gay mentioned other grants is the block grants for energy retrofits and I think that was mentioned this morning. In California, we are involved in a program in Fresno where the block grants are being used to do energy retrofits and we are also looking at the indoor air quality and I don't know if they have looked at schools specifically for the new roadway impacts but that is something that when I get back I will look and see if they are addressing that aspect as well.

MS. YEAMPIERRE: Hilton?

MR. KELLEY: Yes, Hilton Kelley, Community In-power and Development Association in Port Arthur, Texas on the Gulf Coast.

Yes, I would just like to encourage you all when it comes to Goods

Movement in the Southern Region, Louisiana, New Orleans, Southeast Texas, there are literally thousands of homes if not a couple of million that are located right next to railroad tracks and on a daily basis these trains that come in through the community are literally rocking many of the homes off of their foundations.

A lot of times there are train derailments, the people are not educated on what these trains are carrying and I think there needs to be some type of education program and we need to try and educate people who are living next to these railroad tracks within an arms distance.

Mr. Alfred Dominique comes to mind in Port Arthur, Texas, I used to go out and visit him and whenever the train passed by you could feel his house just vibrate and there needs to be a program put in place to help phase out building government housing projects next to these railroad tracks.

There is a housing project called Lewis Manor that is within an arms reach right next to a railroad track, whenever the train passes through the community it literally divides the community and that is not just in Port Arthur, but that is other small rural areas or urban areas throughout the south where people are divided from getting to the necessary help they need in the event of an emergency because the trains that are coming through the community literally cuts one half of the town off from the other side.

I think we need to look at programs in which we could phase out the structure in which a lot of the railroads are using to transport goods through communities because there is a hazard there that is going to heavily impact our community in the event of trail derailment.

MR. BANDROWSKI: We talked some about this partnership that now

exists between HUD, DOT and EPA and the example you are describing, the situation you are describing, is the sort of thing that it seems to me would make sense to use some of those grants, some of those projects to demonstrate what can be done in that type of community, to take a couple communities and address the issue you are talking about and once we see how best to make that work then it can become a model for use elsewhere.

So, we will take that back because we are active participants in that partnership as you heard from Gay and see if maybe there are a couple of initial projects we could do. I think it is a great issue to raise to that group.

MS. YEAMPIERRE: Kim?

MS. WASSERMAN: Thank you, Kim Wasserman from the Little Village Environmental Justice Organization. I had one quick question actually similar to what Hilton is talking about and that is, was the carrying of coal, coal ash, anything in that regard considered in the Goods Movement? The reason I am asking is because both coal mining communities and coal power plant communities are dealing with coal coming in on barges, trucks, trains, all within arms distance of people's homes as well as being carried in and out of communities.

So my question is, was that taken into account in this report and if not, what can if anything communities do in that regard?

MS. YEAMPIERRE: Actually, I thought maybe Shankar you may want to address that.

MR. PRASAD: That was not considered. The primary purpose of the Goods Movement, work group charge was the emissions related coming from the

movement.

So you are right, there might be a leakage in sort of that but that was not what was the safety issues in --- and from what type of transportation was considered, but all it came down to is the question was more than 90 percent of the Goods Movement was due to the diesel exhaust.

So, the question was talking about how we can think of reducing the diesel exhaust primarily, that was the focus and while around that same subject I am very sure that we have --- I was at the south coast and with the rain droughts parking their running trains for extended periods of time, some places they had docked and actually had the radios which have shown 24 to 48 hours of parking a running train with 3 or 4 diesel engines.

So, that has happened and when the communities complained and made an issue of that, they would come in and pass every hour, they would blow the horn and make their life miserable in that community.

So, these are all the kinds of things we have seen happening and so in your partnership part of it, some of these probably could be addressed in terms of just as the school bus idling issue, this whole train idling is a major issue as well.

MS. YEAMPIERRE: We have about seven more minutes, but I am feeling the energy in the room rather the lack thereof.

MS. MacGREGOR: We ended the last session pretty abruptly and Lang had asked a question.

MS. YEAMPIERRE: Oh, this would be a great time then.

MS. MacGREGOR: And so, I just wondered if you wanted to restate it

and have us answer that or if you felt like you have side conversations in the hall.

MR. MARSH: Lang Marsh, National Policy Consensus Center. Well, I think I said what I needed to say and I was just looking for further conversation because there are some details you know we could get into but, yes unless you want to say something now in response.

MR. BANDROWSKI: I would like to say just one thing in response and just to remind people what at least one of the comments was and what I wanted to respond to was the possibility of tying some of the CARE efforts into the EPA, HUD, DOT sustainable partnership efforts.

That is something that we definitely want to do and we have a couple of examples where that is happening and one I just wanted to mention was in San Diego, we are working with the Environmental Health Coalition, Diane Techorian's group, and we have given them a CARE grant.

That is also an area where there is a HUD, EPA, DOT sustainable partnership and it is a great project right near a school and there is a contaminated brownfield site and waterway and they are putting in a transit village and they are putting in a transportation center, housing and then EPA is using its brownfield(s) funds to look at the contaminated sites in that area.

Then the CARE project funding is being used to work with the community and a zoning plan to get the small industrial facilities like platers and auto body shops out of the area around the school and move it to another part of the community.

So, all three of the agencies are working together and we had a big ceremony a few months ago and all three agencies were there and it is a real exciting

project and those of us working in CARE are really enjoying working with Diane and the other people in the program.

So, there are definitely examples where that is being done and we hope to do more of that.

MS. YEAMPIERRE: Thank you. Kim?

MS. WASSERMAN: I am sorry, I just still have the outlying question, I guess I didn't phrase it right. My question was, was coal moving considered a Goods Movement, like moving of goods is ultimately? Is that a no then because it is talking about moving of goods, right and my question is was the moving of things like coal which produce energy considered a movement of goods?

MR. PRASAD: Yes. Any movement of goods was considered in that, but it was not considered --- coal or a car.

MS. WASSERMAN: Okay, thank you.

MS. YEAMPIERRE: So, everybody want to take a break? We will take a 10 minute break, see you back in a few.

(Whereupon, a break was taken.)

MS. YEAMPIERRE: I hope that break energized you and that you are ready to join us again. I see some people milling about who should be sitting at the table, I am going to move on without them.

EPA Responses to NEJAC Recommendations

Preliminary Response to EJ Screening Approaches

Comments by

Catherine McCabe, Deputy Assistant Administrator, EPA OECA

MS. YEAMPIERRE: So, this afternoon we are joined by Catherine McCabe, Deputy Assistant Administrator for EPA OECA and Andrew Schulman from the Office of Compliance to respond to the EJ Screening Approaches Report. We will begin with Catherine McCabe, welcome.

MS. McCABE: Thank you, Elizabeth, it is nice to see you again and greetings to everyone here. I hear this meeting has been going just wonderfully and that you are all making great progress on lots of items.

So, I am here to give you an update on where we are with a subject that is near and dear to some of your hearts, EJSEAT is what it is known as and the long title is EJ Strategic Enforcement Assessment Tool and if you recall the original charge that was given to the NEJAC was focused on getting some advice and recommendations on EJSEAT and then more broadly addressing the issue of EJ screening tools in the Agency.

We have here dated May 2010 the final report and recommendations of the NEJAC labeled Nationally Consistent Environmental Justice Screening Approaches and I want to thank you for this incredibly fine piece of work. This really is amazing.

You put so much energy and so much talent and I understand brought in outside experts as well as your own considerable expertise brought to bear on this and we have been looking very closely at it and I have to say the recommendations are very well thought out.

It has been helpful in identifying a host of issues, both technical issues with this computer assisted screening tool known as EJSEAT as well as the policy issues about how we use that tool and other tools like this within the Agency.

We know that we need to think hard and long and more and keep working on both the design and use of this tool as well as other analytical tools in the Agency that are capable of being used to identify EJ areas of concern.

So, the work that the committee or the work group from NEJAC did has really galvanized discussion with the OECA people, OECA being my office the Office of Enforcement and Compliance Assurance, and has everybody talking in a very lively discussion.

We formed a technical work group to review the recommendations and 12 of the 14 recommendations were labeled technical, so we sort of thought that 12 out of 14 would be just technical recommendations but there is no such thing as technical that doesn't have policy implications.

So, what the work group has reported back to us is that the report raises a lot of really, really good and valid issues and recommendations, three of those are easy really truly technical recommendations that we either have implemented or can implement quickly within the calendar year.

Then there are others that are really more long term fixes and particularly focusing on data issue suggestions that we need to gather and include more data, more health data, more environmental data to make this tool more useful in identifying both environmental burdens and social vulnerability and they are all good ideas, there is a lot to chew on here.

Then some of those recommendations as well as your own too that were labeled policy recommendations involves some very important and complex policy issues. I would like to just touch on a few of them here now.

The first one, perhaps the most important and you labeled it as a policy issue, is what purpose can EJSEAT legitimately be used for?

And recalling its history, EJSEAT was developed by the Enforcement Program to be used in the Enforcement Program as a way that we could identify areas with EJ concerns when making decisions about where we should go when making our decisions about deployment of enforcement resources.

Obviously, the cop on the beat cannot be on every block at the time and choices need to be made and they need to be made not only in sort of general deployment of inspectors but in a very targeted way when we are talking about some of the big initiatives that OECA is working on and has been working on like CAFO's and air toxics and things like that. So, we were hoping that this tool would help us with the targeting end of this.

The NEJAC's report points out and we think rightly so, that the way the tool is designed right now is that it actually works better for retrospective reporting, that it works better for us to be able to say we did these enforcement actions in these cases in these places and this tool is fairly accurate in telling us now what was that in an EJ community?

Were there EJ areas of concern there that benefitted from the enforcement action? So, it is pretty good for that.

In terms of targeting, the report rightly pointed out that we have some risk of having false positives where the tool, you could run this algorithm that the tool has created and put in the environmental burden data.

The demographic data and the health data and the compliance data and

you come up with a score that could make you think, yes this is an EJ area that you should be looking at and yet it is not when you go look at it on the ground, you get a false positive.

And then the flip side of that being of more concern to the NEJAC and to us is the false negative where we can run this tool and totally miss an EJ concern that is a very serious one and one particular area that was pointed out by the report and again validly so, was that Native Americans and also people in rural areas are particularly likely to be missed by this tool, that it seems to work better in urban areas where the population is concentrated.

I am not very technical and that is why I have Andrew Schulman here who really understands how this works to answer questions if you have them about some more details here, but as I understand it it is a question of the level at which we have data available.

One of the problems in the tool is that we try to take health data into consideration and health data is only available on a county wide basis because on a national basis, I take it that the HIPAA Act, the privacy for medical concerns, prevents us from being able to have a nationally available data set that gives us meaningful health data down at the census tract level where we can get of course demographics at the census tract level but you have a basic mismatch between the health data that is available and the demographics.

So, one of the suggestions in the report for instance is that we just leave off the health data because it doesn't really help and that is obviously a policy choice that has some pretty significant implications not only for OECA but for the rest of the

Agency as the rest of the Agency engages in considering environmental justice issues that are within their program areas.

Two subcategories of the health issues that I just wanted to point out are the two items, the two data pieces, that we had identified in EJSEAT for health issues particularly were low birth weight and infant mortality and I take it, and Andrew correct me if I am wrong, but that these were selected because of the availability of data on those two factors at the national level.

Yet, what the NEJAC report says to us and we tend to agree within our OECA discussions on this, is that those two factors are not the most meaningful in terms of talking about or trying to get a clear picture of what the health impacts are on a particular community, that there are many other things like cancer rates and things like that that of course are more important but unfortunately for us less available.

The census tract level of information of health that the NEJAC recommends we use is our gold standard. We would love it if that data were available on a national level, it is not and we don't expect it to become available any time in the foreseeable future, but of course there are places where more refined health data, more refined grain information is available and it can be used but it wouldn't be consistent nationally. You can do it in some places and not others.

So, this is a really hard decision for us to make on whether we keep health in at all or just rely on demographic factors and skip the health part.

Another tricky issue is should age be a factor in identifying EJ areas of concern? The recommendations of the NEJAC were very interesting to us because they seem to reflect the same split of opinion that we were having when we addressed it

that there is no question that we should include a look at children under five as one of our social vulnerability factors, if you will.

As you know, the Administrator has a priority on children's health as well as environmental justice and quite often those two things are coinciding, in fact they are together in the cross cutting strategy of our strategic plan that is out for comment right now.

But, when it comes to the other end of the spectrum, people who are over 64 as I begin to see that age is something that might happen in my life, I can understand why it could be a vulnerability factor.

Yet, the NEJAC appears to have been unsure and probably split in opinions about whether we should consider this or not and we are likewise split and totally understand why the NEJAC would be concerned about using this as a separate vulnerability factor. So, that is another one we are struggling with.

A very hard issue is when you put all these pieces of information together, all of the demographics and the health if we continue to use that and the environmental burden information, how do you weight the factors in coming up with a score because that is what EJSEAT gives you in the end.

It was meant to be a targeting type tool, so it does give you a score of how does this area compare relative to other areas within the state? It is done on a state by state basis.

But, it is obvious that how you weight things is going to have a very, very big effect on that and what the NEJAC suggested to us instead of using the four categories that we had which was the, and Andrew again stop me here if I get this

wrong, but I believe it is the demographics and the health data and the compliance data and what is my fourth category? Environmental, of course, data and those things I take it the way that we are doing it now are weighted equally, is that accurate Andrew?

MR. SCHULMAN: That is right.

MS. McCABE: Okay. What the NEJAC suggested to us is that we delete the health data for the reasons that I just mentioned, not because it is not important but because it is too hard to get the data, and collapse and delete also the compliance and enforcement data which to enforcers is a very hard decision to make and go to two categories that would be 1), environmental burden and on the other side social vulnerability.

Well, this suggestion makes a lot of sense to us, very, very hard for us in OECA to decide not to look at the compliance data and I just want to share with you what our thinking was on that.

The compliance data are things like not only how many, originally it was how many facilities are in this particular area so some idea of the amount of emissions that the community is subject to.

We agree with one of the technical suggestions that we not look just at a facility count because you could have a giant refinery or you could have a gas station and they are not the same thing.

So, instead we will make the technical change that we do use a number of permits and a refinery would have a lot of those and a gas station might have one or two. So, we can make that technical change.

The second piece of information that we look at besides the presence of

facilities is are they complying with the law? Do we have records in our system that show that there are violations here?

You pointed out, rightly so again, that in our significant non-compliance database even though there are violations that don't necessarily have to do with environmental burden because they could be non-reporting, failure to report.

Now, we enforcers tend to think that if you fail to report the chances are good that you might be polluting because maybe those two things go together, but we cannot show that so you point it out and we agree you have to question whether that piece of information is useful.

So, you would have to figure out some way to separate the environmental burden violations from other types of environmental violations.

The third factor for us on the compliance end is what we call presence, how many inspections have there been in this area and how many enforcement actions have been taken?

The reason that we put that in there is because we thought we were hearing from communities that we are ignoring them, you didn't come to my community and therefore the environmental burden that we have is going to be that much greater, and you should take that into consideration when you decide where you go next.

Well, that makes a lot of sense to us. So, we would like to still consider that but as the NEJAC pointed out you don't necessarily have to consider that by throwing those pieces of data into this model that, it is not a model it is a screening tool as Andrew reminds me, in order to come up with a composite score.

You could do as the NEJAC suggested and have a composite score that

is generated by two categories of variables, social vulnerability and environmental burden and get your score from that and then start asking questions about what has been EPA's presence and what does the violations picture look like in this community?

So, there is more than one way to get at this and we take your point. We take your points on all of these things and as we move toward trying to resolve them ourselves in OECA, a light bulb went on. OECA is the home of OEJ, of course as you know, and the Agency with a lot of work from a lot of quarters led by the Administrator with OEJ and many other AAships now stepping up to the plate.

There is a huge amount of EJ work going on and for OECA to be making a decision about what to do with EJSEAT that has all of these ramifications for tools that other parts of the Agency need to be looking at too, does not seem to us to make a great deal of sense and you have pointed out that we need to be consistent as much as we can and we agree with that.

So, what we are doing is taking the recommendations that we have from our OECA work group and broadening the discussion within the Agency.

The Agency within the last year, I think, under the new leadership has collapsed a collection of agency wide counsels on which all of the career leaders used to sit for the Agency, all of the DAA's and the DRA's because there were too many of them have been collapsed into one council called the Executive Management Council, the EMC.

But we had this committee, if you will, that was called the EJ Steering Committee which you are probably familiar with also composed of all of the Agency's DAA's and DRA's and we did not want to lose that and have that merged.

So, we asked and received permission to keep the EJ Steering Council as a separate entity, it is renamed as the EJ Committee and it is a standing subcommittee now of this new Executive Management Council.

What we are doing is that each time the Executive Management Council meets and we meet together with the Deputy Administrator twice a year, we also have our EJ Committee meeting right before that so that we can pull this group from all across the Agency to get the senior leaders focused on the most important EJ issues and then take them to the Deputy Administrator as our mechanism for decision making to the most senior leadership of the Agency.

So what we are going to do, is take the recommendations plus our work group's recommendations to the extent they could agree on them and tee that up for this agency wide EJ Council or EJ Committee to be looking at when it next meets in a couple of months.

Between now and then, we will be working on getting everyone educated so that the DAA's and DRA's throughout the Agency can be focused on this and getting a charge put together for that committee because it is wider than EJSEAT and as you pointed out to us, there are other tools in the Agency.

There is one that you may have heard about before that called originally the EJ Geographic Assessment Tool, EJGAT, which OEJ and our Office of Environmental Information created as a mapping platform for EJ information back in 2004, I believe.

In addition to the work that we have done on EJSEAT in OECA, most of the Regions have their own tools, analytic tools, a lot simpler than EJSEAT that they

use and then the Office of Air, which of course is now moving out into rule making under the new guidance formula, is thinking about what tools does it need to use and what tools would be appropriate for it to use in the rulemaking context.

So because there is a lot of Agency activity going on, we think that it is going to be important for this larger group to all bring their thinking to these very key questions that you raise about what data should we be looking at to decide whether there is an EJ area of concern.

So, this is our plan for supporting that part of the EJ Plan 2014 which I know you have been hearing about for the last couple of days, to develop a common mapping platform and a nationally consistent screening and targeting tool to enhance the EJ analysis and decision making not just for OECA and the Enforcement Program but throughout the Agency.

We have done a lot of work, but much remains to be done. The NEJAC has made a tremendous contribution to that. I would expect it likely that we may be coming back to you with further questions as we grapple with these issues, but we want to thank you again for this really, really good work and excellent advice.

To me, it is just the example of the way an EPA Advisory Council ought to function and we thank you.

MS. YEAMPIERRE: Is Andrew going to be presenting?

MS. McCABE: Andrew is not going to do a separate presentation, but if you have questions, you know, I am about an inch deep as usual for DAA's I guess, some DAA's anyway, and Andrew knows everything there is to know.

So, if you don't have questions that you want to raise now --

MS. YEAMPIERRE: I am certain there are. I think we should start with Sue.

Questions and Answers

MS. BRIGGUM: Thank you. That was both a really eloquent response as well as for those of us on the work group, so much appreciated. Those are very kind words and so I think we owe you some kind words back.

This was not an easy project and we have a lot of people with very extensive knowledge and independent views and people in a week ahead spend a great deal of time working on this and it was the best possible interaction among us, I think.

I cannot say enough about Andrew's openness. When you talk about something that he had largely created and that he knew all the constraints of the data and we were on the cantankerous and lively group and you couldn't have had someone more helpful and less defensive and more open to ideas and more willing to share values behind some things that didn't make sense to us is kind of a techy way and so we really tried to work together.

And then to hear this response and the fact that we were valuable and might be again is just really heartwarming to be honest.

MS. YEAMPIERRE: Thank you. Paul?

MR. MOHAI: Thank you. Paul Mohai with the University of Michigan. I was also a member of that work group and I wanted to underscore what Sue said about Andrew's tremendous help to our group.

He had a lot of patience in explaining what all the details were and as anybody who has tried a first time read of EJSEAT knows it is a very, very complex

process, a lot of complexity in the way the scores are combined and where the data are obtained and Andrew was a tremendous help to us.

I also want to thank you for your report. I got the sense that there has been a lot of careful thought given to the report and I think it really reflected in your presentation today, I want to thank you about that.

I do have one question, you mentioned that several, three, maybe you mentioned three recommendations had already been implemented and I am assuming they are kind of the low hanging fruit variety, but I guess the question I have and I think from what I am hearing there is an implication that of course you are going to go and try to implement the other recommendations.

So, the question I have is can there be a report back to the NEJAC as you are making that kind of process to see where things are as the recommendations are being implemented. I think that would be very, very positive feedback for us as well as to many others who were not specifically on the work group.

MS. McCABE: The answer is yes. In fact, I did write my own talking points but I left off the last one, we will be reporting back to you as we make progress.

Andrew, maybe you could address the three, I think they are low hanging fruit, but the three changes that we have decided that we will make as a technical banner, they are not all done yet but we are going to do them.

MS. SCHULMAN: Sure, there were three of the recommendations that seem to us were simply technical and didn't involve any great policy issues.

The first had to do with the enforcement and compliance measures. The report pointed out several problems in the way the measures were defined, some errors

in the way that they were computed and some improvements in the way that they could be measured.

So, the inspections and violation and formal action measures had sort of a convoluted definition as you may remember. We decided to simplify that and just simply count uninspected facilities, count violations and count violations that did not have enforcement actions. So, some simplification there.

Correction of some errors that caused some of the measures to just be all zeros in some places, I think you identified those, that was just simply an error on our part.

Then also, counting permits instead of facilities. It is a small step towards recognizing that not all facilities are the same. Obviously, it doesn't get us all the way there but it is an easy step to move us in that direction, so we will be doing that right away.

And then looking harder at, do we want to weight certain facilities more depending on what they are permitted for, how large they are and so on? That is further down the road, so that was one piece.

Second had to do with the risk screening and environmental indicators measure. Again, there were some errors in the way that was computed. We have updated to a recent data set to take care of those, but I think the main issue there was about the population weighting.

We agreed with you early on that population weighting is undesirable. In any of these measures, we want to separate out the question of what burden and vulnerability exists from the question of how many people are affected by that burden

and that vulnerability. That is just sort of a separate issue and unfortunately the one measure that was left that had that population weighting baked into it was the risk screening.

So, we are re-computing that to take the population weighting out and correcting the other problems that were found in it, that is the second thing.

The third thing, actually it is very easy because we had already done it and I thought we had provided it to you, maybe we did not, and that was the sensitivity analysis. The fourth recommendation was to perform a sensitivity analysis to determine which of the 18 indicators in EJSEAT have the most influence on the outcome. We already maintained that analysis and we can certainly provide it to you and we will continue to maintain it as the tool evolves.

MS. YEAMPIERRE: Thank you. Shankar?

MR. PRASAD: Thanks for your update and also kind words to the group and same to you as well and ditto with the comments of Sue and Paul. I was also a part of that work group and thanks Andrew for all the help in order to come to this point.

With these three changes are you planning to use or are you waiting until the whole whatever other groups you have formed to come to consensus? That is critical because of the limitations and the false positives and false negatives is very key.

So, to what extent you are going to continue using in its current form with these three changes already we have postponed until all the decisions are made.

MS. McCABE: I think that is going to vary with the Regions. When we make these three changes, they will be incorporated in the tool itself, so anyone who uses it after that will of course be using it with the changes.

But, what has happened as a practice matter so far is that the Regions that worked hardest and most closely on developing this tool tend to be the ones that are using it the most and doing their targeting and their reporting work.

But, nobody uses it as anything more than a screening tool because we recognize the problems, especially the false positives and false negatives, so that it is one piece of information.

It is one way to look at an area but it is by no means the only thing that we look at when making decisions and then other Regions have their own screening methods that are even much more simple and that only look at income and minority population say are the two criteria from the Executive Order.

So, I would say that it is not at this point being heavily used but it is still in the early stages of use by OECA and we would not intend to tell anyone not to use it unless that is the advice that you are giving us and I would like to have your feedback on that.

MR. PRASAD: I would not be speaking for the group, but my personal suggestion would be not to use it beyond the OECA because the Regions it puts influence various communities whether they get --- becomes and that --- decision for that community whether they will be in or not it gets branded and that is something -- there is a permit a special permit applications or other places where it will be used once it is there, out there, people will use that. That is what I read about.

MS. McCABE: That is a valid concern. No, we are only using it in the OECA Program, I don't know of anyone using it outside but that is an issue that we can raise to the larger group on the EJ Agency Wide Committee to make sure that we are all

clear on that.

That it was a tool that was developed for, a screening tool, that was developed for the enforcement program and so far that is all it has been used for and that is our intent to keep it that way and unless and until larger decisions are made in the Agency about screening tools generally.

MR. PRASAD: Another point I want to make is as you move forward in this executive process or in your technical review group, if there is a technical group formed I think there are a couple of individuals from our work group who are very technical and getting included in that discussion piece of that why some specific recommendations were made and what analysis were included so that it does not get only an internal review.

We are not questioning the competence of the expertise of the EPA but understand the implications and why these things came because the recommendations argumently end up as only three sentence but there are a lot of analysis which went in, a lot of thinking that went in.

So, I urge that if there is any kind of a technical review being undertaken that that group includes the couple of technical folks which were in the work group.

MS. McCABE: That may be an appropriate place for us to be coming back to you as we have tentative proposed recommendations, say for a larger group to come back to the NEJAC first before we finalize on that, that would help us because we do value your expertise very much.

MS. YEAMPIERRE: Jody?

MR. HENNEKE: Jody Henneke with the Shaw Group. I too was on the

work group. When I was principally involved with the work group, I was representative of the state and my recollection is that we had a huge discussion of what the use of this screening tool was, who would be able to use the screening tool and that it was discussed up one side and down the other and sideways and that we all settled on it was a tool to be used by OECA, period, end of story.

Now, that may not match the other folks' recollections but that is mine.

MS. McCABE: Thank you, that is helpful to know.

MS. YEAMPIERRE: Oh, I didn't see you Nicholas. Nicholas?

MR. TARG: Catherine, Andrew I have to really compliment you and all the people who have been serving on your work groups over the years now in seeing this processes tool to where it is today.

I believe the word was cantankerous, rough and tumble (laughing) -- I am not sure that that differs from some of the other work groups that might have existed and again I highly commend you for seeing this to where it is. This is a marathon and not a sprint.

I have a couple of questions here. One is, I guess three specifically, one is with respect to the health data and Andrew this may be a question for you, how well correlated was the health data with the other variables? That is does it produce a different ordering or ranking at a significant level? That may be an unfair question to ask on the front.

MR. SCHULMAN: I have that. This gets to the sensitivity analysis that was recommended in the report, we actually called it an influence analysis.

In other words, and the basic approach is if you take for example the

health category out or if you take the demographic or environment category out, how much difference does it make in the scores? Which has the greatest effect?

We did that both for each indicator at a time, each of the 18 indicators and also for each category at a time and the health category is the most influential on the overall results and that happens in two ways.

First, is in terms of the broad scope looking at all the census tracks one at a time. You get the most reordering, it is a little tricky to measure because we have this relative scale everything is zero to 100, but when you take the health data out you get the greatest amount of reordering in the broad measure.

If you look at just the top 20 percent of the census tracks, the ones that EJC flags as having the highest level of apparent EJ concerns, there it is the demographics that is the most important.

So, we have that analysis here, it is about three pages and be happy to provide that to you if you want the detail.

MR. TARG: If I may also, for the On Management Council meeting that is going to take place, is that going to be a decision meeting or is that being keyed up as a, we are going to set up a further agency wide work group meeting or what is the nature of that?

MS. McCABE: That is the normal cycle of meetings. But, what we are doing in preparation for that is proposing to establish a new subcommittee of that larger group the EJ Committee to look at this whole mapping and screening issue for identifying EJ areas of concern.

So, I certainly would not expect any decisions to be made on that

marathon task, as you described it Nicholas, in September.

MR. TARG: The last question was, there was a suggestion that, I couldn't tell whether EJSEAT was being used only retrospectively or whether that might be the most appropriate way to use it or whether this is still being used as a prospective screening tool, for example, to be used in the enforcement to our compliance context?

MS. McCABE: The answer to that lies with the Regions and I believe Samantha Biers is here someplace. Samantha, would you like to take a crack at answering that question because my understanding is that the Regions are using it for various purposes, it is not limited to reporting.

MR. TARG: During Catherine's comments, she observed I believe that EJSEAT might be used most appropriately for a retrospective analysis or that may have been —

MS. McCABE: That is the group's, the NEJAC's recommendation.

MR. TARG: And I was wondering how in fact EJSEAT is being used, whether it is a retrospective analysis or whether it is presently being used as a prospective screening tool.

MS. BIERS: I can answer that on behalf of Region 3. I think that a variety of Regions are in a variety of stages of trying EJSEAT to see where it is most effective.

In our Region, it is used in some programs retrospectively to sort of figure out where you went, to try to begin to develop a baseline. There are some instances where it is currently being piloted to figure out, say for example that you are going to do 10 inspections in a year and you are trying to figure out of the 38 possible places to go, where would you go?

It is being used in a very minor way in that setting and most in the multimedia area, when you are looking at a multimedia place where we are going to go and inspect for more than one category. But, it is not being used wholesale by any Region that I know of prospectively.

MS. BIER: Oh, I am sorry, I have to state my name for the record. It is Samantha Biers, I am with Region 3.

MR. SCHULMAN: Just an elucidation of that, when we say that EJSEAT is a screening tool, it is important to understand what that means for us. It means that EJSEAT is not the end of the story, it is the start of the story.

I think the practice that I am seeing evolve is to use it as part of a multi-tiered or multi-layered sort of decision making approach.

So, as I read the NEJAC's report, to me one of the bedrock points is one cannot rely solely on EJSEAT to determine where there are EJ concerns, we get that and I think that that is well established at this point.

MS. YEAMPIERRE: We are running behind schedule, we will take two more questions. I have Paul and Shankar. Paul?

MS. MOHAI: Yes, thank you. I guess I am starting to need a little clarification myself because I am getting a little confused about what I am hearing about the discussions within our own work group about whether or not we were recommending that EJSEAT be prospective versus retrospective and maybe I am getting confused about the definitions or the distinctions between the two.

I think our comment was that in its current form it is a little bit too much retrospect. For example, a lot of the data are quite a bit out of the date and addressing

how it could be used to make future decisions I think was an important point for us.

We did have discussions in the beginning about its uses as possibly ways of identifying specific communities where enforcement actions should be targeted.

That was clearly in the beginning discussions and I think as our committee met and we had subsequent discussions, we focused more on the technical aspects of EJSEAT.

But, we were always interested in the question of its applications and we assumed that there would be applications and we put that in the report that we would like to see more of an articulation from EPA about what uses it will make and certainly targeting areas for increased scrutiny or enforcement was certainly one of the things that we discussed.

MS. McCABE: Thank you for that clarification Paul, that helps and I think Samantha's description is the best on the ground description that the Agency can give you at this point of how it is actually being used.

It was our intent in creating this tool to use it for purposes of future action of identifying where we should go with our limited enforcement resources.

As Samantha described if she has 38 possible facilities to inspect in a given program then she would want to use EJSEAT to give her information about where are areas that are most likely to be of EJ concern.

She wouldn't stop there. She would develop further information and hopefully ground test that before making a final decision. But, that is the way we want to use the tool.

MS. BRIGGUM: Yes, as I recall we made the retrospective prospective

distinction because we thought that the tool without the enhanced public dialogue and ability to comment would work for things that had already taken place in order to recognize accomplishments or ways to prioritize future goals.

But, if you look at it to the future you might envision a use in which you would want to see whether or not some of the benefits that are also conferred with environmental programs beyond OECA were being fairly allocated to priority environmental justice communities.

In that case, because you would be conferring a future benefit, then it would be particularly important to avoid the false negatives.

So, that is why we made the distinction and we didn't suggest that you should be limited in their use, but when it came to the benefits and the future use then the enhanced public participation and dialogue that we had proposed becomes much more critical.

MS. YEAMPIERRE: Thank you Catherine, Andrew, thank you for that presentation.

Preliminary Response to School Air Toxics Monitoring Report

by Richard (Chet) Wayland, Director

Air Quality Assessment Division, EPA Office of Air Quality Planning and Standards

MS. YEAMPIERRE: So, he has been waiting here in the wings patiently, Richard Wayland the Director of Air Quality Assessment, Division for EPA's Office of Air Quality Planning and Standards with a preliminary response to school air toxics to the School Air Toxics Monitoring Report.

MR. WAYLAND: Great, thank you very much. It is a pleasure to be here again and to give you an update on the School and Air Toxics Monitoring Initiative and kind of where we are in the process of responding to the recommendations from the working group.

So, I wanted to first give it just a quick update, if we can go to Slide 2, on the status of the project. I am happy to say that the initial monitoring is now complete in all 65 schools.

It was somewhat of an ordeal to go through this. We ran into a myriad of issues as we were going through this process of getting the monitors out and getting them deployed and getting it completed and now about a year later we have completed the screening modeling at all 65 schools.

That was 63 schools in 22 states and 2 Tribal schools that were added specifically to focus on issues at schools and Tribes.

I am also happy to say that at the 2 Tribal schools we have already moved the monitors to 2 other schools and we are moving on. We have set up a process within the Tribal community where the TAM Center will maintain the equipment, if you will, and it will be passed on from school to school as is needed.

When monitoring is finished at one school, it will be made available for wherever the next schools are that are chosen to be looked at.

The final data for the last school is scheduled to be released sometime this month and it is the IS 143 School in New York State was one of those that we had to go back and do some additionally monitoring at because of data problems and I will talk a little bit about that in a moment.

But, it really has been somewhat of a phenomenal process, looking at 65 schools and doing 60 screening analysis you would think, well okay this is not a tremendous amount of data but we have processed over 73,000 data points and over almost one and a half million values from associated myriological data and monitoring data at these individual schools.

All of that data has been made available to the public on the website and it is close to as current time as possible.

Obviously, there is some validation that has to go on but we try to post the data as expeditiously as possible so that everyone can kind of track this project as we were moving forward.

At this point, we are still evaluating some of the last schools that are finishing up. Like I said, all the monitoring is done but we are still looking at some of the data coming in, but there are several schools that are slated for additional monitoring and we know that already based on some of the early reports but also kind of where we are in the analysis for some of the other schools.

I don't have an exact number but it is probably going to end up being close to a third of the schools that will have additional monitoring done and that is going to be based on several factors.

One is that the screening levels indicated levels of concern, that said we need to go back and continue the monitoring in the community, not necessarily at the school.

In the screening modeling, one of the things we looked at carefully was where were the emissions coming from, so that is why we had mineralogical data at every single monitoring so we could look at wind direction and look at sources in that

area and working with OECA and others.

So, when we go back for those schools where we have levels of concern, we may be doing monitoring at the school but we may be doing additional monitoring in other places in the community as we try to track down what are the source of the concerns?

We also are going to go back and do some additional monitoring at some schools where we had information about sources that were operating well below capacity during this time frame.

I think as everybody understands, we have been in an economic downturn, a lot of sources have scaled back their operating schedules and as we gathered information through the screening process from the local agencies and others about the operating capacity of those sources, we made decisions that there are some schools we need to go back and to re-monitor now that many of these sources are coming back up more close to full capacity.

The third issue that is kind of out there that it is still to be determined a little bit is the acrolein measurement concerns and we will talk a little bit about lessons learned in a second.

But, with the acrolein issue we uncovered something that we had some inclination of but through the school's project it became very clear that we have a real problem with the measurement approach for acrolein. It is very inconsistent from lab to lab.

There are problems with acrolein growing in canisters, so we want to go back at those schools where we were focusing on acrolein and go back and re-monitor

those schools.

Now, one of the things we have to do is figure out how to do that properly and it has to do with how you clean the canisters, it has to do with the methods that are used. So, those schools may not be re-monitored immediately, but definitely within the 6 to 12 month time frame we will go back to those schools or substantive of the schools and do specific acrolein monitoring.

So, all in all when you look at schools where we find the problem, schools where we didn't think the operating sources were at capacity and schools where we have had this acrolein issue, we are looking at about a third, a little bit over a third of the schools potentially to go back and monitor.

Now, this additional monitoring is going to range from where the schools where we are just going to go back and redo the screening to see again if it is operating at full capacity, we are going to see anything there.

The schools where we know where we have a problem, we are going to bring in additional monitors and even some state of the art continuous metals monitoring, get some of the schools in the EPA Region 5 area where we know it is a magnesium issue.

We are actually going to invest in a \$200,000 state of the art continuous metals monitoring system that is portable that we can put at one school and then move around to another school later on and it will allow us to get continuous metals data which is something we have never had. We have had to rely on filter based data which gives you one sample per day.

So, we are very excited about this new technology and being able to

deploy it and follow up with some of these schools efforts.

With regards to the individual reports for the schools, we have four reports that are complete and on the website right now. We have about six more that will be coming out this month and then the additional reports will be finalized throughout the fall in 2010.

We do expect to have them all done by the end of this year, end of this calendar year, and as you can imagine 65 reports it takes a little time to get them all cranked out once the data is done.

But, we are moving forward on that now that the monitoring is done and much of the analysis is done. We are really focusing our resources on to getting the reports out the door.

And then there is a final project summary that is to be completed by next summer. We had originally hoped to have that out in early 2011, but with some of the delays we had with the monitoring issues throughout the year we are a little bit farther out than we thought, so we are planning to get that final report out by summer of 2010.

As we go back and redo the data sampling and as we follow up on some of these schools, we will continue to make data available on the school's website.

As we are doing follow up trying to look at areas where we found problems and we are moving monitors around, we may not have a regular schedule of posting data on that school site because as you start zeroing in on compliance, you may not want everybody and their brother to know where you are zeroing in on.

So, we have to be a little careful about it as we start working trying to find the source of how much information we put out there on a regular basis, but we will

make it available on a periodic basis and make sure everyone has access to it.

Where we are doing the screening analysis again, where we are going back to those schools obviously we will use the same approach that we used this year and make that data available on a continuing basis.

Moving on to the status of the working group recommendations. The working group actually provided the EPA with 17 recommendations and they covered 6 general areas and I will not go through all these general areas but it was a range of topics.

We thought the recommendations were outstanding. They were really excellent comments on the process. They were not as specific as some that we heard earlier today on the Goods Movement and other things because this project was a little different.

It is not a regulatory project, but it provided a tremendous amount of insight into how we need to think about where we go from here and I will talk a little bit about that in just a moment.

But, we are planning on working on those recommendations right now. We are hopefully on schedule to get those recommendations back formally to the work group by November and that is what the Administrator had promised.

I put a little footnote there that there is a little thing in the Gulf that kind of popped up and it kept a lot of our folks very busy for the last month or two and these unfortunately from my standpoint were my same staff working on the school's project.

They were my toxicologist, my ambient monitoring folks and my data analyst and I think we have been able to carry both tails of water, if you will, and I don't

think we are going to be delayed in getting the recommendations in November.

So right now, we are still on track to have the formal recommendations back to you by November and hopefully if the cap holds in the Gulf and they can get this thing shut down once and for all we can start to shift some people back onto the school's project a little more as well but maintaining a strong presence in the Gulf as well.

What I wanted to do a little bit today though is talk about at the same time or prior to getting the official recommendations from the working group, we got 8 questions that were geared towards kind of where are we going with this project? What is the long term plans and what is needed from the working group in the short term?

These really do feed in quite well to the recommendations that were made formally, so I would like to offer our preliminary response to those recommendations. I had hoped to have the formal response out before today.

It is clearing the bureaucracy within the Agency and I think we will get that out within the next day or two so I can commit to you that you will get those in writing, the full formal responses to the questions very soon after this meeting.

But, I can give you our preliminary response today and we will just walk through those very quickly. But, I do think it ties in very closely to the recommendations.

So the first one was, would you like the worker to provide input on issues that should be addressed and the wrap up report on Phase 1?

I think we have kind of illustrated there are two aspects to this Phase 1 report. There is the individual school's reports, the 65 individual reports that we are

moving down the path and are getting out and I think we have gotten a lot of good feedback from the formal recommendations and through the work group process about what to do for this.

However, we would be thrilled to get input on this final project summary report that will be coming out next summer. We would welcome input from the working group. We think it would be a tremendous value to us because this will not be the last time that EPA goes into some type of project like this.

It will not be the last time we do a monitoring project like this and having input from the working group about what should be covered in this final summary report would be tremendous.

So, we definitely would like to have that feedback. We would like to kind of get the work group reconvened a little bit. It has been a little bit on hiatus as we have been trying to work through the reports and get the monitoring completed.

Sometime early this fall, September, October time frame we would love to get feedback on what you think should be included in this final project report that will be coming out next summer? That would then give us time to have some feedback back and forth with the work group and then get the project report out in time by the middle of next summer.

The second question that came to us was given the time constraints on the work group and what they have already accomplished in their report, what additional input on Phase 1 activities would be most important to OAQPS?

I cannot say enough about how much I appreciate the efforts of this work group and I have a summary slide at the end and it kind of echos this a little bit. But, we

didn't always agree on everything, but I really valued the input and I valued the time that people put into this.

There was a tremendous amount of time by this work group put into looking into issues that we had asked them to look into and in some cases looking into issues we had not asked but that is okay because I think it was valuable to get that feedback.

So, I think where we are right now with Phase 1 we are fairly comfortable though we got good direction from the recommendations they gave us formally and the interactions with the work group that we know what we feel comfortable with, what we need to do for the final reports, the 65 individual reports.

But as I said earlier, we would like to get feedback on that larger project report and make sure that we are including the things in there that make sense.

There are some other aspects that we definitely want feedback from as well. I am going to go through those as we follow up to the other questions.

Question 3 was, what basic lessons have you learned in Phase 1 that will inform the next phase? This has probably been the greatest result of this project. When you go into something like this you have mixed feelings, 1) you hope you don't find problems because that means things are not as bad as the U.S. Today said they were.

But on the other hand, if you do find problems you want to fix them and I think we went into this not knowing what to expect because there was some questions about the credibility of some of the data that was used in some of the initial analyses that were done that kind of pointed at the individual schools.

We knew there were some issues out there at some schools, but we didn't know about others. As we went through this process, we have learned several lessons on the technical side and the problematic side.

On the technical side, we try to be very consistent and use the exact same approach for every single school such that we could compare apples to apples across.

We ran into an issue with a monitoring timer. It was a plastic timer, it had two fittings on it. When you tighten the bottom fitting, if you didn't know to tighten the top fitting at the same time as you tightened the bottom fitting you loosened the top fitting inside the timer.

The timer was made of plastic. This was sitting out there in the hot sun, the timer on off gassed and the gas got into the sample and a lot of the samples around the school using that timer were invalidated because of this simple little fitting problem.

One of the things we recognized from this, and you may think well okay that is a technical issue no big deal, that was a tremendous issue because for a while we kept seeing these high values and we could not figure out why they didn't make sense. We were seeing pollutants coming at the samples there that didn't match up with the source history we knew for that area and it turns out we had a monitoring problem.

So, in our effort to try to be consistent we actually created a problem by using equipment that maybe wasn't the best equipment to use in that particular case.

So, one of the things we have learned about that is when you are going to go out and do something like this not only make sure you understand your equipment thoroughly but make sure the operators of that equipment understand it because we

had a couple of schools where the people figured it out, hold this nut, tighten this one, everything is fine.

So it is a training opportunity, making sure that we have trained the operators out there, that they are going to be implementing any kind of a field study and doing it properly and this was a little thing that people overlooked. But those that caught it we had a good day, those that didn't we had to go back and spend two months reprocessing and re-monitoring for all those schools.

The acrolein monitoring method I talked about, this is a problem with an agency standard method. We had heard rumors through the states that they were concerned about this method, they had inconsistencies. When you do a national study like this and you can compare data collected at the same places with the same method and going to the same lab and then you have states sending the same data to their state labs and you are getting numbers, orders of magnitude different, that presents a problem.

It turns out there is an issue with the method, but there is also an issue with the calibration gasses that the labs are using, acrolein is very unstable, it doesn't stay stable very long so while labs would have their acrolein calibration gasses in the lab, some had them for two or three weeks and they got very good agreements.

Some had had those in the lab for six months and they didn't get very good agreements, so we have to go back and rethink the whole method for how we monitor for acrolein and we are actually going to be invalidating a lot of the data in our air quality system, our national system for acrolein because of this inconsistency.

Uniformly, the states and local agencies agree that this was the right

approach to do that and that we needed to invest in the research and development for a better method then.

Air toxics emissions inventory deficiencies, I think everybody had always known there were some problems in our emissions inventory for air toxics, this really showed up in this analysis.

Even in spite of working closely with local agencies to try to refine data before we selected the schools, we still found some schools where the facility's emissions were off by an order of magnitude from what was reported on the inventories.

This included EPA's TRI inventory, it includes the voluntary toxics information we get from state agencies and so we have issues that we have to fix in the quality of our toxics emissions inventory.

We have come a long way on our criteria pollutant inventories. We need to continue to strive to improve our emissions inventory for air toxics.

Program issues, I think for me the program issues where we had the most eye opening happenings, if you would, we learned that the state local agencies in the communities know a heck of a lot more about their toxic problems than EPA does in some cases because they live with it and they are there everyday.

We pick the schools based on models and based on risk assessments and said these are where you need to go. As we went through this process, we became aware that there were worse issues in some communities than where we were.

There were other schools that were worse than the ones we were at and that information wasn't out there initially as we started to work with the communities we

got more and more input and I personally recognized that.

If you are going to community based monitoring you need to hear from the community first and let them tell you where the problems are and work with them to identify where to go as opposed to saying, well we know where the problem is, this is where we are going to go.

Community awareness involvement is the key. We had one case in Charleston, South Carolina, north Charleston, where the local agency, the state agency, had a tremendous relationship with the local community.

We had no problems getting the monitoring in there, we had tremendous support, we got great response there, we had great community involvement. We had other cases where the community was not as engaged and the effort wasn't made to get them as engaged by the local agency.

We had all kinds of issues communicating to that community, so it was very obvious when you have that relationship and you build that relationship with the community, it is much easier to communicate bad news and it is also much easier to communicate good news because you have that trust.

So, one of the things that I think we really want to look to afford is continuing to build those relationships because that is how you are going to be able to sell data and analysis is making sure that you have built that relationship first.

The last point was too narrow of a focus and can miss greater problems in a community. This was a school's monitoring project, no doubt about it. This was brought to everyone's attention by U.S. Today. The Administrator had to deal with it in her confirmation hearings and I think we went out there and we took charge and tried to

answer those questions.

What we found out in the process though is that in many cases focusing on just the school, you miss much bigger problems somewhere else in the community.

So, we really need to think about this as we go forward, how do we look at communities as a whole and not just little segments of the community and make sure that we are targeting/monitoring where we are finding the biggest problems.

The next question was about money and how are we doing for the next phase and I just wanted to give a little bit of history here. The school's project was funded in FY09 with two and a half million dollars that was taken from the Community Scale and Air Toxics Monitoring Grant.

You heard Gay talk about that a little bit earlier this afternoon. We have had about four and a half million dollars a year since 2003 to do community scale air toxics monitoring.

In 2009, some of that money was used to support the Lead Nex Rule monitoring that was required under the Lead Nex Rule. We took the balance of that, the two and a half million, and used that to fund the school's air toxics project.

In 2010, we got a separate ear mark of two and a half million dollars just for schools. The community scale air toxics money was robbed again to fund the Lead Nex. Now, it is robbing Peter to pay Paul.

We obviously want to get out there and do lead monitoring as well, it is very important. It impacts our children. It impacts a lot of environmental justice areas. So, it wasn't like the money was being taken away for something not as important, but there was a limited amount of resources and it went to the Nex.

I am very happy to say in FY11, we are going to go back to fully funding the Community Scale Air Toxics Monitoring Grants for four and a half million dollars. We want to reinstate that, but we also want to revise that process and I will talk a little bit about that here in just a second.

But, we are going back to full funding in FY11 for the community scale grants and I think that is going to put more money into the communities for monitoring than we have had these past two years where we had to focus primarily just on the school's budget.

The next slide is commitment to air toxics and the question was, are we committed to this? I think absolutely, I think you have heard from the Administrator, you have heard from Gina McCarthy and you have heard from others in the Air Program about our commitment to air toxics.

There is no doubt that we are fully invested in this program in trying to do the best we can to do better monitoring in the communities. We are looking at a comprehensive strategy.

In years past we had a CARE Program, we had the community scale grants, we had regulatory programs and they all were independent and they all kind of worked on their own basis and it was a very stove pipe approach to air toxics in communities.

The Administrator and Gina and others have committed us to we are going to have an integrated approach to community air toxics.

We are going to work to make sure that compliance, that the monitoring, that the voluntary programs through CARE and the regulatory programs all talk to each

other so that we are not out there spending all the resources in one community and ignoring another community or that we are not duplicating effort by doing a monitoring effort for compliance and meanwhile have a voluntary monitoring effort going on in the same place.

If we are already monitoring a community for compliance, we should make sure the grant monitoring money goes somewhere else that might be needed that we can cover as much ground as we can, get as many areas covered as possible.

That just has not happened in the past, but it is going to happen under this new comprehensive approach. These combined efforts of doing voluntary programs, compliance enforcement as well as moving forward on our many, many air toxics regulations that we are gearing up to take care of and then offering help through the CARE Program I think will go a long way to reducing a lot of the toxics issues in our communities.

The fifth question was the relationship between Phase 1 and Phase 2. The lessons we have learned in Phase 1 will drive our future community base air toxics monitoring. I have already talked about that we need to broaden the scope a little bit, we need to look more broadly in communities and EJ areas and not just focus solely on schools.

We also had difficulty getting resources to the state and local agencies in the communities. When you do the project the way we did the school's project, we could buy all the equipment you wanted and we could pay for all the lab analysis that anybody wanted. We could not give a dime to the people actually doing the monitoring and so the state and local agencies volunteered their time to actually do that monitoring.

Going to a grant process allows a lot more flexibility for that money to be used in a myriad of ways. It can be used to pay salaries, it can be used to do outreach and community relations, it can be used to do the actual monitoring.

So, we actually think by going with the grant process and working more with the communities on these grants, they will have a lot more flexibility to spend the resources than we were able to provide under the kind of top down schools air toxics project that we did and I have already talked about the fragmentation, the stove piping and linking these other programs together. Hopefully, we will eliminate some of that.

Question 6 is when will planning for the next phase start? We have already started some kind of informal thinking about this. We are working with senior managers within the Agency to get some clearance and thoughts about where they want to go with this.

But, we are very interested in the working group providing some input into this process and this is the second item that we talked about reconstituting the work group and providing and in the past we have done community skill grants but I will be honest with you there were grants run out of the monitoring program and they were very technically oriented.

They were really focused on whose got the latest and greatest cool technology that we can experiment with in the field and see if it works. Now, that is valuable information to have because you can then pass that on and you can improve monitoring, but there was very little in those proposals that talked about what is the community problem? How are you going to communicate with the community? How are you going to get the community involved in this monitoring effort? What are you

going to do with the data when it is done?

We would like to get feedback from the working group on developing these criteria for the RFP for these community skilled grants to make sure that we have specific things in there that address community involvement and how do you get the community engaged in your monitoring effort?

We are still interested in technology. We still want to see really good quality monitoring done, but we recognize that is only a part of the piece. If the community is not engaged then that monitoring means nothing because the data will go nowhere and no one will buy into it.

So, we want to put some criteria into the RFP's that are going to go out that specifically talk about, what are you planning to do with your community? How are you going to engage them in this? What role will they play? How are you going to communicate your results and how are you going to mitigate? What are you going to do after you find something? What are your plans to fix the problem if you find it? Not just, I am going to go monitor and collect data and I am done.

So, this is feedback we definitely want to get from the working group and again we would look for that this fall as well because we need to get this RFP out the door probably by early FY11. We would like to get it out sooner but I am just not sure realistically we can turn it around that fast.

But, if we can get it out by early FY11 we can potentially award grants as early as summer of 2011 and have monitoring start next fall.

So, the down side of going to a competitive grant process is you lose a little bit of time up front to get it going, but once you get it going you provide a lot more

flexibility to the communities. To the local agencies and I even think to the environmental groups that are going to be working with those communities, there are a lot more options there than if it is a top down approach solely.

Question 7 was, what basic questions do you want to answer in the next phase? I think we want to get more focused on environmental justice issues. We wanted to look at broader community based programs. We want to make sure we are addressing the issues that the communities are concerned about and not the issues that someone in the press has said you need to go look at it.

I am not saying that we don't have problems at schools then we didn't need to look at schools, we did and we do need to do that. There is no reason that these community grants cannot be focused on schools as well, but if there are bigger problems in the community that is where the monitoring should be taking place in the analysis, not just on the schools.

So, the flexibility that this will provide us will allow you to look at schools but also look at other areas in the community and again, this process can be rolled over from year to year to year through these community grants we can reach a lot more areas than we can by focusing just top down.

The last question was, when will the actual monitoring of the next phase start and what are the related time tables? Again, as I said we hope to have the RFP out the door by early FY2011, you know, maybe by the end of the year if possible would be great, the end of the calendar year and then we would move quickly to award the grants and again based on these new criteria, I think we would want to get a lot of communication out there.

The grants would be for state and local agencies, but it would be great for community groups and environmental groups and EJ groups to push their local agencies to apply for a grant if they have a problem.

These individual groups cannot apply for the grant themselves, but they can partner with a local agency or they can partner with a state agency to bring the community into that and to utilize the resources through those grants.

Timing is going to depend on how effectively we can get this through the whole grants process, but we have done this in the past and I think given the priority that the Administrator knows we are putting on community air toxics we can move this along quickly.

I would like to close just by offering on behalf of the team at EPA, the School Air Toxics Team, we call ourselves the SATT but I would like to offer my thanks for the extraordinary time and energy that the work group invested not only in the project but invested in us as people on this team.

As I said earlier, sometimes the process was difficult and we didn't always agree but we heard everything that the working group said to us and we tried to take that information and make a difference in the project.

I think the schools air toxics website is one of the best websites that EPA has ever put out and I don't think EPA takes credit for that. I think the working group takes credit for that because they are the ones that provided the input to us and told us how that website needed to be set up and how it needed to display that information.

On a personal note, and I put this on at the bottom, this has been an incredibly rewarding experience for me to work with such dedicated people for such a

worthy cause.

I am a better person because of my time working with this work group. I had not done a lot of work with community groups in the past. I am an air quality modeler by background, I have sat around and run models most of my life and analyzed results.

This was a tremendous opportunity, learning opportunity for me to understand community issues and to work better with communities and understand how do you take an analysis that you do and apply it to communities so that they understand what it means and how do you take that feedback into your analysis and consider it when you are communicating those results?

So, I think it has increased my awareness of community service tremendously. The work group has been an exceptional group to work with but it has also enriched my personal and professional beliefs. People at EPA are here for a reason. We are here to do the right things and I think this work group was tremendous in re-enforcing our beliefs about how to do that.

I look forward to the reconstitution of this group a little bit if you will. Again, we have been on hiatus to deal with these remaining issues and I hope that we can move forward and continue to focus these monitoring efforts on the various communities of need and reduce some of the burden in these communities. Thank you.

Questions and Answers

MR. YEAMPIERRE: Thank you, Richard. Vernice?

MS. MILLER-TRAVIS: Thank you Chet for those really kind remarks. We felt that once you sat at the table the conversation seemed to get a lot clearer and we

really appreciate the efforts that you put in but we also appreciate the efforts that your staff put into it.

It was a lot of push and pull, but it came out with a very extraordinary result. I want to lift up a couple of things. If Katie were here, Katie Brown who is the co-Chair of this work group and who really formally pushed us, her hair would be standing on end not about what Chet said, but about the process and how it didn't jog the way we hoped we would.

I wouldn't be doing Katie justice if I didn't mention that she is very, very, very frustrated about the lack of integration between OAQPS and OEJ in bringing this process to fruition.

She has a lot more to say, she has put it in writing. We have not gotten a response to what she has put in writing. We asked for a meeting between Elizabeth and Charles and Katie and I to talk about those integration issues.

We asked for that meeting months ago, we have never been able to get that meeting scheduled. It has been very, very frustrating, so I just want to make sure that I am accurately stating how Katie feels and her level of frustration about this process.

But at the end of the day, we are very, very proud of what developed. We are very, very proud of the relationship that we developed with OAQPS. We look forward to working with you further on some issues.

I am not sure all the work group members are going to want to continue because of some of the frustrations, but we all are extremely honored to have been asked to serve and gave everything we had to get the product that we got.

One interesting thing that developed that Claire Barnett of the Healthy Schools Network said, she and her organization did an independent piece of research in preparation for our January face to face meeting during the NEJAC of the work group.

One of the things Claire and her organization did was to map out where all of the 64 schools were and do a demographic analysis of those 64 schools.

So, you would think that a work group of the NEJAC that is looking at this issue would be looking at schools that are in EJ communities but that turned out not to be the case, very few of the schools were in EJ communities.

So, we still don't know what the impact is of air toxics on schools and heavily overburdened environmental justice communities. We cannot say because we really were not looking at those schools.

So, the next time around we would at least like to see that, at least 50 percent of the schools and the monitoring sites are in places that are heavily overburdened EJ communities and find out what is going on with those school kids and that is in an essence.

We are very proud of what we developed, we hope you use it and we hope that it helps shape what goes on in the future and on behalf of the work group members we might come reluctantly, but we would do it again. Thank you.

MR. WAYLAND: Thank you.

MS. YEAMPIERRE: Paul?

MR. MOHAI: Yes, thank you. Along with Vernice, I was also a member of this work group and I also want to thank the EPA staff that were on that work group for helping us. We were really impressed with their dedication and sincerity and

helpfulness.

There are a couple of things I want to follow up on and it falls a little bit on what Vernice has said. It should be kept in mind that there are an estimated over 100,000 schools around the U.S. and the monitors were set up at 65.

We put this in our report but I would like to highlight this. There is a question about what implications the results for those 65 schools will have on those 100,000 plus schools around the country.

I think that is an enormously important question that we would like to have some discussion about and have some indication from EPA as to where EPA is going to go in terms of the schools that were not included in the study.

The second is a question, and we also put this in the report, and that is if you find that there are significant problems at the schools that are being monitored, what is being proposed to remedy the problems?

Again, we would like to see much more discussion about that. We think that is very important and I want to make one final point and that is that although I definitely agree that the whole community ought to be examined in terms of the environmental burdens in it, please don't take that as let's do that instead of looking at what is around the schools.

There has been so little looked at in terms of the --- burdens around schools and there are so many, not so many schools, but so many children in them and they have no say as to where they go to school or where they live.

I think that is an enormously important question and the preliminary results we are getting in our own study in Michigan, we are finding most of the schools tend to

be located in more polluted parts of the state and not only that, the more polluted the more likely the school is to be in the more polluted part of the district.

So, if you know something about or if you are looking at the community as a whole, the problem would be a lot worse at the school than in the community as a whole and I should add one final thing is that we looked at every public school in Michigan and there is almost 4,000 of them and the environmental justice question, there is no question.

The more polluted, you are going to find more African American or Hispanic, more Asian students in those schools and you are also going to see more poor students in those schools and those schools will even more likely be located in more polluted parts of the district.

So, the 65 schools I think is a great start but there are so many schools that need to be looked at and I think we should be careful about coming too early to conclusions that may be erroneous in the long run. Thank you.

MS. YEAMPIERRE: I actually assigned despite our limited resources my organization's limited resources UPROSE a young professional who is very sober, has a master's in public health from Columbia University, her experience in the work group was really unpleasant. She felt the work group was really heavy handed and personality driven and not conducive to being as productive as she thought it should have been.

I just would urge you in thinking about the composition of the work group, that if you are looking for, particularly if you are looking for feedback on what a community engagement process would look like that you find people who have some

current experience in what community engagement is.

Often times, we try to find some recommendations that we want to use across the board and community engagement looks different community by community, demographic by demographic, sometimes block by block.

So, it would be helpful to have folks that have a background in organizing and working and really engaging people in a meaningful way. John?

MR. RIDGWAY: Thank you and thanks for the update. I have a long background in the toxic release inventory and its many limitations and related to that is this whole issue started by a national report as noted in U.S.A. Today.

Part of me was elated to see a national story on the TRI understanding fully that they were using old data and the --- Program and they were making a lot of conclusions, but nonetheless it provoked this project and for that I am glad to see it.

Two comments. One is, is there any discussion or interest from U.S.A. Today to follow up on this and then secondly, on the limitations of the toxic release inventory which is often not only old data but based on estimates or modeling and not real monitoring which EPA has now had to put out a lot of money to do.

Is there any consideration on trying to get these toxic release inventory facilities to monitor and be a little more accurate in what is really going on in those facilities?

MR. WAYLAND: Thanks John. I can say U.S.A. Today has followed this very closely from the beginning and we have regular updates. Every time we do a data release, we had discussions with them and so they have been quite on top of this all along. I don't know what their plans are beyond this obviously.

But, with regards to toxics data I know there are a lot of things in the works to enhance the TRI, to add some different chemicals. Potentially, we have had several work group meetings within the Agency about what are some of the chemicals that we would like to see that are not reported to add those into TRI and I think there is a movement underfoot within that group to do that.

I think the bigger thing that is going on is we are developing a lot of these rules in our office for air toxics through the MAC Program, Residual Risk Program and so forth.

One of the things we are looking at is having compliance reporting requirements working with OECA and others to say, you know sources should have to report their data to us as compliance and I think if we get that kind of information then it will be better quality information than we have had in the past.

The other problem with TRI, I mean it is a great inventory for giving you a kind of right to know. It gives you kind of ballpark big numbers. When we do modeling, we need to get down to the boiler levels into the process level. Well, that is facility level information.

Right now, the states are required to voluntary only, not required, to take that back. It is a voluntary reporting process for air toxic emissions. They are required to report criteria data, it is voluntary for toxic.

Working together with some of our regulatory processes to get this compliance reporting in, also working with the states to try to improve the capabilities for them to do their voluntary reporting and then with some of the enhancements in TRI I am convinced we are going to have better toxics inventory down the road but it is going

to take all of these groups working together.

I really like the idea of the compliance reporting because if you set a standard that people to meet that need to report the data to show that they are meeting that.

That would go a long ways to improving our air toxics inventories and that is part of this broader strategy which has the regulatory component as well as these others in there and I think monitoring technologies are also getting better. It is cheaper and better to monitor than it used to be in some of these sources. But, it is still a challenge, I think that is one of the greatest challenges.

MR. RIDGWAY: And again just to follow up, it seems unfortunate that the Government has to do this monitoring in order for the good data to get out there as opposed to these facilities that are producing these emissions.

So in that regard, actual monitoring by these facilities be it compliance or in the name of the TRI I think would be helpful because then we can get to the point that is brought up by Paul as far as getting a hold of information on the other 100,000 schools as opposed to 65 at a time which is all you can afford perhaps.

MR. YEAMPIERRE: Thank you, Richard. Everyone have a blessed evening. This meeting is adjourned, see you tomorrow morning.

(Meeting adjourned at 5:03 p.m.)