

**NATIONAL ENVIRONMENTAL JUSTICE  
ADVISORY COUNCIL  
AUGUST 2018 MEETING SUMMARY**

**Boston, Massachusetts  
August 14 – 16, 2018**

## PREFACE

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

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

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

EPA's Office of Environmental Justice (OEJ) maintains summary reports all NEJAC meetings, which are available on the NEJAC web site at <https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council-meetings>.

Copies of materials distributed during NEJAC meetings are also available to the public upon request. Comments or questions can be directed via e-mail to [NEJAC@epa.gov](mailto:NEJAC@epa.gov).

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

Richard Moore, NEJAC Chair, Los Jardines Institute

Charles Chase, University of Colorado-Denver (by telephone)

Ellen Drew, Rural Community Assistance Corporation

Jabari Edwards, J5 GBL, LLC

Erica Holloman, Southeast CARE Coalition (by telephone)

Cheryl Johnson, People for Community Recovery (PCR)

Rosalyn LaPier, Piegan Institute and Saokio Heritage

Mildred McClain, Harambee House

Melissa McGee-Collier, Mississippi Department of Environmental Quality (by telephone)

Sylvia Orduno, Michigan Welfare Rights Organization

Na'Taki Osborne Jelks, West Atlanta Watershed Alliance and Proctor Creek Stewardship Council (by telephone)

Cynthia Kim Len Rezentes, Mohala I Ka Wai

Deidre Sanders, East Bay Community Energy

Jerome Shabazz, JASTECH Development Services and Overbrook Environmental Education Center

Fatemeh Shafiei, Spelman College

Nicky Sheats, Thomas Edison State College

Paul Shoemaker, Boston Public Health Commission

Karen Sprayberry, South Carolina Department of Health and Environmental Control

Michael Tilchin, Jacobs Engineering

Hermila "Mily" Trevino-Sauceda, Alianza Nacional de Campesinas

Sacoby Wilson, Maryland Institute of Applied Environmental Health  
Kelly Wright, Shoshone Bannock Tribes  
Dewey Youngerman III, Continental Maritime of San Diego

**NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL**  
**Boston, Massachusetts**  
**AUGUST 14-16, 2018**

**MEETING SUMMARY**

The National Environmental Justice Advisory Council (NEJAC) convened on Tuesday, August 14, 2018, Wednesday, August 15, 2018, and Thursday, August 16, 2018, in Boston, Massachusetts. This synopsis covers NEJAC members' deliberations during the three-day meeting. It also summarizes the issues raised during the public comment period.

**1.0 NEJAC MEETING**

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

**1.1 Welcome and Opening Remarks**

**Matthew Tejada**, the NEJAC DFO, welcomed attendees and gave an overview of the public comment procedure. After noting the presence of EPA Region 1 Administrator Alexandra Dunn, he turned the meeting over to NEJAC Chair Richard Moore.

**Richard Moore**, the NEJAC Chair, welcomed everyone and briefly summarized the previous sessions of the day, including new member orientation and a business meeting. He reminded public commenters about the time window allotted for comments and encouraged them to speak specifically to their issues and recommendations. He also noted that Spanish translation services were available.

At Mr. Moore's suggestion, the Council members briefly introduced themselves and stated their affiliations.

**1.2 Public Comment Period**

On August 14, 2018, the NEJAC held a public comment period to allow members of the public to discuss environmental justice concerns in their communities. A total of 23 individuals submitted verbal public comments to the NEJAC. Each speaker was allotted seven minutes.

**1.2.1 Yvette Arellano – Texas Environmental Justice Advocacy Services (TEJAS) (Houston, Texas)**

**Yvette Arellano** listed several recommendations that her group had for the NEJAC, including support for scientific integrity in the EPA, opposition to rollbacks on the Chemical Disaster Rule, and opposition to REAL ID Act requirements for public comment sessions. Houston is home to the second largest petrochemical complex in the world, as well as over 300 energy firms. After Hurricane Harvey, the city was faced with a toxic exposure disaster, and a year later it is still dealing with toxic sludge, fugitive emissions, and side effects from plastics expansion projects. With the EPA's REAL ID requirements, many of the immigrant and undocumented members of affected communities are unable to participate in public processes to address these problems. In order to encourage and facilitate participation of these groups in these issues that directly affect their lives,

TEJAS supports keeping the 30-day notice open and providing documents in English, Spanish, and any majority languages spoken in communities. They also urged the NEJAC to support a petition to take a stand against proposed changes to the NEPA process, which in its current form encourages public input in environmental impact statements.

Ms. Arellano asked the Council to oppose the 2019-2024 National Outer Continental Shelf Oil and Gas leases that would open-up sensitive lands for petrochemical expansion, endangering sensitive populations that are already especially vulnerable to increasing extreme weather events and are still experiencing negative health effects from Hurricane Harvey. Ms. Arellano reminded the Council that environmental justice was born out of environmental racism and said that TEJAS expects NEJAC to take on the responsibility of representing and protecting environmental justice (EJ) communities like those in Houston who continue to shoulder the effects of expanding industry.

**Chair Moore** thanked Ms. Arellano and explained that the Council members would hold their questions until the completion of two more comments.

### **1.2.2 Christine Bennett, Mossville Environmental Action Now (Mossville, Louisiana)**

**Christine Bennett** spoke about her town of Mossville, Louisiana, an African American community that has been plagued for decades by toxin-related health problems and has recently become the target of a buyout by South African businesses. She expressed concerns about a lack of transparency to residents about permitting and the need for good legal representation. As a lifelong resident of Mossville, Ms. Bennett has had almost 40 years of interaction with the EPA and has lost many of her family members to cancer and other toxin-related ailments. In addition to legal representation, the community would greatly benefit from a health clinic to provide medical consultations to residents who have historically suffered from bad allergies, rashes, and high rates of dioxin in their blood. Ms. Bennett said that in her interactions with the EPA the NEJAC has taken more action than any other group because they have a heart for the people and truly represent these communities. Lastly, she asked someone to tell her what the “P” in EPA stands for.

### **1.2.3 Delma Bennett, Mossville Environmental Action Now (Mossville, Louisiana)**

**Delma Bennett** followed his wife’s comments by stating that they have come to the NEJAC for years to talk about their community’s problems, knowing all the while that the people causing those problems are aware of the effect on communities like Mossville. As a small African American community that has existed since before the Industrial Revolution, Mossville is now a target of expansion, and its residents are being displaced. Besides the financial and property hardships, for years these residents have faced medical challenges like cancer, respiratory problems, and birth defects, and they have not been treated fairly when trying to seek answers and solutions to these problems. The buy-out was just for 100k and the cost of the land.

**Chair Moore** invited Council members to ask questions of Ms. Arellano, Mrs. Bennett, and Mr. Bennett.

**Nicky Sheats** asked Ms. Arellano to clarify her organization’s requests to the Council. **Ms. Arellano** said that they want the Council to oppose the proposed rollback rule on chemical security. Mr. Sheats asked if that meant they wanted the Council to write a letter to the Administrator, and Ms.

Arellano said yes. Their second request is for the NEJAC to sign a petition to take a stand against changes to NEPA. Mr. Sheats said that he was not sure NEJAC could sign petitions and asked if T.E.J.A.S. would want another letter on this topic. Ms. Arellano said yes, and T.E.J.A.S.' last request would be for a third letter to oppose the 2019-2024 Outer Continental Shelf Oil and Gas leases. Mr. Sheats thanked her and the Bennetts and told the Bennetts that he was sorry that despite the fact that they come back every year, the EPA doesn't seem to be able to give them relief.

**Mildred McClain** echoed Mr. Sheats' thoughts about Mossville and reiterated the Bennetts' requests: trying to find a lawyer to represent them; requiring community input in permit approval; addressing issues of environmental racism; and securing a health clinic for Mossville. She asked how many years the Bennetts had been coming to NEJAC, and **Mr. Bennett** said it had been over 30 years. Dr. McClain asked if anything had changed over all those years, and Mr. Bennett said that some things had. **Mrs. Bennett** said that they needed a letter or something to improve the buyout. Mr. Bennett said that when they sell, they want to be allowed to leave whole, with the same quality of life that they have now. The current buyout offer is around 100K plus the cost of the land. Mrs. Bennett asked what the "P" in EPA stands for. **Chair Moore** told her it stands for "protection," to which Mrs. Bennett asked if that meant protecting the industries or the people.

**Sacoby Wilson** asked if the Mossville buyout process included federal relocation acts, and what legal tools would be helpful to leverage in order to help the community with punitive and compensatory damages. He said that NEJAC needs to figure out with EPA what their role can be around buyouts, and how the relocation act is applied in the context of cumulative impacts. **Mr. Bennett** said that he did not know how the acts were written, but it seemed to be written that the right side of the track gets more money than the left side of the track; if both sides were addressed equally, there would not be any problems.

**Chair Moore** reminded the Council that many public commenters had come a long way in order to testify. He said that the REAL ID Act portion of the testimony was very important, and that the Council needs to be able to distinguish what in the public comments is EPA-related and what is interagency-related. He predicted that many commenters would mention the shortened comment periods for public involvement. Besides the 30-day limit, translation of documents is very important. He reminded the Council that the Bennetts have been coming to NEJAC to testify for 25 years. Given the way that these communities' ancestors were brought over on ships and treated disgracefully, it adds insult to injury that now they are being targeted for everything that everyone else doesn't want. All that people are asking for in their testimony is just a little bit of justice. It is the U.S. Environmental Agency's job to live up to its own mission statement that all people are protected equally.

**Mily Trevino-Sauceda** asked Ms. Arellanos if her community has experienced any threat with immigration. **Ms. Arellanos** said that they have, and that after Hurricane Harvey when the Red Cross was giving assistance, they were riding along with ICE agents, preventing many members of the community from receiving assistance. ICE agents were also posted outside of shelters and asking community members for documentation, taking action if it was not provided. Ms. Trevino-Sauceda said that she was just at a training session about the Treaty of Guadalupe Hidalgo, which reviewed the ways that the U.S. has not respected the treaty. Ms. Arellanos said that a new child

detention center is being proposed in El Paso on a legacy toxic site and asked that NEJAC oppose that permit. Ms. Trevino-Sauceda said that her organization, Alianza Nacional de Campesinas, is involved in getting the FOIA for that detention center through Earthjustice. The proposed site is in Fort Bliss, where the land has been banned because of chemicals and toxins that were used by the military.

**Karen Sprayberry** asked Ms. Arellanos if she could give the Council a list of facilities in Houston that still have toxic releases from Harvey, and **Ms. Arellanos** said that she could, and that their partners at Earthjustice have compiled a comprehensive list.

**Mr. Bennett** said that Hurricane Katrina was an example of similar phenomena even before Harvey, and people are still hurting as a result of that storm.

#### **1.2.4 Rebecca Berkey – Northeastern Environmental Justice Research Collaborative**

**Rebecca Berkey** spoke about her work with farmworker associations. Members of vulnerable environmental justice communities are selectively victimized by corporate environmental abuses, and they experience multiple forms of political domination, cultural oppression, economic exploitation, environmental degradation, and resistance. Farmworkers experience all of the above, and they are a community united not just by geography but by occupation and shared experience, concerns, and exposure to pesticides. They often live in poverty and without access to basic amenities such as food, education, and healthcare. At a minimum, two thirds of workers on U.S. farms are foreign-born, and their lack of documented status compounds their lack of access. They are on the frontlines of growing the food that we eat, but they are also the ones most acutely impacted by pesticide usage and have minimal resources both to report any adverse impacts and to learn about preventative measures. In 2015, the EPA issued an update to the Worker Protection Standard (WPS) to reflect a greater scientific understanding of pesticides and their human health impacts. The update included regulations that offered greater protection to farmworkers' health and safety. In 2017 revised certification standards for pesticide applicators were passed.

Dr. Berkey and her organization asked NEJAC to oppose rollbacks to the WPS, including: adherence to the current minimum age of 18 for anyone handling, mixing, and/or applying pesticides; maintaining the provision for a designated representative; and retaining the application exclusion zone (AEZ) regulations. They also proposed measures that NEJAC could take to further include concerns of farmworker communities and provide guidance to the EPA on policies and regulations, including: having a panel on farmworker issues on the agenda for the next meeting; ensuring that farmworker issues are on the agenda for NEJAC meetings at least once a year; including farmworker representatives on every NEJAC; and holding NEJAC meetings near farmworker communities.

#### **1.2.5 Amy Laura Cahn – Conservation Law Foundation**

**Ms. Cahn** said that the advice of NEJAC, as an independent body, is now more important and relevant than ever. Recent environmental policy changes made by the Trump administration ignore sound science and favor corporate interests over the wellbeing of the public, and they will have devastating long-term impacts. She listed several examples of these changes, including weakening

of the clean car standards, disappearance of climate data and resources from government sites, abandonment of progress to address Title VI complaints, and efforts to reverse regulations on pollution. The administration is also seeking to block states' ability to set higher vehicle emissions standards and has allowed production of glider trucks to continue. The EPA's website highlights the connection between tailpipe emissions and health problems like asthma, heart attacks, and premature death, and the transportation sector is now the largest source of emissions in many New England states. The Asthma and Allergy Foundation of America recently ranked Springfield, Massachusetts as the most challenging metropolitan area in the U.S. to live with asthma, with Boston and Worcester, MA, and Hartford, Connecticut, also in the top 20. Youth asthma hospitalization rates in the area have increased, with significant increases in the African American and Latino populations. According to a study by the Environmental Defense Fund, the policy of allowing glider truck manufacturing to continue could result in over 1,700 premature deaths due to lethal particulate pollution. These actions pose severe and disproportionate threats to already overburdened EJ communities, and NEJAC needs to take a firm stance to keep the full range of current policies intact.

The administration has systematically removed climate data from its websites, scrubbing them of the phrase "climate change." The EPA's site no longer provides climate change resources like guidance for cities and states on extreme weather event management and emissions reductions. The social cost of carbon, a measure of the harm caused by emitting an extra ton of carbon, is a component for analyzing costs and benefits to the American people and the environment of proposed rules, regulations, and projects. The EPA reduced the social cost of carbon from \$45 a ton to \$1 to \$6 per ton by only including emissions impacts in the U.S., not globally. This paves the way for lax regulations and a distorted view of the benefit of polluting projects and the cost of climate mitigation efforts. NEJAC's leadership is needed to ensure that policymaking on climate is transparent, based in science, and accountable to the people who are most affected.

Ms. Cahn thanked the NEJAC for its longstanding interest in civil rights enforcement under Title VI as a means of addressing environmental racism. She expressed concern that the EPA's External Civil Rights Compliance Office is not ensuring compliance with Title VI and said that the majority of Title VI cases are rejected or dismissed. A 2016 review found that in 25 years, the Civil Rights Office has received almost 1,300 Title VI complaints, and has never made a formal finding of discrimination. The regulatory authority to deny or withdraw federal financial assistance due to civil rights violations is a powerful tool to prevent further discrimination against EJ communities. Ms. Cahn referenced testimony from Marianne Engelman Lado of the Yale Law School's Environmental Justice Clinic at last year's NEJAC meeting. Ms. Lado directed the NEJAC's attention to the EPA's March 1, 2018 decision to close a case filed by residents of Uniontown, Alabama despite voluminous evidence that the community was adversely affected by, at the minimum, odor and decline in property values. Ms. Cahn encouraged the NEJAC to take a close look at this decision and the External Civil Rights program in general, and to make recommendations to ensure that recipients of federal funds are held accountable under Title VI. She summarized her comments by recommending that NEJAC promote risk reduction strategies, which place the responsibility on industry to reduce harmful impacts of their operations, over personal risk avoidance strategies, regulations, and policies, which shift the burden onto communities to avoid environmental harms.



In closing, she recommended that NEJAC report annually on its progress in implementing the EJ 2020 Action Agenda, especially on Title VI complaints.

### **1.2.6 Ken Dryden – Minority Workforce Development Coalition**

**Mr. Dryden** shared his concerns about transportation in low income communities in Delaware. Garbage trucks, buses, utility vehicles, ships, and various other vehicles travel through these communities each day, exposing residents to emissions. Many of these residents suffer health problems such as cancer and respiratory illnesses. In order to accelerate towards a clean vehicle future, Delaware needs to invest in 100% zero emission vehicles which will reduce health disparities and air pollution, strengthen the economy, and help to protect overburdened communities. He urged NEJAC to recommend that EPA promote and enforce policies for fully electric transportation in place of fossil fuels.

The Trump administration's new regulatory impact analysis for the proposed rollbacks admits that its proposal will disproportionately endanger communities of color and low-income communities. Mr. Dryden said that he and his fellow Delawareans would like the NEJAC to exercise their jurisdiction and be a voice for communities all across the United States. He requested that the NEJAC hold meetings in EJ communities, starting in Puerto Rico.

**Dr. Wilson** asked if the commenters were engaged in trying to leverage some of the Volkswagen settlement funds in local efforts around traffic emissions and asked what specifically they wanted NEJAC to do about issues related to the social impact of carbon, air pollution, and cumulative impacts of air pollution on human health. **Ms. Cahn** said that the New England states had been leveraging the VW settlement money and advocating for investment in electrifying public transit, specifically in EJ communities. She said that any leadership NEJAC could provide in taking a stand against the massive rollbacks is welcome, whether it's on clean car standards, insuring that Section 177 states can continue to have higher standards, or addressing the impacts of particulate matter. Conservation Law Foundation and others want to learn from NEJAC how NEJAC can leverage this role, and how these other groups can help. She said that NEJAC has remained intact as a council, and it is not without notice that other federal councils have either disbanded or people have stepped away, and so they would ask that NEJAC members keep doing their jobs until that becomes untenable. They need NEJAC's leadership on climate and science-based policy, and dialoguing with regional administrators to make sure that the EPA small grants continue to support locally-based advocacy. **Mr. Dryden** added that Delawareans are aware of the VW settlement, and that oftentimes when these types of things happen, and funds come in to states, what has been discussed at the federal level may not be applied locally.

**Ms. Rezendes** asked if the commenters were aware that federal funds had been made available to reduce older diesel trucks' equipment and replace it with lower emission standard equipment, and whether the local governments were looking at ways to help themselves out. Until people at the lower level take advantage of some resources that are already available, it can be hard to push it from further down. On the issue of climate change, she said that as much as people say it's not real, at least in her case, it is very real. **Mr. Dryden** said that he had heard talk of swapping out diesel

engines, but at least in Delaware's case, some kind of enforcement language that could hold local public agencies accountable for applying funds would be helpful.

**Ms. Trevino-Sauceda** asked Dr. Berkey to repeat her specific recommendations to NEJAC. **Dr. Berkey** said that regarding WPS, she requested that NEJAC oppose rollbacks relating to age limits on handling pesticides, retaining designated representatives, and retaining AEZs. With regard to the NEJAC itself, she recommended that the Council try to include a panel about farmworker issues, ensure that farmworker issues are on the agenda, have a farmworker representative on the Council, and hold a NEJAC meeting in or around a farmworker community. **Dr. McClain** asked Ms. Cahn to be more specific about what it would look like for NEJAC to "take a stance" and what action would reflect that, and **Ms. Cahn** said it would be helpful to have letters to the EPA commenting on clean car standards, states' abilities to set standards, particulate matter, and the need for science-based policy on climate change, and in general for NEJAC to play a watchdog role and take a broad look at climate-related information in the EPA. She said that an enormous amount of data has been removed and asked where that data was and whether they could have access to it. For Title VI, it would be good to start by looking at the Uniontown case and then go from there, taking action to oppose the decision in the form of a letter. **Dr. McClain** asked that NEJAC put something in the sidebar parking lot to look at the Uniontown case. **Deidre Sanders** asked Ms. Cahn if she wanted NEJAC to ask EPA to restore the data on climate change, and **Ms. Cahn** clarified that her request would be to ask EPA to fully restore the data that was previously made public on climate. **Chair Moore** said that the Council asks questions like that because they need to be very clear on what the recommendations are.

**Jerome Shabazz** asked Mr. Dryden what kind of language would be helpful, carbon reduction language or diesel reduction language. **Mr. Dryden** said that any language that moves in the direction of limiting fossil fuels would be helpful. **Mr. Shabazz** asked if he had had a chance to review Pennsylvania's actions on reducing emissions, and **Mr. Dryden** said that he had not. **Mr. Sheats** said that some people in the EJ community have been hesitant to jump into the climate change and transportation issue because of the way it's been presented to them at times as another market-based system. He said that if the EJ community led on climate change it would not be a market-based system and it would not be carbon trading, and they're still trying to implement emissions reduction policy in New Jersey, but it's been slow going. He cautioned that they would not want NEJAC to issue a letter on climate change that the EJ community would reject. They have some significant discussion to go through on the transportation issue, but it's quite clear that they need to do it. **Ms. Cahn** said that she was not there to testify in favor of a market-based solution or for carbon pricing, and that they want to develop a comprehensive set of transportation climate policies that are rooted in the needs of communities that are most effected by inequity. **Chair Moore** said that the NEJAC did send a letter to the previous Administrator with recommendations regarding the WPS, and they may want to review that letter to see if they should make modifications based on this testimony. Several Council members have also made recommendations about a panel for Title VI issues, and NEJAC will be taking that up at their next meeting. He said that for many of the communities and stakeholders represented by the Council, state government agencies have not always been friendly to EJ communities. Under this administration they are

seeing more interaction from regional EPA offices with state government, but no involvement or consultation by other stakeholders.

**Mr. Tejada** said that this past spring the NEJAC staff worked with staff in the Office of Air and Radiation to include language in the Diesel Emissions Reductions Act (DERA) grant that will award points to projects that meaningfully engage vulnerable communities that are impacted by diesel emissions.

### **1.2.7 Octavia Dryden – Delaware Concerned Residents for Environmental Justice**

**Ms. Dryden** spoke about her home state of Delaware, which contains 23 facilities that use millions of pounds of toxic and flammable chemicals in their processes. Communities of color are disproportionately affected by chemical disasters, and every day they cope with the fear of living near these facilities, without access to information and policies to require the facilities to keep residents informed. Delaware Concerned Residents for Environmental Justice is committed to reaching out to the most vulnerable communities and educating them about existing toxins, the facilities that produce them, and ways to mitigate the dangers. She asked NEJAC to urge the EPA to enact and enforce mandates on facilities to provide information on their chemicals to neighboring communities. This should involve using vehicles of communication that work best for these communities, like word of mouth and door to door visits, or coming to community events like barbecues. In addition to maintaining existing protections, Ms. Dryden asked for increased enforcement of policies and programs that protect families and communities against chemical disaster.

### **1.2.8 Dr. Neenah Estrella-Luna – Alternatives for Community and Environment (ACE)**

**Dr. Estrella-Luna** presented three recommendations to the NEJAC, all based on the assumption that federal direct action on environmental justice will not be vigorous under the current administration. ACE is focused more on state and local efforts, but the federal government can still support states and EJ communities, and that is the focus of ACE's recommendations. States need more explicit guidance on defining EJ populations. Massachusetts was close to passing a modest EJ bill, but it was thwarted by arguments around criteria used to define EJ populations. The bill listed demographic characteristic known to characterize EJ communities, including race and ethnicity, income, and language isolation. Members of the state legislature, pressured by those embracing an "all lives matter" form of thinking, objected to these criteria and argued that the EJ bill should be colorblind. This ignores the well-documented history and current reality of race-based discrimination that creates environmental injustice. Besides demographic characteristics, good guidance on defining EJ populations would also include public health criteria, identifying those most at risk for adverse health outcomes if subjected to degraded environmental conditions. Dr. Estrella-Luna included specific references to potential health comments in her written comments. A strong definition of an EJ community would also include some measure of cumulative environmental burden.

Dr. Estrella-Luna's second recommendation related to affordable and accessible public transportation. Lack of a consistent definition of transportation equity is a persistent problem, and

states are allowed to develop their own definition. In Massachusetts, the MBTA defines inequity as “a 20% or greater difference in the experience between majority and minority populations.” In real life terms, 80 to 100 low income or nonwhite people have to be late to work, school, medical appointments, court, et cetera before there is inequity. An interagency working group should develop guidance for non-EPA agencies, specifically the Department of Transportation, in defining inequity.

Dr. Estrella-Luna invited Council members to ask her follow-up questions regarding her third recommendation about the proposal to remove California’s historic authority to regulate their CAFE standards.

### **1.2.9 Phoebe Gooding – The Root Social Justice Center**

**Ms. Gooding** spoke about the EPA’s mission to protect human and environmental health, and from her perspective as a mother she reminded the EPA that mothers and children are some of the most vulnerable members of communities. What’s more mothers and children of color and those living in poverty are among the most impacted by environmental injustice. Mothers and children are not always able to leave their homes as easily as others can in order to come and give public comment about their experiences, and Ms. Gooding recommended that these NEJAC meetings be held in EJ communities and community centers to allow more access and to highlight those communities and bring media attention. Specifically, she recommended that the next NEJAC meeting take place in Puerto Rico. In addition, she advised NEJAC to do away with the policy of only having one person from each organization speak.

**Paul Shoemaker** said that he wasn’t aware of a policy of only one person per organization speaking and requested clarification. **Mr. Tejada** said that multiple people from an organization can sign up to testify, but to prevent someone from coming in and blocking out the agenda, they will take one person from an organization and then other people not affiliated with that organization, and once everyone has had a chance to speak, then as many people as want to from that organization can testify. Mr. Shoemaker asked if ACE was looking to reenter their EJ bill in the next session and asked Dr. Estrella-Luna to expand on her third recommendation to NEJAC. **Dr. Estrella-Luna** said that she thinks ACE’s allies in the state legislature plan to re-file. There is an environmental justice alliance in Massachusetts, and ACE will probably work with them to strategize differently. Her third recommendation was that NEJAC strongly reject the proposal to remove California’s historic authority to regulate their air quality emissions through strict CAFÉ standards. Not only are there environmental and legal reasons against it, but it’s also contrary to the states’ rights orientation that is embraced by the current administration.

**Dr. Wilson** said that Maryland also went through a process of trying to define EJ and pass an EJ bill. They came up with their own environmental mapping tool, Maryland EJSCREEN, and he suggested that Dr. Estrella-Luna and ACE use a similar system along with leveraging any health equity efforts undertaken in Massachusetts. Resources like the Center for Environmental Health Disparities at Harvard could be engaged to help with the process. **Dr. Estrella-Luna** said that they have done some work in this area, and the state agencies rejected many of their suggestions. Guidance from NEJAC and EPA would help EJ organizations, communities, and allies to move forward. **Ellen Drew**

asked Dr. Estrella-Luna if she could provide NEJAC with what she thinks are adequate definitions of equity and Dr. Estrella-Luna said she could, and that equity might also need to be refined. **Dr. Fatemeh Shafiei** mentioned the Bhopal incident in India and said that at the time, the biggest question was whether it could also happen in the United States. We have had “mini Bhopal’s,” and one of the biggest outcomes from this has been concern around communities’ right to know. **Jabari Edwards** said that he heard concerns about access to information from Ms. Gooding and Ms. Dryden, and he asked whether it was legal and possible to add a web-based component to NEJAC meetings and to mail information to EJ organizations that want to distribute it. **Mr. Tejada** said that they do have opportunities for telephonic testimony during NEJAC teleconferences, but not during face to face meetings. If EJ communities are seeking printed information that EPA has, they can figure out a way to get it to those communities.

**Dr. Sanders** said that in her experience with CalEnviroScreen, what was supposed to be used as a screening tool to identify the most environmentally-impacted disadvantaged communities and prioritize state resources for a deeper assessment instead became the assessment tool. She advised those trying to develop a similar system in the future to build the tool so that it gives them the reading that is relevant to the purpose it’s needed for. **Dr. Estrella-Luna** said that California was way ahead of other states in having tools, and in Massachusetts they were just trying to make existing EJ policy legally enforceable. **Chair Moore** said that this was a much bigger discussion. **Dewey Youngerman** asked Ms. Dryden if she had gone to the chemical companies and asked for emergency information, and she said there is a process in place, but it does not always work in a timely manner. Mr. Youngerman encouraged her to try to contact individuals in the companies’ process safety management programs. Dr. Estrella-Luna said that post-9/11 much of the information around hazardous substances can be withheld. **Ms. Sprayberry** asked Ms. Dryden if she had approached a state agency for assistance in facilitating discussion and asked whether the chemical companies have to work with local fire departments, and **Ms. Dryden** said she was not sure. Dr. Sanders echoed Ms. Sprayberry’s thoughts about local fire departments and suggested that it might be a way to start the conversation from a public safety perspective.

**Grace Hall** withdrew her oral public comment and said that she would submit written comments.

### **1.2.10 Stephanie Herron – Wilmington, Delaware**

**Ms. Herron** spoke about her own experience with asthma and said that approximately 20 percent of Delawareans struggle with chronic respiratory conditions. In Delaware, transportation vehicles are the largest source of health-harming pollutants, and low-income communities and communities of color are disproportionately impacted. The state has had some success with reducing vehicle pollution by adopting the California standards for low emissions vehicles and offering state incentives for people to buy more efficient cars. They are also one of the states involved in the Transportation and Climate Initiative and are working to expand access to electric vehicles. Delaware is a small state bisected by I-95, and 90 percent of their pollution originates from ozone precursors emitted in other states. They and other communities need the EPA to fulfill its moral and legal obligation to protect them from neighboring states that are not following the required standards. Ms. Herron asked the NEJAC to oppose EPA’s rollback of the risk management plan (RMP) rule, and said that in Delaware, many hazardous facilities are covered by volunteer

firefighters. She asked the NEJAC to recommend that EPA: 1) abandon plans to roll back cleaner car standards; 2) reverse course on the denial of Section 126 petitions filed by Delaware and Maryland to require upwind power plants to run NOx controls; and 3) implement and improve the RMP rule.

#### **1.2.11 Michelle Mabson – Earthjustice**

**Ms. Mabson** addressed current life-saving disaster prevention provisions under the RMP or Chemical Disaster Rule. Earthjustice works with communities that have been impacted by chemical disasters and environmental injustices, which disproportionately affect low income communities of color. Over 20 million children in the U.S. attend schools in vulnerability zones, areas that are potentially impacted by worst-case chemical releases, and low income black children are more than twice as likely as their white peers to live at the fence line of these facilities. In its proposed rollback of the RMP rule, the EPA admits that its actions “may have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898.” They held one public hearing in Washington D.C. with only two weeks’ published notice, willfully excluding impacted voices of community members who do not have the ability, the time, and the resources to travel and testify. By reversing the improvements to the rule that it once found necessary, EPA will deny impacted communities access to vital information about nearby hazardous chemicals and safety measures. Ms. Mabson urged NEJAC to write to EPA to withdraw its reconsideration of the 2017 amendments to the RMP rule.

#### **1.2.12 Pam Nixon – People Concerned About Chemical Safety**

**Ms. Nixon** presented information about the 2014 chemical spill at the former Freedom Industry tank farm in Charleston, West Virginia, which was 1.5 miles upstream from an intake for a public drinking water system. The Above Ground Storage Tank Act was passed in West Virginia that same year and amended for the third time in 2017 to add exemptions. While federal regulations exist for underground storage tanks, there is still no federal above ground tank program. The problem of above ground storage tank leaks persists, and Ms. Nixon recommended that NEJAC urge EPA to fulfill Clean Water Act obligations by proposing, finalizing, and publishing hazardous substance spill prevention rules for above ground storage tanks. She also asked the EPA to regulate above ground storage tank designs, materials, secondary containment systems, leak and corrosion detection systems, and third-party auditing mandates, and make sure that communities can be notified early in the permitting process so that they can have meaningful input.

**Chair Moore** said that the Council understands the sense of urgency around some of the testimony that they were hearing, particularly around the RMP and public comment periods. **Ms. Orduno** thanked Ms. Nixon for her testimony concerning the water systems and said that the same thing is happening too often and in too many places across the country.

#### **1.2.13 Juan Parras – Texas Environmental Justice Advocacy Services (TEJAS) (Houston, Texas)**

**Mr. Parras** said that there have been many studies done in the Houston community that have found 12 hazardous air pollutants that the nearby community of Manchester is exposed to, including

cancer-causing chemicals, and yet nothing has been done. This is what environmental justice should not be. For the last 15 or 20 years these harmful conditions have existed in these communities, but they have received no help from the EPA, the City of Houston, or any other state or local organizations. The Valero plant nearby applied for a permit to release 512 tons of hydrogen cyanide per year; a plant in Denver that wants to release 5.8 tons of hydrogen cyanide has gotten widespread pushback, but in Manchester, only the impacted community has tried to take action. Requests for documents to be translated for the very large Spanish-speaking population have not been granted, and this should be mandated so that these populations can be informed.

With regard to the chemical security policy, there are stretches of refineries and chemical plants in Houston that have been told by the governor that they do not have to share information with the communities out of fear that the refineries could become targets for terrorists. After 9/11, major U.S. cities were sent a list of potential terrorist targets and asked to identify which ones existed in their cities, and Houston was the only city that identified everything on the list. Those same problems still exist now, and Mr. Parras invited the Council to take a “toxic tour” in Houston to see firsthand what is going on.

#### **1.2.14 Rick Reibstein – Boston University**

**Mr. Reibstein** told the Council about a project that his students at BU did a few years ago where they tried to craft an environmental justice municipal ordinance. They said that in addition to opportunities for comment, it should increase affirmative outreach to communities and actively engage and assist them technically and financially. The efforts to keep dirty industries out of communities and introduce cleaner technologies and jobs should be combined, and communities should have preferences for businesses that offer assurances of safety and commitments to protect the community. Instead of waiting for proof of discriminatory intent, the law should be changed so that disproportionate impact is enough to trigger action. There should also be an environmental justice impact analysis and making this a requirement could act as a deterrent to keep people from building their plants and expansions in EJ communities. The impact analysis should be universal, and all environmental analyses should include evaluating potential impact on any local EJ area. Testing should be used to establish a baseline for air, water, and soil pollution so that future facility-caused impacts can be assessed. More information is needed in order to assess the larger picture of cumulative impact, rather than examining factors in isolation.

#### **1.2.15 Michele Roberts – Environmental Justice Health Alliance for Chemical Policy Reform**

**Ms. Roberts** said that the NEJAC process was created not to silence but to enhance the voices of EJ communities. Today more than ever, assaults at all levels have been waged against communities of color and the poor who try to stand up for their rights and meet the burden of proof for remedy and redress. One such assault was the decision to hold a public meeting about proposed rollbacks to the RMP in Washington, D.C. instead of in local impacted communities. Similar assaults exist at the state level, such as the Delaware state health regulatory agency’s recent denial of findings and solutions put forth by communities and advocates in a demographic analysis on toxic pollution and health disparities. Amid the current political climate of EPA rollbacks, it is more important than ever that EJ communities are able to engage in the issues that impact their right to life and healthy

communities. Ms. Roberts asked NEJAC to write a letter to the EPA emphasizing the importance of a meaningful community involvement process and to assemble a working group on cumulative impacts and energy democracy that addresses emissions reduction and inclusion of cumulative risk impact analysis in all economic development plans.

**Dr. Sanders** said that during a past conference of the American Association of Blacks in Energy in Houston she and her peers coordinated with Mr. Parras and went out to see firsthand the conditions that EJ communities were facing, and it was a shocking and valuable experience. She suggested that Mr. Parras invite Hispanics in Energy to participate in similar tours. **Dr. McClean** asked Ms. Roberts how many communities her group was working with to organize around the RMP amendments, and what her specific ask was around those amendments. **Ms. Roberts** said that this body of work has been led by the grassroots community with countless organizations, and that in this political climate the best that they could ask for was making sure that the RMP was not rolled back. Their only other ask would be for a NEJAC working group to work alongside the grassroots organizations.

**Mr. Youngerman** asked if Manchester had a community planning group to talk to the City of Houston about things like zoning regulations. **Mr. Parras** said that there is a community committee that they work with, but Houston does not have any zoning regulations. **Mr. Shoemaker** asked if there were plans for Mr. Reibstein's future students to develop the EJ impact assessment into a model regulation that could be shared with communities across the country. **Mr. Reibstein** said that he will put that on the list of projects for this coming semester. **Dr. Wilson** said that there has been a history of social impact analysis included in environmental analyses (EAs) and suggested that the students add a health component, which is often missing from EAs. He asked Mr. Tejada whether NEJAC used to have a cumulative risk assessment work group, and if they could bring back some of the reports from that work group. He also asked if NEJAC could receive briefings from Homeland Security and FEMA regarding the issue of chemical disaster, and if Mr. Reibstein could provide a recommendation to NEJAC regarding the paucity of data that he referenced. **Ms. Roberts** and **Chair Moore** both expressed their support for the idea of briefings from Homeland Security and FEMA. **Dr. Shafiei** said that the U.S. has a history of being reactive rather than proactive when it comes to policy, and she hopes that we get a grip on chemical safety before we have a disaster to the magnitude of Bhopal. Given the recent extreme climate events like hurricanes and fires, we need to be much more careful in how we store these dangerous chemicals.

### **1.2.16 Juan Rosario – Puerto Rico**

**Mr. Rosario** said that when he and his organization came to NEJAC 23 years ago, they testified about the impact of colonialism on Puerto Rico and the experiments done on their people by the U.S., a nation that has created an impressive narrative on human rights. People who protested this treatment were told that it would lead to progress; 20 years later, Puerto Rico has the highest rates of asthma in the United States, and among the highest rates in teratogenic conditions, diabetes, and cancer. 99 percent of their population drinks water from systems that are not up to code, and 67 percent of their systems have serious defects. In September 2017 Hurricanes Irma and Maria destroyed almost the entire electrical network and 80 percent of the distribution system, and in the months that followed there was a humanitarian crisis that resulted in the deaths of over 1,000



people. One year later, many people are still without electric power. If the hurricane was a disaster, the way that it was handled was an even greater disaster. In the aftermath of the storms people did not know where to get help or who was in charge and were without resources for months. The government hid the number of deaths and has only recently admitted that at least 2,000 people died. The EPA should conduct a rigorous analysis of the environmental impact of the hurricanes, and the process should involve participation from the EJ community. The reconstruction process will use billions of taxpayer dollars, but if the process so far is any indication, much of it will be wasted and will not benefit the people. Mr. Rosario requested that NEJAC meet in Puerto Rico to engage with the citizens; the last time that NEJAC members came to Puerto Rico there were positive results.

### **1.2.17 Steven Taylor – Coming Clean**

**Mr. Taylor** spoke to the proposal to roll back the RMP amendments. He reiterated the earlier point that there is clear evidence that chemical hazards from RMP facilities disproportionately impact EJ communities. In the RAI for the rollback, EPA admits that it has done nothing to insure meaningful involvement of impacted communities in the development of the new proposal and has not given them a meaningful ability to impact that decision, despite multiple requests from EJ communities. The only public notice for the one meeting in Washington D.C. rollbacks included incorrect information about which states were not in compliance with the REAL ID Act, and this potentially kept impacted people from participating. Mr. Taylor recommended that NEJAC urge the EPA to abandon the proposal and suggest that any future consideration of such a proposal be done in accordance with the appropriate requirements in EPA's own guidance.

### **1.2.18 Jessica Thomas – Union of Concerned Scientists**

**Ms. Thomas** shared information gathered via survey from 449 anonymous EPA scientists and scientific experts. They reported low morale, censorship of work, high levels of political interference, staff reductions, and decreased effectiveness of their offices. Given that the science-based work of the EPA impacts EJ communities, this is extremely concerning. She suggested that NEJAC recommend that the EPA: ensure collaboration between regional EJ coordinators and federal, state and local staff; strengthen existing health and safety regulations; remove barriers to timely dissemination of scientific information to the public; utilize the agency's peer review process for quality control; encourage scientists to speak freely to the public and the media about their work; and reduce undue influence that regulated industries have on agency work and decision-making.

**Ms. Orduno** thanked Mr. Rosario for highlighting the continuing crisis in Puerto Rico, and she and **Ms. Trevino-Sauceda** expressed support for the idea of holding an upcoming NEJAC meeting in Puerto Rico. **Mr. Rosario** said that this Council has been particularly effective in their past work in Puerto Rico. **Mr. Tilchin** asked Ms. Thomas to share the survey from the Union of Concerned Scientists and asked if the Union expressed an opinion about the restriction on scientists who received EPA research grants being barred from serving on advisory panels. **Ms. Thomas** said that she would share the survey, and that the Union strongly disagrees with the restriction. **Ms. Sprayberry** asked if Puerto Rico has a state regulatory agency and health department and

suggested that there might be opportunities for grants in the future. **Mr. Rosario** said that they do have local agencies, which are normally terrible, and sometimes it is easier to speak with NEJAC.

**Mr. Tejada** thanked the translators for their help with the testimony.

#### **1.2.19 Mily Trevino-Sauceda – Alianza Nacional de Campesinas**

**Ms. Trevino-Sauceda** spoke about her personal experience in a family of migrant farmworkers. Her family was sprayed with pesticides many times while working in the fields, and many of her family members have had adverse health effects as a result. Pesticides are applied to the crops that farmworkers handle and spread through drift to the surrounding homes and schools. They can result in a whole host of ailments, including reproductive damage to farmworker women and their unborn children. In addition, environmental issues like landfills, lack of access to potable water and waste management, standing water that attracts disease-carrying insects, air and water pollution all threaten the wellbeing of farmworker communities. NEJAC must: designate a permanent position on the Council representing farmworkers; have youth representation on the Council, especially farmworker youth; and designate a permanent position to focus on reproductive health of farmworker women. Ms. Trevino-Sauceda also brought up the issue of the proposed detention center in El Paso, which would be built on Fort Bliss land that has been banned due to chemical testing.

#### **1.2.20 Bill Walsh – Healthy Building Network**

**Mr. Walsh** made recommendations to NEJAC pertaining to asbestos and the draft guidance for the systemic review of risk evaluations, which will assign a new framework to estimate the risk of harm that asbestos poses to humans. He recommended that NEJAC look at the proposed draft guidance and consider comments filed by many EJ groups opposing the new framework. Mr. Walsh's group recently published a report about the current uses of asbestos, and he suggested that NEJAC recommend that the EPA phase out antiquated asbestos technologies for making chlorine that is then used to make plastics and vinyl; these techniques are highly pollutant and have known environmental impacts.

#### **1.2.21 Marisol Fernandez y Mora – Clean Water Action Massachusetts**

**Ms. Fernandez y Mora** spoke about EPA's Clean Water Act hazardous substances discharge prevention action, related to above ground storage tank leaks. EPA has formally proposed to do nothing about chemical releases into water, arguing that programs from other agencies are sufficient to prevent and clean up spills and releases, but this is not true and this approach does not meet the standards of the Clean Water Act. The Act was passed in 1972 to direct EPA to create a program to prevent leaks and spills of hazardous substances into bodies of water, but EPA has never set up such a program. This leaves EJ communities particularly vulnerable, as they are disproportionately impacted by these accidents. EPA should re-propose a rule that would fulfill its statutory duty to protect communities from spills from above ground storage tanks, and this rule should include: a requirement that tank operators have spill prevention plans that are disclosed to the public; regular internal and external inspections of storage tanks and third party safety; primary storage requirements for tank design and size; implementation of secondary containment

methodologies; immediate public notification and response in the event of any leak or spill; requirement for owners/operators of tanks to post bonds for or prefund response and cleanup costs; requirement for owners/operators to report covered above ground storage tanks to the EPA, with details available online for public inspection; and a wider range of included hazardous substances.

**Ms. Sprayberry** asked Mr. Walsh to provide a list of facilities he mentioned that use mercury, and **Mr. Walsh** said that he would. **Ms. Trevino-Sauceda** said that in her group's written comments they are specifically saying that in most states, the worker protection standards are the only ones that provide any sort of regulation for farmworkers, since they are excluded from the Labor Relations Act. They would like NEJAC to help write a letter and pressure the EPA to protect farmworkers.

### **1.2.22 Sylvia Orduno – Michigan Welfare Rights Organization**

**Ms. Orduno** shared concerns about the Michigan Department of Environmental Quality (MDEQ) and about EPA's regulatory process. MDEQ has been cited by the Michigan Attorney General as a responsible party in the failure to protect Flint residents from what is now over four years of lead poisoning. They also allow U.S. Ecology, a toxic processing corporation, to dump up to 300,000 gallons of treated liquid waste into Detroit sewers every hour daily, including a variety of dangerous chemicals. NEJAC and the EPA should conduct an assessment of regulatory and oversight compliance of state regulatory agencies responsible for enforcing the EPA's acts, and they should strengthen enforcement and community reporting of violations to highlight exemplary enforcement examples as standard models. In states where criminal dereliction of duties has been charged and documented, EPA should better define proper enforcement of regulatory responsibilities that it delegates to states.

### **1.2.23 Nicky Sheats – Thomas Edison State College**

**Dr. Sheats** reiterated three points that were raised earlier. He seconded recommendations to write letters on proposed changes to NEPA and chemical security and added that these letters should be put into context of the larger problem of the weakening of regulations in general. He suggested that NEJAC should have a panel on Title VI during the next face-to-face meeting so that Office of Civil Rights representatives can explain the latest decision on Uniontown and what is happening with Title VI. NEJAC should also have a panel on cumulative impacts where they address what the EPA, EJ groups, and states are currently doing around cumulative impacts. He also mentioned a New Jersey EJ bill released by Senator Booker, which says that under certain conditions, applications for pollution permits should be denied based on cumulative impacts.

**Dr. Shafiei** said that in the past we have treated chemicals as if they are innocent until proven guilty, and our regulatory mechanism does not address the cumulative impact or the synergistic impact of these chemicals.

## **1.3 Closing Remarks and Adjournment**

**Chair Moore** thanked everyone for attending the public comment session and said that the NEJAC started their meeting at 10:00 a.m. that morning, and they were all still at the table; not only does that speak to the quality of the compelling testimony presented at the end of the day, but it says something about the quality of the NEJAC members themselves. **Mr. Tejada** briefly outlined the schedule for the next day and thanked members of the OEJ staff. Chair Moore adjourned the meeting for the day.

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

On Wednesday, August 15, 2018, **Matthew Tejada** called roll call. Mr. Tejada noted the presence of a quorum and turned the meeting over to NEJAC Chair Richard Moore.

**Chair Moore** summarized the previous day's meeting and said that the quality of the public testimony the night before was fantastic, as was the quality of the Council's involvement. He invited NEJAC members to give their opinions about the public comment period. **Ms. Orduno** agreed with Chair Moore's summary and pointed to the commenters who came from far away as an example of how interested the public is in NEJAC meetings. **Dr. Shafiei** highlighted the consistent themes of concern around rollbacks, NEPA, worker protection, and risk management plans. **Dr. McClain** said that the community of Mossville, Louisiana's trust in NEJAC provided a vision of how the public views the influence and power of NEJAC, and **Ms. Trevino-Sauceda** praised them for being persistent in their interactions with NEJAC. Chair Moore said that the Council does not speak for the grassroots constituency because they speak very well for themselves; NEJAC's responsibility is to assist in making the impossible possible.

**Mr. Tejada** welcomed local officials Monica Valdes Lupi and Carl Spector to the meeting.

### **2.1 Opening Remarks**

**Ms. Valdes Lupi** welcomed the NEJAC, EPA colleagues, and members of the public to Boston. She said that at the Boston Public Health Commission their mission is built on a commitment to racial justice and health equity, and environmental justice is core to the work that they do. She highlighted the city's efforts around childhood lead poisoning prevention, place-based local initiatives, and enhancing health staffs' capacity to integrate equity into their day-to-day practices. Boston's asthma program conducts home visits and works with property owners to address asthma triggers in the home environment, and they have coordinated with city partners to develop a best practices environmental scoring system. They were the first city to mandate that all public housing units become smoke-free. In addition, their Safe Shops Program works with small businesses to reduce the use of hazardous chemicals, and the Offices of Public Health Preparedness and Environmental Health work with other city departments to address climate change mitigation to protect Boston's most at-risk residents from city planning's adverse impacts. She thanked NEJAC again for coming to Boston.

**Mr. Spector** spoke about his work as the Commissioner of the Environment for the City of Boston. He said that Region 1 of the EPA has been a strong supporter of the environmental work in the City of Boston and thanked their representatives for attending. Boston has incorporated environmental justice and social equity into its environmental initiatives like Greenovate Boston, Resilient Boston,

Climate Ready Boston, and Carbon Free Boston. He wished the NEJAC a productive discussion and thanked them for coming to Boston.

**Chair Moore** said that he has had the opportunity to interact with both Boston Public Health Commission staff and community groups in Boston during past visits, and he urged Boston to continue to set an example for other city health departments that have not been allies for their grassroots communities.

## **2.2 Welcome & Dialogue with U.S. Environmental Protection Agency Leadership**

### **2.2.1 Andrew Wheeler – Acting Administrator – U.S. EPA**

**Mr. Tejada** introduced a video recording from Acting EPA Administrator Andrew Wheeler and welcomed Region 1 Administrator Alexandra Dunn.

### **2.2.2 Alexandra Dunn – Regional Administrator – U.S. EPA Region 1**

**Alexandra Dunn** welcomed the NEJAC to Boston and said that she likes to reflect on environmental justice with a proverb: once your eyes are open, you cannot close them again. That is how EJ issues present themselves, and it should be impossible not to take action once one has become aware of a problem or inequity. She said that coming out of this meeting she wanted to work with NEJAC to make sure that there is tangible follow-up to the concerns brought forward in public comments. Environmental justice is more than the mere identification of a community facing an overburden; it involves engaging that community meaningfully in decision-making, which is often not given the time that it needs. In addition to just informing people, they need to be asking for their feedback at a point in time when they could actually change the outcome. Region 1's community engagement coordinators go out into New England communities almost every night of the week, and they are trying to restructure public meetings to make them more productive and meet the needs of the communities when it comes to projects like the Superfund cleanup, which is very disruptive. It took the EPA ten years to rebuild their credibility with Stamford, Connecticut to continue the Superfund cleanup there, but this year the EPA is going to build a noise barrier wall and a hauling road in order to improve the experience for the community and put their needs first. Along with the Superfunds, the Brownfields program works to clean up sites like abandoned mills and tanneries that have been challenged by industrial legacy.

Ms. Dunn pointed out some highlights from EPA Region 1's year-end environmental justice report for 2016-2017. Reducing childhood exposure to lead was a big effort which involved implementing the Renovation, Repair, and Painting (RRP) Rule of the Toxic Substances Control Act (TSCA). New England's housing stock is old and most of it is lead-painted, and this summer EPA will be working with New Hampshire and Maine and their state mapping programs to go into communities and advise contractors of their requirement to be registered, certified, and educated about how to conduct lead paint removal. They are also using mapping tools like EJSCREEN and filters from GIS teams to combine information and identify places where the EPA can most effectively focus their efforts and exploring ways to get youth involved in environmental efforts. Ms. Dunn said that she believes Acting Administrator Wheeler has an open ear to environmental justice, and that what she

hears from this current NEJAC is an active commitment to be a voice for the EJ community to this administration and to this EPA.

**Chair Moore** invited Council members to ask questions. **Mr. Sheats** agreed that community participation is important and said he worried that environmental justice would become defined as procedural justice rather than substantive justice; in other words, communication is necessary but not sufficient, and they have to focus on actually reducing pollution in EJ communities. He said that he was alarmed that the Acting Administrator's message included focusing on risk communication, because a lot of time that is code for telling people in EJ communities that risks from environmental hazards are minimal compared to risks from the communities' lifestyle. EPA has to be careful with that message. **Dr. McClain** said that she liked the idea of worker education and job training, particularly related to cleanup, and she asked Ms. Dunn to help NEJAC think through how the EPA can work with other federal agencies to facilitate worker training. Part of environmental justice is economic justice, and people are better able to participate when they are getting compensated and can maintain good quality of life. **Ms. Dunn** agreed and said that there is also a balance because they want the jobs to be healthy and responsible, and not to make the community dependent on the pollution. Moving the Environmental Justice Program into the Office of Policy might help EPA to think more broadly about environmental justice and there is now an Environmental Justice and Community Revitalization Council, the concept being that environmental justice and economic justice come together.

**Mr. Wright** commended Region 1 on its community involvement efforts and recommended that Ms. Dunn talk to Chris Hladick in Region 10 to facilitate more involvement on the Eastern Michaud Flats Superfund site. He also said that according to 273 federally recognized tribes, which are sovereign nations, EPA's definition of consultation is wrong. According to their constitution and treaty, consultation is a face to face process, not phone to phone. **Mr. Shabazz** echoed Dr. McClain's comments that there is a great deal of opportunity around RRP and said that in some EJ communities they have nontraditional renovators who are not part of business associations or standard industries. He wondered if the EPA was reaching that population with their messaging. **Ms. Dunn** said that that was a very good point, and something that she would ask her staff to look at. **Mr. Shoemaker** said that in Boston they have training programs for RRP and moderate risk de-leading, and he was shocked by the number of staff members that Region 1 has for enforcement, because Boston has more boots on the ground for enforcement than the region. He asked how the NEJAC and the members' constituencies could support the regional administrators in getting more staff in order to spread Region 1's model to other regions. Ms. Dunn said that the EPA is in a holding pattern on staffing, but they have dealt with the lack of human capital through partnerships and technology, and she would love to brainstorm about collaboration.

**Dr. Wilson** said that the permitting process needs to be transformed so that it is community-driven rather than industry-driven. He wondered when cumulative impacts and cumulative risks would be brought into the process and said that a cumulative risk assessment approach would take into account the most vulnerable and the most susceptible populations. He suggested modifying EJSCREEN to have resiliency indicators, and tracking funds and resources to make sure that they're going to the communities that need them as part of the revitalization discussion. He also suggested

taking the Green Zone approach in CalEnviroScreen and incorporating it into EJSCREEN as another accountability measure. **Ms. Dunn** said that they do have some teams looking at reforming permitting, but one of the challenges is that this administration has a goal of permit expediting, which could run counter to consultation and engagement unless they think about it intentionally along the way.

**Mr. Edwards** said that he was aware of the JTI program that they do with locals to try to create jobs, but his concern was that the JTI program often builds false hope. He asked if they had planned any breakout packages to include more local business owners and help them to grow their capacity. **Ms. Dunn** said that she would find out about breakout packages and added that in New Bedford, they helped a local contractor through the bidding process, which is something that can be overwhelming for small businesses. She wondered if other NEJAC members would know whether EPA can incentivize the hiring of local businesses in their contracts. **Mr. Tilchin** said that EPA and other clients do often establish thresholds for hiring small, local, minority-owned businesses but the notion of incentive packaging is interesting and different. **Mr. Edwards** said that if you don't incentivize, the local community is often ignored. **Ms. Trevino-Sauceda** recommended that EPA consider different terms and methods of communication in different communities and encouraged them to think creatively about how to involve people, especially women and youth, in different roles than the ones they might normally fill. **Mr. Youngerman** said that if a negative footprint is left behind for household residents, those things also occurred while RRP employees were onsite, and it should be covered under OSHA programs. He wondered whether EPA could leverage inspectors' time, so they could spend a few minutes and look for certain red flags. **Ms. Dunn** said that it was a good suggestion, and that they had already approached HUD for a similar collaboration with lead removal in public housing.

Hearing no comments from Council members on the phone, **Chair Moore** thanked **Ms. Dunn** and added his own comments. He said that in her capacity working with the Environmental Council of the States **Ms. Dunn** played an important role in building relationships. Regarding the dialogue, risk communication was touched on several times, as well as worker safety. Environmental and economic justice should not be a partisan issue, and NEJAC is not a special interest group. All they have asked for are the same results that all communities are asking for, to be treated with integrity and respect under the EPA's mission statement. NEJAC is asking that **Ms. Dunn** relay the information gathered in this session to the Acting Administrator. It seems that decisions are being made without the input of EPA employees who could bring experience and knowledge to the discussion, and NEJAC may need a messenger to help carry some of this information up. **Chair Moore** also flagged the issue of lead poisoning for **Ms. Dunn's** attention. The EPA has some opportunities around Green Zones and other initiatives, but it is important to think about what and whose opportunities those will be. The EJ communities are used to being left behind in those discussions but it is important that they are considered and involved early on. There was a suggestion made by regional grassroots groups to have an environmental justice conference in Region 1, and **Chair Moore** suggested that **Ms. Dunn** engage her staff to follow up on that, taking care to include stakeholders. He thanked **Ms. Dunn** for her contribution and for her participation in the meeting.

## **2.3 U.S. EPA Region 1 Environmental Justice Panel**

**Mr. Tejada** turned to Charles Lee to introduce the members of the Region 1 EJ Panel. **Mr. Lee** said that the prioritization of environmental justice when Ms. Dunn became the Region 1 Administrator was an important statement that put positive momentum into the EJ program. It is not a foregone conclusion that EPA knows how to do environmental justice integration. In the last administration EPA developed a comprehensive suite of tools for integrating EJ, and EJ 2020 was envisioned to put that into practice. Part of the larger context of this conversation is how to do that in a way that will produce environmental and public health results for communities.

**Mr. Tejada** reminded speakers to identify themselves for people on the phone line, and to be fulsome but not overly expansive in their comments for the sake of time.

### **2.3.1 Sharon Wells – Director – Office of Civil Rights & Urban Affairs**

**Ms. Wells** said that it is important to have the framework and foundation to effectively engage communities and achieve measurable results. Region 1 has historically prioritized environmental justice and having a regional environmental equity policy has been a key part of this effort. This policy made it clear that EJ is to be integrated into all of the region's activities and decision-making. They have developed an EJ council, an EJ mapping tool, and functional guidance for programs to learn about their own specific interactions with EJ. In order to have an effective internal EJ program, it is necessary to work on the ground with community stakeholders instead of operating in a vacuum. To that end, they developed an Urban Environmental Program with funding available for communities to leverage, and staff received EJ training where they went out into communities and learned about issues of concern.

The EJ program is housed in the Office of Civil Rights & Urban Affairs, which leads the region in integrating EJ into the program offices; Region 1 is the only region that has EJ and civil rights in the same place. The accountability mechanism for the EJ program is the EJ council, which is comprised of deputy office directors and staff; these are the people who are responsible for implementing programs and who control the resources. Although the Office is deliberately small, it is important to have a face for the EJ program in the region, and they make sure that issues are communicated to the right people in order to resolve them and facilitate conversation as necessary. They also work closely with state and federal partners to look at things holistically rather than in silos.

**Chair Moore** asked the Council members to hold their questions until after the Panel members' presentations.

### **2.3.2 Gevon Solomon – Acting Environmental Justice Coordinator – Office of Civil Rights & Urban Affairs**

**Ms. Solomon** addressed state partnerships in Region 1, which is one of the first regions to implement EJ language in all of their performance partnership agreements (PPAs.) EPA's National Environmental Performance Partnership System directs public resources towards improving environmental results, allows states flexibility to achieve results, and enhances accountability to the public and stakeholders. The responsibility of protecting human health and the environment is the



responsibility of both the states and the federal government, and it is important to take into account states' priorities and work together to resolve states' issues. The PPAs are working narratives for performance partnership grants (PPGs) and they identify joint priorities to be addressed by the states and EPA. PPGs are the vehicle to transfer federal funds to states to implement toxic substances programs.

The Office works to identify areas in states' laws and policies that align with EPA's EJ policy, and the EJ Office hosts a conference call with EJ states once a month to discuss state needs and tools or resources that can be shared. This in turn influences priorities and EJ language that is then incorporated into PPAs and negotiations. Current PPA priorities include EJSCREEN training; resiliency programming; Title VI and limited English proficiency; public participation; PFOA and PFOS in New Hampshire; and EJ trainings. EJ trainings are done in partnership with the states and include the necessity of compliance with Title VI in order to receive funds. They also develop case studies for state partners to act out and further understand community members' concerns.

### **2.3.3 Christine Lombard – Brownfields Project Officer – U.S. EPA Region 1**

**Ms. Lombard** spoke about EPA's Brownfields program and the way that successful partnerships have led to successful outcomes. Lawrence, Massachusetts is a city with a history of manufacturing, a high immigrant population, and strong community partnerships. Despite a large low-income population, residents are motivated to work together to improve their environment and public health outcomes. The EPA defines Brownfields as real properties where expansion and redevelopment is hindered by known contamination or the perception of contamination. Through the Brownfields program, Lawrence has received \$4.4 million in direct funding to assess, clean up, and redevelop sites as well as for a job training program in the city. The funding process is competitive, and the region prioritizes programs that have already been working with federal, state, and local agencies.

The EPA has set aside \$50 million of non-competitive funding nationally for states and tribes who commit to needing the funds. With the funding, states and tribes can: establish a voluntary cleanup program; set up project management for each site; review environmental reports and make sure that cleanup conforms to standards; provide technical assistance to grantees; and participate on steering committees to help communities decide which properties they want to address. In Massachusetts, EPA works with state agencies like the Department of Environmental Protection (DEP), the Executive Office of Energy and Environmental Affairs, Massachusetts Office of Development, Massachusetts Office of Business, and the Massachusetts Office of the Attorney General to guide successful projects. Ms. Lombard played a video clip about the Lawrence area's wide planning grant from the EPA; within four years, the city went from the planning stage to actual implementation using an assessment grant from DEP, a design grant from the Department of Transportation, and CDBG funding from the Department of Housing and Urban Development. Ms. Lombard also gave examples of a former Covanta site and a former Ferrous Technology site, both of which have been turned into parks with the help of several partners.

### **2.3.4 Deneen Simpson – Environmental Justice Director & Program Manager – Massachusetts Department of Environmental Protection**

**Ms. Simpson** talked about Mass DEP's EJ program and their work with EPA Region 1. The Department's EJ team incorporates representatives from each bureau and office and meets quarterly to advance the goal of incorporating EJ into everything that they do. They work with Region 1 to coordinate resources and familiarize themselves with other states' initiatives. Ms. Simpson talked about DEP's involvement in the Brownfields project mentioned by Ms. Lombard, which is still in progress. Phase 2 is currently wrapping up.

### **2.3.5 Sandra Brownell – Section Chief – Grants Tribal & Community Program**

**Ms. Brownell** spoke about the Healthy Communities Grant Program, which is unique to Region 1. It is New England's main competitive grant program and works with communities to reduce environmental risks, protect human health, and improve quality of life. Funded projects are focused on: targeting resources to benefit communities at risk; assessing, understanding, and reducing public health risks; and increasing collaboration through partnerships and community-based projects. Applicants can include almost any entity besides individuals, for-profit businesses, and other federal agencies, and some examples of EPA programs that have contributed financial and staff resources include Children's Environmental Health, Toxics, the Urban Environmental Program, and some water programs. These programs identify joint priorities and target investment and program areas, define them as broadly as possible, and encourage applicants to address any that are appropriate for their needs. Environmental justice areas of potential concern have been a target investment area since 2003. The Region offers information sessions both for applicants and for new grantees in an effort to level the playing field and help groups to meet EPA's requirements and expectations. The grant project focuses on efficiencies for both the EPA and the applicants; this is one competition focused on a variety of funding sources, so applicants only have to submit one proposal rather than several. Since 2003, EPA has been able to give just under \$8.5 million in these grants to support community-based projects.

There are some challenges with the Program. For example, discretionary funding, which helps to fund grants, has declined over the years, and often the Program does not know their funding levels until halfway through the year. National programs with their own grants can be hesitant to join consolidated grant programs, and a staff member needs to be dedicated to run the program, which can create challenges given staff shortages. Ms. Brownell ended her presentation with the point that although these are relatively small \$25,000 projects, the program does see some amazing results such as train the trainer programs and community stakeholder involvement.

### **2.3.6 Gevon Solomon – Acting Environmental Justice Coordinator – Office of Civil Rights & Urban Affairs**

**Ms. Solomon's** second presentation focused on EJ grant programs and past grantees. EPA has two EJ grant programs, the Environmental Justice Small Grants program and EJ Collaborative Problem-Solving (CPS) Grants. These grants support and empower communities as they implement solutions that significantly address environmental and/or public health issues at the local level. EJ Small Grants are \$30,000 awards and typically run for a year, while CPS grants are \$120,000 awards and typically run for two years. In September of 2015 EPA awarded a grant to the New Haven Ecology Project, a nonprofit that is home to Common Ground High School, an urban farm and environmental

education center. Their grant program, Green Job Corps, worked with students from New Haven, Connecticut, primarily from minority and low-income communities, and partnered with organizations to focus on greening communities. When they applied for the grant, the New Haven Ecology Project identified a problem of exposure to respiratory hazards and elevated cancer risk, high rates of asthma hospitalizations, and impaired watersheds. Their goals were to improve air and water quality and access to water, identify threats to the water body, and address disproportionate access to green infrastructure. The project hired 35 students to work in the Green Job Corps, and they were able to exceed most of their target goals.

### **2.3.7 Stacey Johnson-Pridgeon – Team Leader- Urban Environment Program**

**Ms. Johnson-Pridgeon** outlined Region 1's strategic approach to reducing lead risk, which in recent years has resulted in dramatic decreases of children with elevated lead levels. In 1995, Region 1 launched the Urban Environmental Program (UEP) in order to build the capacity of EJ communities to assess, address, and achieve measurable environmental and public health results. The UEP built relationships and provided credibility for the agency and laid the foundation for its future collaborative success in reducing lead risk in EJ communities.

Almost a third of New England housing was built before 1950 and deteriorating lead paint often exists alongside aging water infrastructure. Region 1 decided to address geographic hot spots, or areas with the highest and most severe lead poisoning rates and children who were most at risk, and they utilized GIS technology to identify these hot spots. The Region committed staff and funding to initiate inclusive, strategic planning and support projects to address lead risk, including collaboration with Tufts University to create the New England Lead Coordinating Committee, a regional infrastructure made up of federal, state, local, and community representatives. They worked with the Lead Action Collaborative (LAC) in Boston and the Childhood Lead Action Project (CLAP) in Providence and used a phased approach to identify vulnerable populations at risk for lead poisoning in the area and partnerships for joint action and assistance.

In Boston, the effort was cross-office, multi-media, and conducted from 2001-2010. At the beginning of this nine-year period, Boston had 1,123 children with elevated blood lead levels above 10 micrograms per deciliter. Census block maps were used to look closely at particular neighborhoods and identify potential areas for coordinated action, and EPA and LAC collaborated to design the Community Assessment Tool (CAT). Volunteers used the CAT and went door to door looking for external risks. In total they assessed over 15,000 homes in high risk census tracts, resulting in over 60 lead inspections conducted and cases that settled for over \$1 million in penalties and \$5.7 million in supplemental environmental projects. Lead service line replacement, education outreach, and assistance to regulated entities were prioritized in target areas, and by 2010 there were 163 cases of elevated blood levels in Boston children. In Providence, EPA and CLAP worked to educate high risk communities on lead dangers and conducted in-person and online classes on lead prevention and mitigation. Over 1,200 individuals were trained on RRP, soil samples in vacant lots were analyzed, and the mayor formed the Providence Housing Lead Task Force and allocated \$4 million in resources. As a result of all this, the number of children with elevated blood lead levels dramatically decreased.

From all of this work Region 1 collected some observations and lessons learned:

- Community stakeholder relationships are the foundation for partnerships and collaborations, and stakeholders must be engaged and invested.
- Flexibility is necessary to identify risks in geographic areas and focus resources across media to produce results in areas with greatest need.
- Different mapping approaches and tools are needed for different purposes.
- Surrogate data is more valuable and efficient to identify potential areas for risk, then refine with local ELB data.
- Risk is not spread equitably within a town or neighborhood.
- Targeted, focused and stable resource investment to service the needs in geographic hot spots produces measurable results.

Ms. Johnson-Pridgeon gave an overview of Region 1's draft Integrated Lead Strategy, which reflects the CDC's updated reference level for lead exposure: it is now 5 micrograms per deciliter instead of 10, which underscores the fact that lead exposure to children can be harmful at even lower levels than we previously thought. She presented the strategy's six key priorities and their back-to-basics approach, targeting lead in paint, water, air, soil, and land through core environmental program work across several statutes and rules. Going forward, the challenge will be finding the resources to implement these visions and strategies, but passionate public servants are committed to finding ways to be more efficient and innovative.

### **2.3.8 Captain Michael Stover- Indian Program Manager – U.S. EPA Region 1**

**Captain Stover**, an officer with the U.S. Public Health Service, focused his presentation on tribal youth education in Region 1's ten federally-recognized tribes. Twice a year tribal leaders from the Region come together for a summit at EPA, and assistance with education of tribal youth is a consistent priority. The Region's outreach strategy has several facets, including: tribal summer camps and programs; inner-city tribal youth programs; grant funding/university outreach to support tribal curriculum; direct EPA staff interaction; on-site mobile lab with hands-on experiences; and participation in EPA's annual conference with the tribes.

Captain Stover gave specific examples of programs that EPA has supported, including the Mashpee Wampanoag Tribe's Preserving Our Homelands program. EPA has supported the tribe's efforts in providing traditional ecological knowledge (TEK) as well as scientific knowledge, and recently Ms. Johnson-Pridgeon provided lead awareness education to some of the children. In Maine, the Wabanaki Youth in Science Program (WaYS) has received support from EPA's Healthy Communities Program to provide year-round earth camps and teach children about native food sovereignty, composting, and food waste. The North American Indian Center of Boston provides a place for urban tribal youth to learn about their culture, and the EPA has partnered with them to host events at their site, to interact with the mobile lab outreach program, and to visit national parks in the area. In addition, EPA also brings tribal youth to their annual Tribal Environmental Conference to learn from each other and from the tribal elders and to help develop future environmental leadership for the tribes. None of this would be possible without support from tribal leadership and tribal environmental directors, as well as the tribal team at Region 1 EPA.

**Chair Moore** commented that the panel was tremendous, but reminded the Office of Environmental Justice staff that the panelists identified key grassroots and environmental justice organizations in their presentations. He thought that if they had had some of those partners sitting on the panel as well it would have been even more robust and powerful. **Dr. Sanders** suggested that Council members list all of their questions and then let the panelists respond. Chair Moore said they were in agreement on that and asked Council members on the phone to go first in asking questions. **Ms. McGee-Collier** asked whether or not there were any reductions in chronic absenteeism from schools as a result of the reduction of elevated blood lead levels in children, and who makes up the Massachusetts DEP EJ team. Dr. Sanders asked Ms. Solomon how resiliency is defined and said that it would have helped all of the presentations to have a sense of scale of their resources and need versus demand. Related to Lawrence, she said that when you start improving parks and aesthetics you start to have gentrification effects; she encouraged Ms. Lombard and Ms. Simpson to develop a metric to assess their improvements against rising housing prices and to add a requirement for grantees to demonstrate how they're going to maintain or preserve the community in place.

**Mr. Tilchin** commented on the aggregation of grants and asked whether private investment has followed. **Ms. Orduno** said that, coming from Michigan, water is obviously a very important issue for her. She wondered if the panel could help NEJAC understand more about how they are engaging communities around water issues in their work and asked if they could expand on the concept of surrogate data. **Mr. Youngerman** asked if, under the Healthy Communities Grant, communities could match 5% in something other than cash, like labor in kind or materials on hand. **Mr. Sheats** asked if there were any Title VI cases filed in Region 1 that were pending in front of federal agencies.

In response to the Council's questions, **Ms. Wells** said that Region 1 has no Title VI cases pending, and one reason for that might be that they are proactive and try to work with people as issues arise. Historically they have only had one Title VI complaint, which was resolved, and added that it helps to have Civil Rights and EJ in the same office. **Ms. Johnson-Pridgeon** said that she did not have data to directly correlate reduced lead levels and lower absenteeism rates, but they have seen a correlation between reducing exposure to asthma triggers and lower absenteeism. Surrogate data that they looked at was related to issues like the age of housing stock and which homes have children under the age of six. They also used the Community Assessment Tool to look at external data to homes, like visible chipping and peeling paint outside. With respect to sharing information about the Region's work, the Urban Environmental Program compiled a five-year report with case studies in target cities and information about their strategies and methods in community-based work, and she would be happy to share it with NEJAC.

Regarding the DEP EJ team, **Ms. Simpson** said that it is made up of DEP staff from all four bureaus, GIS, OGC, administrative staff, and the Appeals Office. There are no outside members, but she regularly invites partners like EPA to attend meetings and shares information with community advocacy groups. **Ms. Solomon** drew on states' definitions and defined resiliency as addressing and finding solutions for heat, adverse weather events, and sea level rise. **Ms. Lombard** said that in the Brownfields program, it is a term and condition of grants that recipients report back all of their

funding that they've leveraged, where it comes from, and what the projects look like. They have had great success in Lawrence with private partners. Also, in Lawrence, they have installed buoys as monitoring devices to track drinking water quality in the Merrimack River after storms, utilizing citizen scientists to report data about water quality. **Ms. Brownell** said that for the Healthy Community Grants, the 5% matching fund requirement does not have to be in cash.

## **2.4 Community Voices Panel**

**Chair Moore** said that **Ms. Orduno** would take his place in facilitating this next panel, and **Dr. McClain** would facilitate the last panel of the day. **Mr. Tejada** welcomed the panel members and invited them to introduce themselves.

### **2.4.1 Laura Brion – Executive Director – Childhood Lead Action Project (CLAP)**

**Ms. Brion** presented information on behalf of the Childhood Lead Action Project, a community group focused on eliminating childhood lead poisoning in Rhode Island. The issue of lead poisoning has existed for a long time, and while great strides have been made to solve the problem, there is still more work to be done. Like many New England states Rhode Island has old housing stock, along with old industrial sites and a vulnerable coastline. Cities like Providence have a great deal of cultural/linguistic/racial diversity as well as poverty and childhood poverty which needs to be taken into account in the larger context of lead poisoning. CLAP was founded in response to Rhode Island's massive lead poisoning problem and the lack of a strong unified voice for affected community members. They succeeded in waging a legislative campaign for a state-established lead poisoning prevention program in the health department and kept working to ensure that the program was implemented and to address further gaps and needs. Community outreach and education is essential, and CLAP hosts information sessions for community members as well as more technical trainings for landlords and contractors. These educational workshops would not be as successful as they are without policies in place to make them mandatory.

CLAP's goal has always been to bring together coalitions to analyze environmental justice problems in a local context, to set goals and to work towards them together. Some policies that they have found effective and useful for others to know about include: advocating for universal screening and immediate help for children found to be lead poisoned; increased resources and interventions for families whose children have found to be lead poisoned; increased legal remedies for tenants and families facing unsafe housing conditions; and proper implementation of policies to make sure that refugees are resettled in homes that are certified lead-safe. In addition to housing, CLAP has taken on the issue of lead in water, which is an area where they would like NEJAC to make recommendations to the EPA. Additionally, they successfully convinced their local water authority to put a moratorium on partial lead service line replacements for several years.

Funds are essential to solve this problem in a way that makes EJ communities' environments safer and to initiate both short- and long-term solutions. Long term they are looking for full removal of lead pipes, but in the short term more work needs to be done to make sure that people are safe right now. Safety plans cannot be voluntary; they need to be clear, enforceable, enforced, and funded. To this last point, investments in water through loans are not good enough. Grants need to

be put into communities so that they can receive badly-needed resources without having to pay the money back. She echoed earlier points about the need for enforcement of RRP and lead safe work practices, not just for childhood lead poisoning prevention but also for worker safety, as well as the issues of gentrification and landlord disclosure of lead hazards to tenants. Overall, the lack of credibility that the government has with citizens, especially in communities that are vulnerable to retribution and retaliation, needs to be addressed.

#### **2.4.2 Maria Belen Power – Associate Executive Director – Chelsea GreenRoots**

**Ms. Belen Power** shared her group’s work around the city of Chelsea, Massachusetts, a densely populated area with 73% of residents identifying as a racial and ethnic minority and 24% of residents living below the poverty level. Neighboring East Boston has a similar demographic makeup, and both are areas of focus for Chelsea GreenRoots, a resident-led community organization that works to engage and empower the most vulnerable populations. Despite providing some of the largest benefits for the region, these communities carry the burden of pollution from these same industrial activities, and despite its progressive reputation, Massachusetts has some of the most profound race and class disparities when it comes to public health. In 2016 Chelsea’s diesel exhaust levels exceeded the EPA’s threshold by 20% and their expected cancer cases resulting from air pollution were 500 times higher than the rest of the state. GreenRoots and the New England Produce Center applied for \$3 million of EPA funds to retrofit or replace 132 dirty diesel engines, and as a result, they eliminated 2,000 tons of air pollutants annually, improved public health, and reduced healthcare costs. They also worked with the Chelsea community to stop a Cape Wind dirty diesel power plant from being built on the Chelsea Creek and worked to allow residents to have access to the waterfront.

On a broad level, the community is concerned about the rhetoric from the current administration around environmental justice. Specifically, they are concerned with the National Pollutant Discharge Elimination System (NPDES) permits, which are given to the individual oil company terminals on the Chelsea Creek separately where they should be looking at the cumulative impact of all of the pollution in a holistic approach. NPDES permits are also self-reported, and GreenRoots believes that the EPA should conduct more unannounced site visits to the terminals. The Enforcement and Compliance History Online (ECHO) System is a database with a lot of potential, but in its current form it is very hard to understand; making the site more accessible and understandable for the community would be incredibly helpful. GreenRoots has worked with funds coming out of EPA grants, and they ask that those grants be continued and receive extra funding. Lastly, Chelsea GreenRoots requested a federal interagency working group to address cumulative impact on the community from different projects and agencies.

#### **2.4.3 Dwaigh Tyndal – Executive Director – Alternatives for Community and Environment (ACE)**

ACE is an environmental justice organization focused on transportation and urban agriculture, and **Mr. Tyndal** came to the meeting to represent a majority black neighborhood that may not stay a majority black neighborhood for much longer. Displacement and gentrification are affecting Roxbury, Mattapan, and Dorchester in ways similar to Harlem, San Francisco, Oakland, and many

other cities. Poor, black, working class people are being pushed out of their neighborhoods in what is almost the second great migration from the cities to the suburbs and exurbs. This is the tenth anniversary of the 2008 Great Recession, where one third of the black middle-class wealth was lost, and now international finance is pushing unsustainable development within cities and forcing local bureaucracies and systems to bypass the usual impact studies. Those who are left in these communities face higher population density, heat sinks, and poorer air quality. EPA needs to communicate with HUD to address the impact of housing development on the health and wellbeing of this group of people who have historically been displaced. These communities' time is limited as their poorest residents are pushed further away from services, and the EPA and local communities need to act now to prevent the rapidly approaching future of a deeply segregated society.

#### **2.4.4 Evelyn Reyes – John D. O'Bryant High School – Youth on Board**

**Ms. Reyes** represents the Boston Student Advisory Council (BSAC), a body of students from Boston Public Schools (BPS). BPS partners with Youth on Board to come together and tackle issues that affect the youth, including climate. BSAC has four main priorities in their climate work:

- *Fighting for community choice energy (CCE).* Students testify at hearings, launch a social media campaigns, write editorials, collect signatures in their respective neighborhoods, and make strategy charts to turn ideas into action.
- *Monitoring climate and climate change-related legislation.* The Solar Access Bill and the Environmental Justice Act are two examples of legislation that would create more equitable access to renewable energy. BSAC sends young people to speak with representatives, writes letters, and collaborates with other groups like the Green Justice Coalition to advocate for these acts.
- *Getting clean components into schools and making schools green.* BSAC collaborated with local science teachers and developed a climate curriculum, arranged in three different levels for grades K-12, that meets all BPS teaching standards and focuses on the science of climate change. They also participate in Build BPS, a master plan to rebuild or build schools and educational facilities, and compiled recommendations including onsite clean energy like solar panels, motion sensor switches and LED lighting, dual flush toilets, and ENERGY STAR and LEED certification. They suggest initiatives like power down Fridays and energy audits, and advocate for education for young people around climate change.
- *Participating in climate actions.* BSAC has sent students to events like Walk the Talk on Climate, the March for Science, and the upcoming RISE Climate Day of Action, getting youth on the streets and boots on the ground.

**Ms. Orduno** thanked the panelists and asked them to submit recommendations and other comments in writing as well, and she invited Council members to ask questions. **Dr. Osborne Jelks** encouraged the NEJAC to dig a little deeper on the lead poisoning recommendations to figure out how EPA can be more helpful to communities across the country that are dealing with these issues. Lifting up the fact that lead poisoning is preventable could provide leverage to make things happen. She also said that issues of gentrification, displacement, and healthy housing and their combined effects should be made a priority on NEJAC's agenda. **Mr. Chase** commended the youth group for



their amazing work and energy and wanted to make sure that NEJAC could help reinforce that. **Mr. Sheats** asked Mr. Tyndal to comment on the most important EJ issue that ACE is addressing. **Mr. Tyndal** said that air quality is one of the most important EJ issues, and he emphasized the connection between air quality and development. It impacts residents' health and the quality of their lives and means that their zip code still dictates their life expectancy, and they do not want to pass that on to the next generation. **Dr. McClain** commended Ms. Reyes for the work that she and other young people are doing, and she asked Mr. Tyndal to explain the notion of how international and outside money drives the development and gentrification. She said that she got the impression from the morning's presentation that there were a lot of progressive things going on in Boston and asked where the disconnects are and what ACE and its partners are doing to more deeply organize residents to respond to gentrification. **Mr. Tyndal** said that the international finance circumvents the Community Reinvestment Act and removes local control of the finances, and the result is a kind of hyper-gentrification that the community needs new tools to counteract. The community is not anti-development; they are just anti-unsustainable development. On the local level, they need to organize and do the grunt work necessary to maximize their power.

**Mr. Shabazz** asked Mr. Tyndal if ACE is acquiring and repurposing land to use as a means of place-making, and what kind of support they would need to continue that effort. **Mr. Tyndal** said that they are in a transition process of putting the land that they've acquired into a community land trust, and what they need is support from neighbors and local partners, which has increased. **Mr. Shabazz** asked if ACE is tracking all of the non-agricultural benefits of the open space, and **Mr. Tyndal** said they are still in the process of developing those metrics. **Dr. Sanders** said that since she is from the west coast it is helpful to compare how things are developing here in Region 1 and encouraged Ms. Reyes to own her power as a young person and own her space, because she belongs at the table. She said that during their discussion session she wanted NEJAC to consider the effects of Brownfields remediation and revitalization on gentrification and displacement and how to raise that issue to the EPA. She asked Ms. Belen Power and Mr. Tyndal if their organizations worked together, and upon receiving an affirmative answer she said that she asked the question because from their presentations, she heard about the Latino community and the black community as existing separately from each other. It would be good to know if the discussion is about specific communities of color or all communities of color. **Mr. Tyndal** said that he talked specifically about black people on purpose because they are often left out of these conversations; if they don't consciously represent their power in the voice of city politics, everything else will be more of a struggle. **Ms. Belen Power** said that there is a lot of coalition work in the greater Boston area on issues of displacement, environmental justice, and public health and ACE and GreenRoots have been partners for almost two decades. **Ms. Orduno** said that it is important to look at overlapping work from the communities as well as individual struggles.

**Ms. Johnson** commended the panel on addressing lead issues and said that one component she did not hear in those presentations was nutrition, which is connected to lead poisoning. She asked if there has been any conversation around the connection between commercial lead and violence in communities, when people get shot and bullets that stay in their body spread lead through their systems. **Mr. Tyndal** said that nutrition does play into some conversations about urban agriculture, and that gun violence is a universal problem in their community. They haven't addressed the issue

of lead bullets in the body, but they are trying to address sustainable economic development. **Ms. Johnson** said that from an educational perspective, people need to know that certain diets, like high-protein diets, are more beneficial for lead-poisoned individuals, and it needs to be a holistic conversation. **Ms. Brion** said that in Rhode Island, conversations about nutrition are incorporated into the education that families receive when a child is lead poisoned, and they have had conversations about ways to educate people without sounding like they are victim blaming. She said that Dr. Mona Hanan-Attisha from Flint has spoken about nutrition education as one component of lifelong support for people who have been lead poisoned. Childhood Lead Action Project thinks about the connection between gun violence and lead poisoning in terms of the fact that lead poisoning in children can lead to poor impulse control and a higher likelihood of violent behavior later in life. They try to educate families about these impacts while also supporting the children and making it clear that lead poisoning is not a guarantee of what will happen to them as adults.

**Mr. Shoemaker** commended the panel for reminding NEJAC how much more work remains and asked if the panel had any specific requests or recommendations for EPA and its federal partners on how to address issues of gentrification. **Mr. Tyndal** said that they have tools, and they need to organize and develop the political will. Conversations about development should include discussion around transportation, environmental impacts, air quality, and other factors. **Dr. Wilson** said that he appreciated Ms. Belen Power's visuals around unequal burden and benefits, and said that in the communities that he works in, they have moved beyond the terms environmental racism and classism; they use the phrase "environmental slavery." He pointed to California's SB-1000 bill that recently passed, which said that EJ needs to be integrated into comprehensive master plans, and suggested that NEJAC look at a previous report about Brownfields redevelopment and develop a part two of that report to address the issue of green gentrification and climate gentrification. He asked Mr. Tyndal what ACE is doing to understand the relationship between spatial distribution of legacy hazards and urban agricultural sites and whether they've integrated remediation approaches, and he asked Ms. Belen Power if there is an EPA federal monitor in their community near the airport and the tanks; if not, the state agency has dropped the ball on capturing site-specific cumulative impacts. **Ms. Belen Power** said that they do not have monitors, and **Mr. Tyndal** said that they do the remediation, but the cost of that stops the spread of urban agriculture.

**Mr. Youngerman** asked if the panelists have reached out to other agencies' research branches, in particular as it relates to universal blood screening. **Ms. Brion** said that when people join their organization they have to map out what they know about the government's responsibility to deal with lead, and that many other agencies have served as a source of data. **Ms. Orduno** said that many of things that the panelists had identified are patterns that they're seeing in urban centers, and they should talk about it as something that is very much consistent across cities. There also seems to be a shared experience with regard to lead and its many sources, not just paint. **Ms. Brion** agreed that there has been a mistake of focusing too much on one source of lead, but water is the area that needs the most development in terms of policy response and data. **Mr. Tyndal** agreed that gentrification is a national issue affecting both cities and suburbs. **Daisy Letendre** thanked the NEJAC and the panelists and said that the issue of lead is something that everyone in the administration and the EPA can agree needs to be addressed, and asked Ms. Brion if her group has

worked with any other cities that have done a good job in addressing the crisis. She encouraged people to petition Congress to keep EJ funded and said that they hope that moving the Office of Environmental Justice to the Office of Policy will keep EJ elevated. **Dr. McClain** said that they often have trust in policy, which is very important, but policy without enforcement is insufficient. **Mr. Sheats** congratulated GreenRoots on stopping the power plant near their community and said that sometimes you have to stop and celebrate victory. **Ms. Reyes** urged NEJAC members to remember that they are working for a better future but also a better tomorrow, and to always keep young people in the loop because they have a voice and they are the ones living in tomorrow's world.

## **2.5 Boston Public Health Commission Panel**

**Mr. Tejada** introduced the final panel of the day, facilitated by **Dr. McClain**.

### **2.5.1 Paul Shoemaker – Associate Director – Environmental & Occupation Health Division – Boston Public Health Commission; Leon Bethune – Director – Community Initiatives Bureau – Boston Public Health Commission; Thomas Plant – Director of Special Projects – Boston Public Health Commission**

**Mr. Shoemaker** introduced the panel's presentation about the history of lead in Boston, their work with community partners to address lead poisoning in children, and policy work that still remains to be done. In the Environmental & Occupation Health Division of the Boston Public Health Commission (BPHC), their mission is to respond to environmental hazards and emerging issues with an approach that is place-based and incorporates social determinants of health. They support innovative public policy, respond to immediate hazards through enforcement inspections, work with small business on pollution prevention through the Safe Shops program, and run a permitting program to regulate industries. Their childhood lead poisoning prevention program (BCLPP) addresses factors that contribute to lead poisoning through environmental intervention, inspections and enforcement, medical case management, nutrition counseling, training for lead safe work practices, and outreach to communities. They provide resources to families with lead poisoned children, like environmental inspection, lead case management, health outreach workers, and mandated abatement of the property.

**Mr. Bethune** presented some statistics around childhood lead poisoning; Boston is now down to 349 children with elevated blood lead levels greater than 5 micrograms per deciliter, which is an improvement but is still the highest in the state. Through mapping and overlays they found that these are often the same children living in neighborhoods with high rates of asthma, violent crime, and foreclosures. White flight and redlining left residential areas, primarily populated by people of color, lacking access to financial resources to maintain the old housing stock, and a study done with the Fair Housing Commission as recently as 2013-2014 uncovered high rates of housing discrimination related to lead paint. Since 2001 there has been a steep decline in the number of lead poisoned children, and the CDC's blood lead poison levels have been lowered to 10 micrograms per deciliter from 25, although the BPHC is working with legislation to bring the level down further. BCLPP also has strong relationships with health departments and community health clinics, which contributes to Boston's 79% screening rate for lead in children.

**Mr. Plant** talked about the Lead Action Collaborative, formed in 1994 by a Boston public task force to implement a lead action plan. It has now morphed into the Boston Healthy Homes and Schools Collaborative (BHHSC) and continues to launch campaigns to keep moving the strategic blueprint to end lead poisoning in Boston. They hired a community-based, minority-owned business to do public relations and created initiatives like Lead Can Dull a Bright Future. In order to address lead paint on the exteriors of houses that contaminated soil, they partnered with local organizations and began the Lead-Safe Yard Project, using an XRF instrument to analyze soil and cut down on costs. They came up with house plans to help property owners to maintain their yards and avoid high risk areas of their yards to avoid spreading chemicals into their houses. The Humphrey's Project focused on de-leading houses, and a phytoremediation project involved using the root systems of plants to reduce soil contamination. This last effort resulted in substantial reduction of lead in the soil and was a low-cost alternative to excavating and removing soil, trucking it out, and replacing it with topsoil.

BHHSC participated in an unsuccessful legislative effort to establish a Superfund-like system for property owners who need to de-lead their properties, which would place 5% tax on all paint sales in Massachusetts. They also discovered that some buildings were using a highly hazardous lead material in their renovations and are still remediating these buildings to cover the material with protective LBC coating. When it became clear that newly arrived immigrants were being made to strip down lead painted buildings with little to no protective gear, BHHSC had them blood tested and got them into treatment. With the EPA's RRP regulations, BHHSC had a reason to train and educate contractors, and they continue to respond to complaints as necessary. As part of the mayor's food initiatives, BHHSC also contributed their knowledge from past experiences with soil safety to help craft guidance for urban agriculture. In 2014 they held a second lead summit to set new five-year goals, and as of 2017 they have a new bill in the legislature to try to reduce the limit for lead poisoning, increase the tax credit for property owners who de-lead their houses, and reduce housing discrimination.

**Mr. Bethune** spoke about efforts to address lead in water. The BCLPP has been testing water levels in homes with lead-poisoned children for about a decade, and now the MWRA is paying for the testing. Two years ago, a national drinking water advisory council recommended that EPA come up with a plan to remove lead service lines and set a drinking water level for human consumption, and these efforts are still underway. They're currently working with MWRA and Boston Water and Sewer to replace lead service lines, and the mayor recently doubled the amount of funding that property owners can receive to help replace their lead service lines. In terms of what more needs to be done, the number of inspections needs to be increased for children with blood lead levels between 5 and 9 micrograms per deciliter, more work needs to be done with lead in housing discrimination, and real estate deed transfers need to include a disclosure if there is lead in the property.

**Dr. McClain** thanked the panel and invited questions from panel members. **Ms. McGee-Collier** asked if there is a correlation between children exposed to lead and absenteeism, and **Mr. Plant** said that they have not seen that, although they do work with parents to get treatment for children, and they may miss school for that. **Mr. Shoemaker** added that there is a process gap because they

are primarily talking about kids up until the age of six, and there is not really a widespread mechanism for tracking those children afterwards. **Mr. Chase** asked how effective they feel their outreach efforts are for immigrant groups and what they're doing to follow up with contractors who are hiring immigrants to work for them in dangerous jobs. **Mr. Plant** said that they felt compelled to work with advocacy agencies to educate them further, and they feel positive that their work and the state's work has helped, though it still needs to be monitored. **Mr. Bethune** added that their staff members are fluent in all the languages spoken in Boston so that they can communicate.

**Chair Moore** said that NEJAC has received testimony from groups that purchased children's materials from dollar stores and found that over 80% had high levels of chemicals and lead, and the interagency working group helped them to set up a meeting in D.C. with agencies that were examining those chemicals. This goes to the cumulative impact point because people are being affected by chemicals coming in at several different levels, and Chair Moore asked if the Region will make a commitment to work with grassroots representatives and if there was any information they could share with NEJAC about this topic. **Mr. Shoemaker** said that this is an issue that needs to be looked at on the national level, and **Mr. Plant** said that they spent a lot of time looking at recalled toys, pulling them from the shelves and testing them to try to stop emerging issues, and they are committed to working with anyone necessary to solve the problem. **Ms. Dunn** said that the federal government is developing an interagency lead strategy that will involve all federal agencies with roles in lead. She was not sure that it initially incorporated the consumer safety component, so she thanked the NEJAC for that suggestion and said that she would be glad to meet with grassroots organizations to discuss that topic. **Mr. Shabazz** asked Mr. Plant how they were communicating risk about the soil contamination to the public, and **Mr. Plant** said that families in that program got manuals from the program and a plan for them to maintain their yards. **Mr. Shabazz** asked how the number of lead service line replacements relates to the total population of lead service lines that need to be replaced, and **Mr. Bethune** said that he did not have the answer, but he could get it from Boston Water and Sewer. They are actively trying to get all of the lines replaced, and part of their education for families includes passive methods that can be used by communities living alongside this problem.

**Mr. Tilchin** asked if they had an estimate of the relative contribution to the body burden from paint, drinking water, and soil, and what the estimated cost is of the comprehensive solution of replacing lead service lines. **Mr. Plant** said that the Health Commission and Department of Public Health still believed that the overall burden is lead paint, with water contributing, and the cost will probably be hundreds of millions of dollars. MWRA has made \$100 million available to cities and towns that want to replace lead service lines. **Ms. Orduno** wondered how Boston does not have more private lines for homes and said that Michigan has placed new LCR rules so that when line replacements are happening in the public lines, they will also happen privately, and the cost is assumed by the water system. She asked if there is a program for low income families who cannot afford the cost of private line replacement, and if there was a potential for contamination in the groundwater and runoff as a result of stirring up lead particulates during soil remediation. **Mr. Plant** said that the Water and Sewer Commission has strict regulations that anyone dumping effluents into their system is fined \$10,000, and for RRP they suggest materials to use as

alternatives to water in order to get rid of the lead dust. **Mr. Bethune** said that for those who cannot afford the line replacement there is a payment plan, and Boston Water and Sewer has sentinel sites in Boston to monitor the water. **Mr. Shoemaker** added that on Boston's water and sewage bills there is fine print that tells people about the \$3,000 that is available to help replace their lead service lines. **Mr. Youngerman** asked if the spent plants involved in phytoremediation qualify as hazardous waste, and **Mr. Plant** said that the plants are hazardous, and when they die after absorbing lead they are analyzed and then burned. **Ms. Trevino-Sauceda** asked if the panel had demographic information about the lead poisoned children and if they could share that with NEJAC, and if the families had a summary of the results of the investigation. **Mr. Plant** said that about 48-49% of the children are African American, another 25% are Hispanic or Latino/Latina and a smaller percentage are Caucasian, Pacific Islander, and Asian, and that they do outreach with Boston's community health centers that are embedded in neighborhoods.

**Dr. McClain** commended the panel for rooting their work in their mission to protect, preserve, and promote the health and wellbeing of citizens. **Mr. Tejada** said that this was the last NEJAC meeting for Dr. Fatemeh, Mr. Shoemaker, Dr. Sanders, and Mr. Sheats. He thanked them for all of their years of service with NEJAC and asked them to come to the front of the room to receive their commemorative plaques and take photos.

## 2.6 Adjournment

The meeting ended for the day.

## 3.0 Welcome, Day Two Recap and Opening Remarks

On Thursday, August 16, 2018, **Matthew Tejada** briefly outlined the agenda for the day, including the Water Infrastructure Finance Report which the NEJAC has been working on for the past year with the help of Aaron Bell, Joe Tiago, Jill Witkowski Heaps, Sylvia Orduno, and Paul Shoemaker. Mr. Tejada noted the presence of NEJAC members on the telephone and turned the meeting over to NEJAC Chair Richard Moore. **Chair Moore** said that they had a very tight agenda and asked members to take some time through the day to review the recommendations from the public testimony, which were compiled by staff. He said that they needed to finish by 12:30 p.m. because they would start to lose quorum.

**Mr. Lee** briefly summarized the previous day's panels and said that what they heard about Boston's lead work was historic; Boston is the first major city in the United States to virtually eliminate lead poisoning, which is a big deal for environmental justice and public health. **Chair Moore** invited Council members to reflect on the previous day, and **Ms. LaPier** noted that over half of the public commenters talked about maintaining scientific integrity, and the presentations from the City of Boston highlighted how they have used scholarship and science to inform their public policy and work with communities. **Ms. Orduno** said that a lot of the grassroots, frontline communities are bringing forward what is happening. Region 1 is providing a good example of how to work with communities, and that can be a challenge for the rest of the regions. **Dr. Sanders** said that she was struck by the conversation with the Region 1 panel about Lawrence, Massachusetts and their remediation efforts. The panel was very open to her suggestion about looking at market effects and

developing a tool to anticipate the effect of EPA's cleanup activity on gentrification, and factoring that into community plans. She hopes that they will be a model for other regions in this aspect. **Dr. Shafiei** said that she was impressed by Evelyn Reyes, the young activist from the community voices panel, and they may want to consider having a young person on the NEJAC to create intergenerational equity. **Chair Moore** said that he was impressed by Region 1 and said that now they have a regional administrator who has some energy behind environmental justice, which is not necessarily the situation in all of the other regions. He repeated his earlier comment that the Region 1 panel could have been mixed up a bit with more grassroots organizations. He thanked Mr. Shoemaker for encouraging NEJAC to come to Boston, and for showing them what work can be done in areas like lead and water infrastructure. He turned the meeting over to Ms. Orduno and Mr. Shoemaker to present the water infrastructure report.

### **3.1 Water Infrastructure Finance and Capacity Workgroup Final Report Discussion & Deliberation**

**Ms. Orduno** said that this report was very timely, especially for her community in Michigan. At the conclusion of the report they were hoping to get a positive response from the Council to accept it and go forward, with the acknowledgement that there may be some small adjustments to make later. **Mr. Shoemaker** began by outlining the sections of the report and gave some context for the problem of declining investment in an aging water infrastructure. The low estimate of what it will take to fix it is \$478 billion over the next 20 years, which is a staggering amount of work. EPA needs to encourage insuring affordable, reliable, and sustainable access to safe drinking water, which has been a problem for a very long time. Water systems come in a variety of shapes and sizes, and early acknowledgement that there is no one size fits all solution was a driving force behind the work group's recommendations. These systems are in varying degrees of condition, but almost all are very old and have experienced years of deferred maintenance, which is an issue of public health, environmental justice, and quality of life.

EPA presented NEJAC with charge questions to begin looking at this issue, and the working group put them into four categories:

1. Priority needs identification.
2. Tools for community capacity building.
3. Community engagement and education.
4. Water system partnerships.

Mr. Shoemaker noted that they were talking about both drinking water provision and wastewater removal systems, which go hand in hand. Because there are no one size fits all answers, the work group turned to broader responses that covered multiple charge questions. They developed eight goals to structure their report and respond to the questions:

1. Treating water as a human right.
2. Requesting more funding to provide clean water to all Americans.
3. Charging affordable rates so that water is not a financial burden.
4. Identifying and addressing issues in EJ communities.

5. Involving EJ communities in water infrastructure decisions.
6. Building community capacity.
7. Promoting technological innovation.
8. Remaining accountable, especially to EJ stakeholders.

They realized that EPA does not have all of the resources to tackle this, so the work group's major recommendation was that EPA needs to work in coalition with federal, state, local, and community stakeholders to secure funding, including going to Congress to secure appropriations. EPA needs to encourage water utilities to diversify their funding mechanisms so that rate payers do not carry the entire burden, look at meaningful approaches to EJ communities, and develop policies that ensure a crisis like Flint does not happen again. The infrastructure needs to be assessed, particularly in vulnerable communities. On a policy level that involves the EPA establishing threshold levels for lead and copper in drinking water and fulfilling their role as an enforcer of the Clean Water Act and the Safe Drinking Water Act.

#### *Goal 1 Recommendations*

Water is not a luxury; it is essential for life, and EPA needs to change the culture, change the policy, and enforce the regulations. In addition to changing internal EPA culture, state and local policy/culture needs to change. The State of California explicitly recognizes the human right to clean water in its state-level policy, and this needs to spread to other states and municipalities.

#### *Goal 2 Recommendations*

Every American community needs sufficient funding and trained staff to provide safe water and manage sewage. Rural communities in particular are more isolated from these resources, and in many cases "orphan systems" are being maintained by volunteers who are just trying to keep the water on. EPA needs to bring federal, state, and local government, nonprofit groups, and community stakeholders to push Congress to increase appropriations for water infrastructure. Instead of only providing funding through loans that need to be repaid, grants and loan forgiveness should be prioritized, especially for EJ communities. Partnerships should be sought with professional organizations and universities, particularly Historically Black Colleges and Universities, to provide training for utility staff who can then serve the community.

#### *Goal 3 Recommendations*

Right now, the individual residents of a community foot the bill for water, and it needs to be affordable so that people do not lose their health, their children, and their property when they cannot pay their water bills. EPA needs to condemn the practice of utilities shutting off water, especially to vulnerable low-income residents, and encourage water utilities to adopt equitable ratepayer structures. One example is system where the first tier of water supply, called the lifeline supply, is free or available at a drastically reduced rate, and then residents pay on a sliding scale upwards from that. Residential homes should be paying lower rates, rather than large commercial operations, and state and municipalities need to address situations where large companies bottle water for low prices and sell it back to poorer residents who cannot pay their water bills or do not have safe drinking water.



#### *Goal 4 Recommendations*

A community's size and ability to pay should not impact their ability to have a strong drinking water infrastructure, and solutions need to be focused on communities where the need is greatest. EPA should use its data to better identify water issues in EJ communities by including drinking water issues in the EJSCREEN tool. They should encourage communities to use the Health Impact Assessment Framework to make decisions about investments in infrastructure.

#### *Goal 5 Recommendations*

**Ms. Orduno** said that as they got to the second half of the goals, there were more reasons behind the goals and more recommendations related to them. Meaningful engagement is often missing from communities, and personnel tasked with outreach to these communities are often subject to a high rate of turnover and move onto new jobs quickly. EPA needs to facilitate local and regional partnerships and encourage regional offices to make frequent contact, building trust with communities that currently do not believe their needs will be heard or addressed. They also need to dedicate resources to educate communities about how to be good stewards and contribute to infrastructure solutions.

#### *Goal 6 Recommendations*

In order to strengthen infrastructure and operations, capacity for engagement needs to be strengthened as well. Languages of communities need to be incorporated into education and technical assistance efforts so that communities will understand the information. EPA should encourage local municipalities and utility operators to use best practices, like the training programs at the Water Boards Leadership Institute, and communities that are doing well should be encouraged to share lessons learned. More recommendations include: design and implementation of EJ training modules; facilitating EJ community engagement in emergency response planning; quarterly outreach trainings for regions' EJ and capacity development coordinators; a campaign from regional offices of significant, sustained outreach to local governments; and updating/expanding web-based engagement tools to include EJ issues.

#### *Goal 7 Recommendations*

Many drinking water supplies are contaminated by regulated and unregulated pollution from various sources. EPA should establish a Household Action Level for lead and copper in drinking water, develop legally-enforceable limits for PFOA and PFOS exposure, and address threats from agricultural runoff pollution. They should support potable reuse projects that use advanced tertiary treatment, award innovation grants to utilities in EJ communities, target low-income homeowners and rental communities for water-saving devices, and help communities expand wastewater treatment and reuse.

#### *Goal 8 Recommendations*

To increase EPA accountability to EJ communities, the EPA needs to listen and quickly respond to these communities' concerns about contamination. They need to enforce regulatory compliance in

EJ communities, step in sooner when states and local governments fail to protect communities, help educate communities about risks to their water, and conduct performance evaluations of regional administrators on their commitment to EJ issues.

Appendix A has a more thorough explanation of the Water Boards Leadership Institute for Rural Communities, which is a good model for NEJAC to share. Appendix B has several case studies of longstanding issues, including Flint, Michigan; Sandbranch, Texas; Lowndes County, Alabama; Baltimore, Maryland; and Detroit, Michigan, along with successful cases like San Diego, California; Rogers-Eubanks Neighborhood in North Carolina; and the Georgia Rural Community Assistance Project.

Ms. Orduno thanked everyone on NEJAC and staff members for their help and support, and asked NEJAC members to contribute any feedback and comments. She added that they would like to add Puerto Rico as a case study to the report and gave special thanks to Ms. Witkowski Heaps for pushing the subcommittees on this effort.

**Chair Moore** opened up the floor for comments and asked Mr. Tejada to give a brief explanation of process. **Mr. Tejada** explained that the document in front of the Council was the final document being passed up for the NEJAC's consideration. He suggested that NEJAC follow their past process of having members state their recommendations for changes or alterations for the Council to discuss. From there they would establish general agreement to any changes which would then be made after the fact, but the overall goal was for the Council to finalize the substance of the document and vote on it during this meeting.

**Mr. Tilchin** said that he was comfortable endorsing the report, with some corrections to statistics and the clarification that the amount of funding for the WIFIA program was correctly stated as \$20 million, but the WIFIA program loaned \$2.3 billion. He said that for Goal 6, it might be worth looking at data from the US Water Alliance's Value of Water Campaign about retirements in the water sector and including related training and job opportunities in their recommendations. **Dr. Shafiei** congratulated the work group on their report and suggested adding permitting to recommendations under Goal 7. She cited public testimony about the above ground storage tanks in West Virginia and not allowing toxic chemicals that have potential for accidental release to be permitted near water intakes.

**Dr. McClain** drew the Council's attention to page 4 of the report where it read: "without more money, very few of our recommendations will be feasible." She said that that sentence troubled her because it seemed to create a loophole where EPA can claim a lack of funds to avoid addressing the recommendations. Somehow, they should craft a statement with recommendations for current resource conditions as well. **Mr. Shabazz** said that in Philadelphia they have fought to get the water department to come up with an income-based payment system, and they could make reference to similar examples of how to avoid water shutoffs. **Dr. Sanders** said that she would like to see a section about what's next with things that still need to be addressed, what kinds of resources will be required to keep the solutions in place, regional differences in water need and supplies, legacy systems, and affordability of utilities.

**Mr. Sheats** agreed with Dr. McClain's statement about recommendations with current resources and said that he was struggling with the statement that water is a human right; he wondered whether, if water is a human right, they should be saying that therefore, you cannot cut people off from water no matter how much money they owe. He asked the work group what they think is the next most important thing, given the resources that they have. **Ms. Orduno** agreed with the concerns about the funding statement and said that the recommended funding priorities are not necessarily in any sort of priority order, and if there was a way that NEJAC could look at those and put them in order of priority, it would be very useful. The discussion about the human right to water is always in the context of making it affordable; it has never been about free water. Whatever the community context of affordable water is, that is how it needs to be driven, and they need to find a way to make sure that water is never shut off. **Dr. Sanders** said that in this paper they did not get into the complex structures of water rights in different parts of the country; talking about restructuring and redistributing water rights, if that is even possible, is a huge legal lift. **Mr. Shoemaker** said that the bolded section on page 4 needs wordsmithing, because the intent was not to build a loophole, but to acknowledge that EPA cannot do all of the lifting on its own. He said that as a working group they struggled with the question of how to untangle the fact that this is a common good issue that is being paid for like a private good.

**Ms. McGee-Collier** brought up the issue of consent decrees that the EPA has issued to municipalities found to be in violation of the Clean Water Act. Many of these municipalities are already struggling to do what the federal and state governments have told them to do, and NEJAC needs to be more comprehensive in their report to involve municipalities and give them a deeper understanding of the issues. **Ms. LaPier** said that the United Nations passed a resolution in 2010 that made both water and sanitation a human right, and it might be helpful to reference that in the report. **Mr. Shoemaker** and **Ms. Orduno** said that it was already in the report, and **Ms. LaPier** suggested that they highlight it. **Chair Moore** said that they needed to have some mention of the sovereignty of native nations in the report, to make it clear that the report is not going deep into water issues with native nations because they do not want to impact any questions of sovereignty. **Ms. LaPier** said that it is good to mention whenever possible that NEJAC will not infringe upon the rights of tribes to practice their own sovereignty. **Ms. Rezendes** reminded members that there is a larger public trust for water; the Hawaii Supreme Court has stated that water is a right, but it is held in the public trust, and this refers to many uses besides just drinking water. There is a larger picture here, and the NEJAC is just looking at one small piece of the impact and targeting this report to one specific piece of the entire water problem. She agreed that the report should go forward as it was overall. Somewhere along the line, EPA is going to have to figure out how to deal with water and wastewater in total, not just based on a few incidents. **Mr. Shoemaker** said that the intent of the work group was to look not just at drinking water but at the fact that for many municipalities, water and sewage are contained in a single bill, and if someone cannot pay the combined bill, their water could get shut off. The work group is looking at ways to pay for solutions without placing the financial burden on the residential ratepayer.

**Mr. Chase** said that when they start using language of access to water as a basic human right, the issue of whether there is even water available for anyone to have access to is folded into the discussion. **Dr. Osborne Jelks** talked about Goal 4 and the use of Health Impact Assessments (HIAs)

on page 24 of the report to help inform priorities for funding; she pointed out that in order to get the optimal benefit from HIAs, they should be conducted before a policy or practice is implemented. **Ms. Drew** said that she felt responsible for rural America and recommended that where the report currently says “municipalities” they put the word “communities,” because there are states that have very few municipalities. **Chair Moore** identified some key points from the discussion so far, including the fact there is a major water crisis in America and the question of water quality over water quantity, which intersects with questions about rural versus urban areas. He restated the importance of including language about sovereignty and native nations, pueblos, and reservations. The question of water rights has reference to the Treaty of Guadalupe Hidalgo, and he agreed with earlier comments that had referenced that treaty; in the southwest and other areas people can sell their water rights, and corporations and governments have stolen water rights from people. He reminded the Council that this report was going to the Administrator, and that they needed to be very strong in their recommendations, especially given the fact that some of the relevant acts around safe water are under some serious challenges. The NEJAC needs to keep a watchful eye on their recommendations to make sure that the EPA responds to them.

**Dr. Osborne Jelks** said that they should encourage the use of HIAs not just as methods of data generation, but also to help guide actual decisions that are being made. Related to community and local partnerships, it is important to understand and accept community context and community data, especially when the communities have been properly trained to monitor problems. She also brought up the issue of septic tanks as something to add to the follow-up section mentioned earlier, and **Chair Moore** said that when his neighborhood was on septic tanks, the state and local governments were aware that residents were drinking water contaminated with nitroglycerin for over 25 years. **Dr. McClain** said that there was a recurring theme in the public comments about communities wanting processes to be transparent, and she wondered if on page 4 they could add the words “and transparent” to the goal that currently says, “be accountable.”

**Mr. Shoemaker** suggested that they remove the problematic bolded section on page 4 and use the resulting space to specify that the report only deals with a small sliver of a larger and more complex water problem. Most of the other suggestions would be fairly easy to make from a text standpoint, so he proposed moving the report forward for acceptance from the group. **Ms. Orduno** agreed and said that it was important to acknowledge the aspects that were not in the report. Also, NEJAC needs to acknowledge the financial impact that many communities are experiencing from unresolved debt, the tax bases that are eroding, and bonds that communities issue that then become part of the stranglehold. **Chair Moore** agreed and cited his earlier example of contamination in his neighborhood; it was the residents and not the party responsible for the contamination that ended up suffering financially.

**Mr. Tejada** said that the work group leads had a list of suggestions from NEJAC members, and the Council could vote to approve the report pending revisions and modifications or defer voting until after the revisions were made. He said that he had not heard anything of substance that would prevent them from voting before the revisions were made. **Ms. Orduno** said that they might not want to extend the timeframe too far because this was already publicly announced, and it might help them to know what the next steps are. **Mr. Tejada** said that if they voted to finalize the

document pending revisions, NEJAC staff would work with the work group chairs to make those revisions, and then they would submit that document to the Administrator, probably within four to eight weeks. **Mr. Shoemaker** agreed with Ms. Orduno and hoped they could agree on the document today and said that he had faith in the work group and staff to make the changes. If they kept going back to the document, they would never finish it. **Chair Moore** and **Mr. Wright** agreed, and Mr. Wright made a motion to accept the document with the recommendations that had been made. **Dr. Sanders** seconded the motion. **Chair Moore** said that he is calling the motion a recommendation, and he does not want to get into the whole discussion of consensus. **Ms. Johnson** said that they should look at other agencies that provide assistance to low income communities and incorporate water into those systems; **Chair Moore** said that he agreed with Mr. Wright's recommendation to accept the document, and asked members to raise their hands if they agreed. **Mr. Tejada** said that everyone in the room raised their hands in support, and the four NEJAC members on the telephone all gave their support to the recommendation.

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

**Chair Moore** asked if there was any business that NEJAC needed to take care of before they addressed the recommendations. He asked Karen Martin from the EPA Office of Environmental Justice if there was a report back, and **Ms. Martin** said that every two years they elect a steering committee and it was time for people currently on that committee to roll off. She asked anyone interested in serving on the steering committee to send an email by the end of the following week, and then voting would take place via email. They usually try to have one person from each stakeholder group, and the committee serves as a body to the EPA to consult about planning meetings and moving issues up to the Administrator's office. **Mr. Tejada** said that candidates are self-nominated. He drew the Council's attention to a one-page memo about the NEJAC's status on their upcoming charge with Superfund and reuse and revitalization. They needed to recruit members who were interested in finalizing the charge and serving on a working group to draft recommendations and a report. **Mr. Chase** asked if there was a set deadline, and **Mr. Tejada** said that they were looking to complete it within a year, but once the work group is convened they could discuss the possibility of handling it in phases. **Mr. Youngerman** asked if they wanted to expedite the process by having people verbally volunteer during the current meeting. **Mr. Tejada** said that with the volunteers that he had gotten both before and during this meeting, he had Ms. Orduno, Ms. Johnson, Mr. Tilchin, Mr. Wright, Mr. Youngerman, Mr. Chase, and Mr. Edwards signed up. **Ms. Rezendes** asked if this work group would include all Superfund sites, and **Mr. Tejada** said that they were not looking at federal sites. **Ms. Orduno** asked if NEJAC could recommend looking at federal sites like military bases, and **Mr. Tejada** said that it could be part of the conversation. **Ms. Trevino-Sauceda** said that if this was going to include military bases she was interested in taking part because of the detention centers that were planned to be built on Superfund sites. **Chair Moore** said that they would have to get some clarification around risk communication.

**Chair Moore** gave some examples of the recommendations that were compiled, including representation of youth on the NEJAC council and holding an upcoming meeting in Puerto Rico, which he expressed his support for. They could not go through every recommendation in 30 minutes, so he asked the members to identify those that needed immediate attention. He identified

worker protection standards as one time-sensitive issue, and **Ms. Trevino-Sauceda** said that the regulations approved by the previous administration started in January 2017 but were stopped by April, and there is still poisoning happening on a daily basis in farmworker communities. **Mr. Shoemaker** listed some themes related to policy issues that they may be able to push for: a more concrete definition of an EJ community; barriers to meaningful public involvement; policy issues like worker protection standards; policy and rulemaking around above ground storage tanks; and gentrification and revitalization at Brownfields and Superfund sites and the work that is going on around climate.

**Mr. Tejada** said that among the ways that NEJAC can push the agency, they have charges, letter writing, agenda setting, and briefing requests. He suggested that the NEJAC look at the topics that have been brought up during the meeting and identify the small number that they would like to write a dedicated letter about and think about writing a separate letter encapsulating the rest of the issues from their Boston meeting and asking for responses to those at the next D.C. meeting. That way NEJAC can go into the D.C. meeting with a set agenda of the topics that they would like addressed by the various EPA offices. Ideally, this would prompt a conversation within the agency beforehand about the status of the issues, knowing that they will need to be addressed in the public meeting. **Dr. McClain** agreed and highlighted comments on NEPA and the RMP and said that they need to do something about those two issues, and **Mr. Chase** added his agreement. **Chair Moore** said that from his list the worker protection standards, NEPA, the RMP, and the above ground storage tanks were urgent situations. He supported Mr. Tejada's idea about the letter encapsulating the rest of the issues and said that he would like to see the NEJAC get a letter out about the four urgent issues immediately.

**Ms. Trevino-Sauceda** asked when the next meeting was, and **Mr. Tejada** said they already had enough work to require a public teleconference in the beginning of October. He added that it would be good if letters could be drafted by small working teams by then. **Chair Moore** clarified that he was not trying to meet the deadline of the public comment period for NEPA and RMP, but rather the deadline of the conference call in October. He asked the Council for a vote of approval for the drafting of a letter to the Administrator around the four topic areas that were brought up. **Ms. Drew** said that most of those were rollbacks, and **Chair Moore** agreed. **Mr. Sheats** said that for NEPA, there will be another official comment period in the fall, but the problem is that the scope of that comment session may be narrower. **Mr. Tejada** reminded NEJAC that they can advise the agency whenever they want, and they do not have to be constrained by actual deadlines. **Mr. Youngerman** said that another common theme was cumulative health assessment investigations, and **Chair Moore** said that that was another thing to be discussed during the October conference call. **Ms. LaPier** added the issue of the use of science and scientific integrity and said that it was the last day to make comments on the Strengthening Transparency in Regulatory Science rule for the EPA.

**Dr. Wilson** said that cumulative impacts and cumulative risk, risk communication, and health impact assessments should all fall under some type of work group, as should gentrification, redevelopment, revitalization, and resiliency. He did not think that NEJAC should try to redefine environmental justice, but guidance from the EPA is needed for the states about what indicators to use when it comes to policy and decision-making. **Dr. Sanders** expressed her support for Dr.

Wilson's ideas about work groups. **Ms. Orduno** said that related to risk communication, vulnerable communities often do not receive much communication, and she would not want them to say that communication is not wanted. They can highlight challenges and criticisms, but they should encourage whatever communication they can get, especially with water infrastructure. **Dr. Wilson** said that the meaning of authentic, meaningful engagement and its connections to programs could be something to bring up at the meeting in D.C.

**Chair Moore** said that they would take the last few minutes to see if they could get some volunteers for their letters. **Mr. Tejada** listed the letter topics: NEPA; RMP; worker protection standards (which Ms. Trevino-Sauceda is organizing); storage tanks; and the letter encapsulating the Boston meeting and setting the D.C. meeting agenda (which will be undertaken by the executive committee). **Chair Moore** said that there should also be a request from the NEJAC to meet with the Acting Administrator. The Council unanimously agreed to move the letters forward. **Ms. LaPier** and **Dr. McClain** volunteered to work on the NEPA letter, **Mr. Wright** and **Chair Moore** volunteered to work on the RMP letter, and **Mr. Sheats** volunteered to act as a resource on the RMP letter even though he will no longer be on the Council. **Ms. Orduno** and **Mr. Shoemaker** volunteered to work on the above ground storage tanks letter, and **Dr. Wilson** volunteered himself as a resource. **Ms. Trevino-Sauceda** and **Vice Chair Witkowski Heaps** were already committed to working on the worker protection letter, and **Ms. Johnson, Ms. Rezendes, Mr. Shabazz,** and **Mr. Youngerman** volunteered to join that letter as well.

**Ms. Orduno** asked if there was an existing or possible process to have NEJAC alumni participate on the working groups and teams, and **Mr. Tejada** said it was difficult because the federal government could not convene private citizens regularly on a set number of issues without them formally being part of a federal advisory committee. A Tier 3 working group is the only type that would allow them to go out and pull private citizens to contribute to that specific charge. **Chair Moore** thanked the new members for jumping right into the process and thanked all of the Council members for their participation. He thanked the NEJAC, OEJ, and regional staff, the interpreters and other contractors, and the hotel staff and workers. **Mr. Tilchin** thanked Chair Moore for his service as the chairperson.

### **3.3 Adjournment**

**Chair Moore** officially adjourned the NEJAC meeting.

# **APPENDIX A**

## **AGENDA**





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL  
BOSTON PARK PLAZA  
BOSTON, MA 02116  
AUGUST 14 – 16, 2018  
PUBLIC MEETING AGENDA

**Day 1: TUESDAY AUGUST 14, 2018 – AVENUE 34**

4:00 pm – 11:00 pm **REGISTRATION**

6:00 pm - 6:15 pm **WELCOME & OPENING REMARKS**

- **Matthew Tejada** – *U.S. EPA Designated Federal Official*
- **Richard Moore** – *National Environmental Justice Council Chair*

6:15 pm – 8:15 pm **PUBLIC COMMENT PERIOD**

**Members of the public will be given seven (7) minutes to present comments on their issue or concern to the NEJAC.**

- **Matthew Tejada** – *U.S. EPA Designated Federal Official*
- **Richard Moore** – *National Environmental Justice Council Chair*

8:15 pm – 8:30 pm **BREAK**

8:30 pm – 11:00 pm **PUBLIC COMMENT PERIOD**

**Members of the public will be given seven (7) minutes to present comments on their issue or concern to the NEJAC.**

- **Matthew Tejada** – *U.S. EPA Designated Federal Official*
- **Richard Moore** – *National Environmental Justice Council Chair*

11:00 pm **CLOSING REMARKS & ADJOURN**

## DAY 2: WEDNESDAY AUGUST 15, 2018 – AVENUE 34

8:00 am – All Day

### REGISTRATION

9:00 am – 9:15 am

### WELCOME, DAY ONE RECAP & OPENING REMARKS

- **Matthew Tejada** – *U.S. EPA Designated Federal Official*
- **Richard Moore** – *National Environmental Justice Council Chair*

9:15 am – 9:30 am

### WELCOME & OPENING REMARKS

- **Monica Valdes Lupi, JD, MPH** – *Executive Director – Boston Public Health Commission*
- **Carl Spector** – *Commissioner of the Environment – City of Boston*

9:30 am – 10:30 am

### WELCOME & DIALOGUE WITH U. S. ENVIRONMENTAL PROTECTION AGENCY LEADERSHIP

- **Andrew Wheeler** – *Acting Administrator – U.S. EPA (video presentation)*
- **Alexandra Dapolito Dunn** – *Regional Administrator – U.S. EPA Region 1*

10:30 am - 10:45 am

### BREAK

10:45 am – 12:15 pm

### U.S. EPA REGION 1 ENVIRONMENTAL JUSTICE PANEL

***This panel will focus on the proactive efforts of EPA Region 1 to advance environmental justice.***

- **Sharon Wells** – *Director – Office of Civil Rights & Urban Affairs*
- **Gevon Solomon** – *Acting Environmental Justice Coordinator – Office of Civil Rights & Urban Affairs*
- **Christine Lombard** – *Brownfields Project Officer – U.S. EPA Region 1*
- **Deneen Simpson** – *Environmental Justice Director & Program Manager – Massachusetts Department of Environmental Protection*
- **Sandra Brownell** – *Section Chief – Grants Tribal & Community Program*
- **Stacey Johnson-Pridgeon** – *Team Leader – Urban Environment Program*
- **Captain Michael Stover** – *Indian Program Manager – U.S. EPA Region 1*
- **Charles Lee** – *Senior Policy Advisor for Environmental Justice – U.S. EPA Office of Environmental Justice*

12:15 pm – 1:30 pm **LUNCH**

**DAY 2: WEDNESDAY AUGUST 15, 2018 – AVENUE 34**

1:30 pm – 3:30 pm

**COMMUNITY VOICES PANEL**

***This panel will focus on environmental justice concerns of communities' in Boston, MA, and surrounding areas.***

- **Laura Brion**, – Executive Director – *Childhood Lead Action Project*
- **Maria Belen Power** – Associate Executive Director – *Chelsea GreenRoots*
- **Richard Juang** – Staff Attorney – *Alternatives for Community & Environment*
- **Evelyn Reyes** – John D. O'Bryant High School – *Youth on Board*

3:30 pm – 3:45 pm

**BREAK**

3:45 pm – 5:15 pm

**Boston Public Health Commission Panel**

***This panel will focus on the lead in Boston, MA and the efforts of the Boston Childhood Lead Poisoning Prevention Program.***

- **Paul Shoemaker** – Director of Environmental & Occupational Health Division – *Boston Public Health Commission*
- **Leon Bethune** – Director of Community Initiatives Bureau – *Boston Public Health Commission*
- **Thomas Plant** – Director of Special Projects – *Boston Public Health Commission*

5:15 pm – 5:30 pm

**CLOSING COMMENTS & ANNOUNCEMENTS**

- **Matthew Tejada** – *U.S. EPA Designated Federal Official*
- **Richard Moore** – *National Environmental Justice Council Chair*

5:30 pm

**ADJOURN**

## DAY 3: THURSDAY 16, 2018 – AVENUE 34

8:00 am – 10:15 am

**REGISTRATION**

9:00 am – 9:15 am

**WELCOME & DAY TWO RECAP**

- **Matthew Tejada** – *U.S. EPA Designated Federal Official*
- **Richard Moore** – *National Environmental Justice Council Chair*

9:15 am – 10:15 am

**WATER INFRASTRUCTURE FINANCE AND CAPACITY WORKGROUP FINAL REPORT DISCUSSION & DELIBERATION**

- **Sylvia Marie Orduño** – *Michigan Welfare Rights Organization*

10:15 am – 10:30 am

**BREAK**

10:30 am – 12:30 pm

**NEJAC BUSINESS MEETING REFLECTION AND CONVERSATION**

- **Matthew Tejada** – *U.S. EPA Designated Federal Official*
- **Richard Moore** – *National Environmental Justice Council Chair*

12:30 pm

**ADJOURN**

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

Public Meeting Attendees		
First Name	Last Name	Company
Adrienne	Appel	Bloomberg Environment
Yulissa	Arce	GPI
Yvette	Arellano	Texas Environmental Justice Advocacy Services
Christine	Bennett	Resident of Lake Charles Louisiana
Delma	Bennett	Mossville Environmental Action Now
Rebecca	Berkey	Northeastern Environmental Justice Research Collaborative
Arturo	Blanco	U.S. EPA REGION 6
Katie	Boronow	Silent Spring Institute
Laura	Brion	Childhood Lead Action Project
Amy Laura	Cahn	Conservation Law Foundation
Ellen	Drew	Rural Community Assistance Corporation
Ken	Dryden	Minority Workforce Development Coalition
Octavia	Dryden	Delaware Concerned Residents for Environmental Justice
Alex	Dunn	EPA Region 1
Alyssa	Edwards	U.S. EPA
Jabari	Edwards	J5 GBL, LLC
Brenda	Escobar	U.S. EPA Region 1
Neenah	Estrella-Luna	Salem State University
Daniel	Faber	Northeastern Environmental Justice Research Collaborative
Nicolette	Fertakis	EPA
Steven	Fischbach	unaffiliated
Eleanor	Fort	Citizen
Danielle	Fox	Union of Concerned Scientists
Cynthia	Frommit	
Phoebe	Gooding	The Root Social Justice Center
michael	Gordon	NJ DEP
Grace	Hall	Retired
Reginald	Harris	US EPA Region 3
Amanda	Hernandez	Silent Spring Institute
Stephanie	Herron	Delaware Chapter of the Sierra Club
Kathryn	Hess	US EPA OIG
Angela	Johnson	Transportation for Massachusetts

Public Meeting Attendees		
First Name	Last Name	Company
Blair	Johnson	Union of Concerned Scientists
Cheryl	Johnson	People for Community Recovery
Stacey	Johnson-Pridgeon	U.S. EPA
Asha	Kuziwa	Union of Concerned Scientists
Kristiana	Lachiusa	Livable Streets Alliance
Rosalyn	LaPier	Piegan Institute and Saokio Heritage
Charles	Lee	U.S. EPA
Devra	Levy	Childhood Lead Action Project
Jane	Lindsay	U.S. EPA Region 1
Cindy	Luppi	Clean Water Action
Michelle	Mabson	Earthjustice
Karen	Martin	US EPA
Mildred	McClain	Citizens for Environmental Justice
Terry	McGuire	Earthjustice
Latoya	Miller	US EPA Region 4
Marsha	Minter	U.S EPA
Vick	Mohanke	Clean Water Action
Richard	Moore	Los Jardines Institute
Pam	Nixon	People Concerned About Chemical Safety
Onyemaechi	Nweke	U.S. EPA
Lauren	O'Neill	U.S. EPA
Sylvia	Orduno	Michigan Welfare Rights Organization
Monique	Ouimette	Sociologist/Independent Researcher
Ana	Parras	Resident of Houston, TX
Juan	Parras	Moving Forward Network
Richard	Pien	Commonwealth of Massachusetts
Thomas	Plant	Boston Public Health Commission
Winifred	Prendergast	MassDEP
Rick	Reibstein	Boston University
Cynthia	Rezentes	Mohala I Ka Wai
Michele	Roberts	Environmental Justice Health Alliance for Chemical Policy Reform
Juan	Rosario	Amaneser2025

Public Meeting Attendees		
First Name	Last Name	Company
Deidre	Sanders	East Bay Community Energy
Elizabeth	Saunders	Clean Water Action
Christina	Schlegel	Conservation Law Foundation
Jerome	Shabazz	JASTECH Development Services and Overlook Environmental Education Center
Fatemeh	Shafiei	Spelman College
Nicky	Sheats	Thomas Edison State College
Paul	Shoemaker	Boston Public Health Commission
Deneen	Simpson	Department of Environmental Protection
Rhonda	Smith	EPA, Region 6
Gevon	Solomon	U.S. EPA
Karen	Sprayberry	South Carolina Department of Health and Environmental Control
Steve	Taylor	Coming Clean, Inc.
Matthew	Tejada	U.S. EPA
Danal	Tench	MassDEP
Jessica	Thomas	Union of Concerned Scientists
Joseph	Tiago	U.S. EPA
Michael	Tilchin	Jacobs Engineering
Kazi	Toure	Jericho Movement
Hermila Mily	Trevino-Sauceda	Alianza Nacional de Campesinas, Inc.
Phelps	Turner	Conservation Law Foundation
Dwaign	Tyndal	ACE
Gloria	Vaughn	U.S. EPA
Bill	Walsh	Healthy Building Network
Simone	Walter	U.S. EPA
Sharon	Wells	U.S. EPA
Sacoby	Wilson	Maryland Institute of Applied Environmental Health
Kelly	Wright	Shoshone Bannock Tribes
Dewey	Youngerman III	Continental Maritime of San Diego



Teleconference Option Meeting Attendees

First Name	Last Name	Company
Danielle	Algazi	US EPA Region 3
Shauntice	Allen	UAB School of Public Health
Nora	Alwine	PA DEP Office of Environmental Justice
Deyadira	Arellano	TEXAS Environmental Justice Advocacy Services
Michael	Bailey	State Of South Carolina
Larry	Baldwin	Crystal Coast Waterkeeper/Coastal Carolina Riverwatch
Gina	Bowler	USEPA
Ruth	Buford	Propublica
Talia	Buford	ProPublica
Charles	Chase	University of Colorado Denver
Stephanie	Coates	University of Houston
Valincia	Darby	DOI
Fleming	El-Amin	FHWA
Marianne	Engelman Lado	Yale School of Forestry & Environmental Studies/Columbia Environmental Law Clinic
Lena	Epps-Price	U.S.EPA
Chris	Espinosa	House Committee On Natural Resources
Cynthia	Ferguson	U.S. Department of Justice
Michael	Finn	U.S. EPA
Jan Marie	Fritz	U. Cincinnati, U. Johannesburg
Mysti	Frost	Beyond Toxics
Christopher	Generous	N/A
Sandy	Germann	EPA
Eugene	Green	EPA
Dona	Harris	USEPA
Emily	Harris	University of Central Arkansas
Jill	Harrison	University of Colorado-Boulder
Maria	Hegstad	Inside EPA
Carey	Hengstenberg	Vermont Department of Environmental Conservation
Cynthia	Herrera	WE ACT for Environmental Justice
Erica	Holloman	Southeast CARE Coalition
Melissa	McGee-Collier	Mississippi Department of Environmental Quality
Peggy	Montano	Trout Raley

Teleconference Option Meeting Attendees		
First Name	Last Name	Company
Daria	Neal	Department of Justice
Carly	Norris	USEPA Region 5
Jacqueline	Norris	Prince Georges Environmental Social Justice Marginalized Communities Collaborative
Leanne	Nurse	US EPA
Na'Taki	Osborne-Jelks	West Atlanta Watershed Alliance and Procter Creek Stewardship Council
Francine	Pettiford	EPA
Cynthia	Peurifoy	Environmental Revitalization
Millie	Piazza	WA State Dept. Of Ecology
Staci	Rubin	Commonwealth of Massachusetts
Danah	Tench	MA DEP
Fatima	Ty	U.S. EPA Region 9
Hillary	Waite	Town of Milton
Patrick	Whalen	USEPA
Kate	Zielke	North Central Texas Council of Governments

# **APPENDIX C**

## **WRITTEN COMMENTS**



August 7, 2018

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

Name: Deyadira Arellano  
Name of Organization or Community: Texas Environmental Justice Advocacy Services  
City or State: Houston, TX  
Telephone Number: 281-323-0968  
Email Address: Deyadira\_a@hotmail.com

### **NEJAC Public Comment Submission**

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

As a representative of Texas Environmental Justice Advocacy Services (T.e.j.a.s) I am submitting public comment on behalf of our organization.

Texas Environmental Justice Advocacy Services (T.e.j.a.s) has made it its mission since 2006 to provide community members with the tools necessary to create sustainable, environmentally healthy communities by educating individuals on health concerns and implications arising from environmental pollution, empowering individuals with an understanding of applicable environmental laws and regulations, promoting their enforcement, and offering community building skills and resources for effective community action and greater public participation.

### **Recommendations from Texas Environmental Justice Advocacy Services (T.e.j.a.s)**

#### **1. Brief description of concern: NEJAC Funding.**

- We are concerned that the EPA will decrease funding to support NEJAC members/Youth Climate Justice Work Groups/other NEJAC working groups and their efforts to adequately advise the EPA. We support the continuation of NEJAC and all NEJAC working groups.

## What you want NEJAC to advise the EPA to do:

- T.e.j.a.s. requests for the NEJAC to continue as the federal advisory committee to the EPA with funding designated for NEJAC members, Youth Climate Justice Work Groups, and other NEJAC working groups.

-

- **Brief description of concern: Release NATADData**

- We are concerned that NATADData reports are insufficient and/or outdated. The last NATADData release in 2015, which reflected data from 2011. There is a seven year gap of missing information. Recent historical natural disasters nationwide, and the urgency of climate change are valid reasons to request more information in real time.

## What you want NEJAC to advise the EPA to do:

- Request for recent NATADData reports that reflect data for years 2012-2018. The 2015 report released information that reflects 2011 data. In light of recent historical natural disasters and the urgency on climate change we recommend a consistent yearly schedule to evaluate NATADData in real time . Previous versions of NATA, were release on 2015, 2011, 2002, and 1996 for previous years, not the year it was released.

- **Brief description of concern: Preparation/Post Disaster**

- Following Hurricane Harvey, we did not have EPA officials hold public meetings in the Houston area, much less offer information for non-English speakers. It was vital for our region to hold a public meeting following Hurricane Harvey with local officials to address concerns of public health and safety. The EPA is entrusted with protecting human health and the environment, both of which were placed at risk, and continue to suffer the effects of toxic exposure following Hurricane Harvey.

## What you want NEJAC to advise the EPA to do:

- We recommend that regional, state, and local task forces are created to immediately respond, monitor, and report in preparation, during, and following a widespread disaster like the BP Oil Spill, Arkema Explosion, or Hurricane Harvey. We also request that EPA provide trainings and workshops and/or resources to train workers/volunteers on occupational health and safety information for those involved in post-disaster clean-up/restoration efforts.

- **Brief description of concern: Environmental Education**

- We are concerned that environmental education is not accessible to community members due to high costs of attending college/university.

## What you want NEJAC to advise the EPA to do:

- EPA should be responsible for providing quarterly weekend workshops/webinars on environmental education topics and refresher courses to discuss updates to the educational information:
  - The Fundamentals of the Clean Water Act
  - The Fundamentals of the Clean Air Act
  - The Fundamentals of Air Quality Compliance of Texas (respective states)
  - Introduction to Environmental Compliance
  - Introduction to National Pollutant Discharge Elimination System (NPDES)

Thank you for your consideration.

**Kirstin Beatty - Holyoke, MA**

I was not able to attend the NEJAC meeting. I would like to point out something though.

NEPA rules are being proposed to be changed, and I can barely keep up with all the changes proposed but I think they want to get rid of NEPA and interagency work for NEPA.

Right now, I think NEPA means that an environmental review would be required for the FCC. I would like NEJAC to consider pushing for such a thing. The FCC is ignoring warnings of scientists about the risks of continuing to allow wireless facilities to increase and use new frequencies. There is so much information online you can fall on it. Dr. Joel Moskowitz has a site called SaferEMR.com with some information, for example.

But the FCC has sold off new spectrum, or new frequencies, and is proposing to strip all rules to prohibit cell towers for any reason. Because the FCC is so crazy, I propose requiring a NEPA review.

I don't know how much it would help with this administration, but maybe it would serve to delay.

Amy Laura Cahn



For a thriving New England

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**Testimony to the National Environmental Justice Advisory Council Given by: Amy Laura Cahn**  
**Interim Director, Healthy Communities and Environmental Justice**  
**Conservation Law Foundation**  
**August 14, 2018**

Good evening Chairman Moore and Council members.

My name is Amy Laura Cahn. I am the Interim Director of the Healthy Communities and Environmental Justice Program at Conservation Law Foundation (CLF). For over fifty years, CLF has fought for a cleaner and healthier environment for all New Englanders. Our expertise in public policy and environmental law has helped ensure victories such as the cleanup of Boston Harbor and the shutdown of obsolete coal-burning plants that threaten the health of surrounding communities. We push for stricter pollution controls, access to healthy food, investments in renewable energy, holding oil and gas facilities accountable for the hazards they pose locally, and passage of enforceable rights-based environmental justice legislation in New England states.

Environmental policymaking must address the deeply unequal and cumulative impacts of industrial pollution, transportation and development patterns, racist and classist policies, uneven policy enforcement, and of climate change. Environmental justice communities have not only experienced a disproportionate share of these environmental burdens throughout history, they also lack equitable access to environmental amenities and opportunities to engage in decision-making to change the status quo.

I want to thank NEJAC and its individual members for your longstanding commitment to elevating the voices of environmental justice communities across this country; for creating opportunities where environmental activists, experts and agency officials can convene; for drawing attention to the unequal impacts of climate change and environmental disasters; and for its leadership in embedding an environmental justice lens into the work of the EPA and other agencies.

The advice of this independent body is more important and relevant than ever. It is impossible to overstate the devastating long-term impacts of recent environmental policy changes made by the Trump Administration. These actions deliberately ignore sound science and clearly favor corporate interests over the public interest. The weakening of the Clean Car Standards, the disturbing disappearance of climate data and resources from government sites, and the abandonment of any progress to address Title VI complaints are actions against our natural environment, and against the health and prosperity of this nation. And these actions threaten environmental justice communities first, at the highest rates, and with the greatest impact.





### **The Administration has stalled progress on transportation emissions reductions.**

In early August, the Administration announced it would roll back the Clean Car Standards. The Standards would have cut 6 million metric tons of greenhouse gases and saved Americans over \$1.7 trillion in fuel costs. In the New England region alone, the Standards have already reduced oil consumption by 1.3 billion gallons. In addition, the Administration is also seeking to block states' ability to set higher vehicle emissions standards, deem low levels of harmful particulate matter "safe," and has allowed for production of extremely dirty, polluting "glider" trucks to continue. In many New England states, including Maine and Massachusetts, the largest source of emissions is now from the transportation sector. Without significant progress on transportation emissions and the ability of states to go beyond the federal baseline, we simply cannot meet our climate goals.

There is an even darker side to these rollbacks. The EPA's own website tells a cautionary tale of the between tailpipe emissions and numerous, serious health problems such as asthma, heart attacks, and even premature death. Not all Americans are polluted equally. Among those that will be affected worst are children, seniors, and communities of color whose neighborhoods are often located near major highways or industrial districts with frequent truck traffic. One in six African- American children in this country has asthma, and they are twice as likely to be hospitalized for asthma than white children. Latino/a children are 40 percent more likely to die from asthma than white children. According to the Metropolitan Area Planning Council 2017 State of Equity report, the youth asthma hospitalization rate in this region has increased by 22 hospitalizations per 100,000 from 2003-2007 to 2008-2012, with significant increases in the Black and Latino communities. Springfield, Massachusetts, was just ranked by the Asthma and Allergy Foundation of America the most challenging metropolitan area in the United States to live with asthma, with Boston and Worcester, Massachusetts, and Hartford, Connecticut, also making the top twenty.

A study conducted by the Environmental Defense Fund estimated just the policy of allowing glider truck manufacturing to continue could result in over 1,700 premature deaths due to lethal particulate pollution. Individually and cumulatively, these rollbacks and non-enforcement actions pose severe and disproportionate threats to environmental justice communities that are already overburdened by pollution.

We need the NEJAC take a strong stance to keep intact the full range of policies to reduce transportation emissions. Specifically, we ask that the NEJAC communicate directly and in writing to EPA—both by letter and by comment in conjunction with an existing rulemaking process—on the need (1) to keep the existing Clean Car Standards intact, (2) to preserve states' ability to set higher vehicle emissions standards, (3) to reject the notion of engaging in a rulemaking to set a threshold level of fine particles that it would consider safe, and (4) to reinstate and enforce limits on the remanufacture of glider trucks.



**The Administration has systematically removed climate data from its websites and moved to eliminate climate change considerations from project review.**

Government websites have been simplified and scrubbed of the phrase “climate change.” The EPA’s own site no longer provides useful and necessary climate change resources, including guidance for cities and states on extreme weather event management and emissions reductions. In 2017, an enormous amount of scientific data on climate change was removed from the EPA’s website. Earlier this year, former EPA Administrator Scott Pruitt moved to limit the types of science that could be used in EPA rulemaking to data that is available publicly. As you know, EPA has long relied on groundbreaking research that uses confidential and proprietary information to regulate air pollution, toxic chemicals, and pesticide exposure. Changing the kinds of data used in rulemaking puts longstanding regulations at risk. Pruitt has also barred reputable scientists from serving on EPA advisory committees while allowing former heads of industry to sit on these committees. This is a glaring conflict of interest.

The Administration is also reevaluating the social cost of carbon in a way that devalues human life and the global consequences of climate change. The social cost of carbon is a measure of the harm caused by emitting an extra ton of carbon. It is an essential component to analyzing the costs and benefits to the American people and to the environment of proposed rules, regulations and projects. And it is easily manipulated. In 2017, the EPA reduced the social cost of carbon from \$45 per ton to between \$1 and \$6 per ton by only including the emissions impacts within the United States, not globally. This deliberate exclusion of data has paved the way for lax regulations and polluting projects to be considered “benefits” to the public, and for climate adaptation and mitigation measures to be deemed “not worth the cost.”

These actions are, in a word, cruel. They yank resources and potential climate adaption measures from communities, organizations and governments that do not have the time, staff or funding to combat the local impacts of climate change alone. Climate change has been termed an “instigator of corrosive disadvantage” because it reinforces patterns of existing environmental injustice. From urban heat islands to superstorms, the consequences of climate change pose a disproportionate threat to communities of color and low-income communities.

The northeast U.S. is particularly vulnerable. Sea levels in Boston are rising three to four times faster than the global average. A recent Natural Resources Defense Council study has predicted roughly 1,340 annual heat-related deaths by 2090 without mitigation or adaptation measures. In parts of Chelsea, Boston’s neighbor to the east, building roofs in the city’s urban heat islands already typically rise to 140 degrees Fahrenheit during a hot summer day.

We need the NEJAC’s leadership to ensure that policymaking on climate is transparent, science- based, and accountable to the people most affected and from whom resources have long been extracted. As a threshold step, we ask that the NEJAC request that EPA (1) report to the NEJAC on all climate- and environmental justice related data, information, and guidance that had been



available to the public under the prior Administration and has been removed from the EPA websites since 2017 and (2) strongly advise EPA to timely restore to the agency's websites all climate- and environmental justice-related data, information, and guidance. Furthermore, we recommend that the NEJAC provide guidance to the EPA on reinstating prior methodologies for evaluating the social cost of carbon.

**The Administration has refused to address longstanding allegations of environmental racism.**

I want to thank the NEJAC for its longstanding interest in civil rights enforcement under Title VI as a means of addressing environmental justice issues. I also want to add to the chorus of ongoing concern that EPA's External Civil Rights Compliance Office is not ensuring compliance with Title VI — and is still failing to conduct timely *and thorough* investigations. Indeed, the vast majority of Title VI cases are either rejected or dismissed. As I know you are aware, a 2016 review found that since its founding 25 years ago the Civil Rights Office has had almost 300 Title VI complaints and never once made a formal finding of discrimination. Despite having the authority to do so, the EPA has never denied or withdrawn federal financial assistance due to civil rights violations. At a time when polluting enterprises are emboldened and enabled, this regulatory authority is a powerful tool to prevent further illegal discrimination against environmental justice communities.

At the last NEJAC meeting, Marianne Engelman-Lado, Director of Yale Law School's Environmental Justice Clinic, brought EPA's March 1, 2018 decision to close a case filed by residents of Uniontown, Alabama to the NEJAC's attention. EPA's External Civil Rights Compliance Office closed the case despite voluminous evidence and with reasoning that raises significant concerns. This is an egregious case of discrimination, a case where it is beyond clear that the community is adversely affected (at minimum) by odor and a decline in property values, among other things. We encourage the NEJAC to take a close look at the Uniontown decision and EPA's external civil rights program generally, and to make recommendations to ensure that recipients of federal funds are held accountable under Title VI and civil rights statutes. The NEJAC can begin by putting Title VI on the agenda for the next NEJAC meeting, but action should not stop there.

In the shadow of this mounting injustice stand grassroots organizations, grassroots nonprofits, expert allies, our allies within the EPA, and independent advisory groups like NEJAC. It is imperative that we stem the tide of deregulation, support local initiatives that go beyond federal environmental policy and find a way to share resources to protect our environment - and to protect each other. It is in this spirit that we make the additional recommendations to the Council:

- Promote 'risk reduction' over personal 'risk avoidance' strategies, regulations and policies. Risk avoidance entails shifting the burden onto communities and individuals to avoid certain environmental harms, whereas risk reduction strategies place the responsibility on



industry to reduce the harmful impacts of their operations. The rollback of Clean Car Standards, the Clean Power Plan, methane emissions reductions and other actions places the burden on individuals to manage their future risk to climate change, while irresponsibly allowing the transportation and energy sectors to continue business as usual. This is blatant disregard of the scientific consensus and the most ecologically risky behavior possible. A risk reduction approach would encourage the use of all credible and peer-reviewed scientific data, not just that available publicly.

- Strongly urge the EPA to report annually on its progress implementing the EJ 2020 Action Agenda, as it has promised to do in the Agenda. Particularly important is tracking the agency's progress to constructively address Title VI complaints. The EJ 2020 Action Agenda's goals include effective and efficient Title VI complaint management where compliance reviews are addressed proactively and engage external stakeholders. Given that environmental justice is an issue long ignored by the Administration, it is paramount that communities can actively track what is being done at the federal level and within the Regional offices to protect their civil and environmental rights.
- Support state, local, tribal grassroots environmental justice work. As the majority of EJ work is done at the local level, enhanced support for regional EPA offices would help ensure subnational organizations and governments receive the guidance, advice and technical support they need from the EPA. Former EPA official Lisa Garcia called the EPA's grants to local communities one of the agency's biggest successes. She noted that, "if you give an EJ group \$25,000 they'll do what a big city will do with \$2 million."<sup>1</sup> Directing EPA grants and technical support towards the regional, state and local level would reflect and support the decentralized nature of leadership on environmental justice issues, climate adaptation and mitigation. Further, building robust local partnerships is also a key component of the EPA's EJ 2020 Action Agenda, and we encourage NEJAC to continue creating spaces for partnership and collaboration.
- Re-invest in surveying and pollution tracking in vulnerable communities complimented with trainings on how to use these resources. The EPA's EJScreen should be enhanced to provide comprehensive information about cumulative impacts and polluting facilities. Policies, including the policy of tracking major emitters, should be reinstated and are one example of a resource that could be embedded into EJScreen. For EJScreen and its applications to be used effectively, traditionally under-represented communities must receive significant public education and technical assistance in how to use the tool.

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<sup>1</sup> Brentin Mock, *Environmental Justice Enters Its Age of Anxiety*  
City Lab, December 14, 2016, <https://www.citylab.com/equity/2016/12/environmental-justice-enters-its-age-of-anxiety/510416/>



- Support the active implementation of the EPA’s 2015 Final Guidance on Considering Environmental Justice during the Development of a Regulatory Action. The Guidance was created to ensure environmental justice was considered during the creation, modification or repeal of regulations and policies. As the assault on our nature and communities continues, measures like the EPA’s Guidance on Environmental Justice can help ensure federal actions are in the public interest, and that they protect communities historically marginalized from further injustice.

As the threat of further deregulation hangs heavy in the air and on our minds, we stand behind NEJAC and its efforts to further the Principles of Environmental Justice, expand meaningful community participation in decision-making, and provide common-sense recommendations to protect our nation’s most vulnerable neighborhoods. Because above all, it is the purpose of federal agencies, particularly the EPA, to protect the people and our shared planet - not the polluters.

Thank you,

Amy Laura Cahn  
Interim Director  
Healthy Communities & Environmental Justice  
Conservation Law Foundation

## Kenneth Dryden

### Kenneth Dryden testimony @ NEJAC

August 14, 2018

Kenneth Dryden  
Minority Workforce Development Coalition  
Wilmington, DE  
302-562-0699  
mockdryden@aol.com

Greetings NEJAC Council

My name is Kenneth Dryden. I'm here today representing the Minority Workforce Development Coalition, an affiliate of EJHA.

The concern I would like to share is transportation pollution in and around low income communities in Delaware. There is a high percentage of commercial vehicles that travel through these communities each day. When you consider the number of garbage trucks, school buses, city buses, utility company vehicles, heavy trucks and ships traveling to and docked at the nearby port, there is enormous exposure to these emissions on our children and families each day.

Many of the residents in these communities suffer with health issues including respiratory and cancer risks.

The only way Delaware can accelerate toward a clean vehicle future that includes a direction toward healthy communities and learning environments for all children in our state is to invest in 100 percent zero-emission vehicles.

With zero tailpipe emission, electric vehicles will produce greater environmental and economic benefits than replacements with vehicles that run on fossil fuels. Not only would investing in electric vehicles and prioritizing them in overburdened communities be a solution toward the reduction of health disparities, but it cuts air pollution, strengthens the economy, and protects our communities while expanding access and affordability.

Therefore, we urge NEJAC to strongly recommend that Environmental Protection Agency promote and enforce policies for fully electric transportation in place of fossil fuels, *particularly overburdened communities.*

I want to thank you NEJAC for having this hearing and allowing me the opportunity to speak.



*Lastly, I request that a NEJAC meeting be held in one of our EJ communities, starting with Puerto Rico.*

## Octavia Dryden

Octavia Dryden  
Delaware Concerned Residents for Environmental Justice  
Newark, Delaware  
302.275.4709  
[Drydenp2015@gmail.com](mailto:Drydenp2015@gmail.com)

### NEJAC Public Hearing Testimony – August 14, 2018

Good Evening, my name is Octavia Dryden.

I am a member of Delaware Concerned Residents for Environmental Justice and affiliate of Environmental Justice Health Alliance.

It is a pleasure to be here today to share briefly with NEJAC, the environmental concerns in my hometown of Newark, Delaware.

Delaware a relatively small state geographically with a population of less than 1 million, contains 23 facilities in RMP program. These facilities use over 33 million pounds of toxic chemicals in their processes and over 33 million pounds of flammable chemicals. There have been 19 reportable incidents of these facilities over 5 years, causing over \$30 million in property damages.

There are many environmental issues in Delaware, but the one I will share today on behalf of communities of color who are disproportionately affected by chemical disasters in Delaware. We live a life of fear every day.

One of the fears people in my community experience is living near a chemical facility that transport and store over 150 railcar tanks each day, all day. Not knowing what's in these tanks or the purpose for them is threatening. Not having access to pertinent information, policy and plans puts our communities in a most vulnerable position. Without policies and mandates that require these facilities to keep neighboring communities informed on chemicals being used and necessary evacuation plans if incidents should occur, leaves our families' safety in jeopardy.

DCR4EJ is a small group of residents who are committed to reaching out to the most vulnerable communities in our state to educate them on the toxics that exist; the facilities that are causing them and ways to mitigate these environmental dangers. We recently published a report entitled: *Environmental Justice for Delaware, Mitigating Toxic Pollutants in New Castle County Communities*. Our work is not possible without the help of EJHA, UCS, CC, NRDC and others like NEJAC.

We ask NEJAC to urge EPA to enact and enforce mandates on facilities to provide pertinent information to surrounding communities on the chemicals currently used in operations and support approaches for safer chemicals and processes. Also to not only maintain existing protections, but to increase enforcement, policy and programs that protect our children, families and communities against chemical disasters.

Thank you NEJAC for this opportunity to speak on behalf of our communities.

→ Additionally, multiple vehicles of communication must be used in these communities: social media, land line alerts are fine, but door to door notices must be used as well.

**Jeannie Economos – Farmworker Association of Florida**

The Farmworker Association of Florida

La Asociación Campesina

Asosiyasyon Travayè Latè

1264 Apopka Boulevard • Apopka, FL 32703

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**SUBMISSION OF WRITTEN PUBLIC COMMENTS TO NEJAC - August 5, 2018**

**From:** Jeannie Economos  
Farmworker Association of  
Florida Apopka, FL 32703  
407-886-5151  
[fannworkerassoc@aol.com](mailto:fannworkerassoc@aol.com)

**To:** Karen L. Martin  
National Environmental Justice Advisory  
Council Environmental Protection Agency  
1200 Pennsylvania Avenue,  
NW Washington, DC 20460  
[nejac@epa.gov](mailto:nejac@epa.gov)

Dear Ms. Martin and Members of the NEJAC:

Our nation and our economy today function and thrive due in large part to our robust agricultural production which supplies the country - all of us - with an abundance of food. This would not be possible were it not for the strenuous hard work of close to two million farmworkers in the United States, who plant, tend, harvest, and pack the fruits and vegetables that most of us take for granted. The ornamental plants that grace our outdoor landscapes and indoor environments are also the product of hardworking farmworkers, who work in nurseries and greenhouses; and fern workers supply foliage to florists worldwide. What these workers have in common is that they constitute an environmental justice community, because the vast majority of them are people of color, and they are exposed to toxic agricultural pesticides in the course of their daily work.

For decades, there were little or no regulations that protected farmworkers from pesticide exposure, who often were told by their employers or supervisors that the chemicals being sprayed or applied were "medicine" for the plants, leading some to believe that the liquid or gas or pellets were something useful and good. {This still happens today, as some farmworkers have told us.} It was not until 1992 that a set of regulations was promulgated by the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that required, among other things, training and notification about pesticides for farmworkers. Even then, it was not until 1995 that the Agricultural



Worker Protection Standard (WPS) was finally implemented. In the more than 20 years since 1995, a plethora of scientific studies has revealed the harm that many pesticides can cause to human, wildlife and environmental health. And, the body of scientific knowledge on the human health impacts of pesticide exposure continues to grow.

For more than 20 years, farmworker organizations and farmworker advocacy organizations have advocated to and worked with EPA for improvements to and stronger protections under the WPS. In 2015, after countless farmworker personal testimonies, meetings between farmworkers and farmworker advocacy organizations and EPA officials, and a public comment period that overwhelmingly favored stronger WPS regulations, EPA issued the current WPS rule, which includes regulations that are more protective of farmworker health and safety, including that of their families. Several of the new regulations are at risk, under a decision by this Administration to re-open them for review. We are calling on the NEJAC, as a body tasked with advising, consulting with and making recommendations to the EPA Administration on issues of environmental justice, to oppose any roll-backs to the important protections in the current WPS regulations and to the roll-back of the ban on chlorpyrifos, a toxic organophosphate pesticide.

### **Recommendations:**

- The Farmworker Association of Florida recommends that the NEJAC advise the EPA Administration to adhere to the current provision for **the minimum age of 18 years old** for anyone handling, mixing and/or applying pesticides. There is widespread agreement among farmworkers themselves, farmworker organizations, health care providers and health professionals, child advocate and human rights organizations, learning disabilities associations, occupational and environmental health institutions, health researchers, and many others that children under 18 are neither physically nor emotionally sufficiently developed to handle pesticides safely. Special provisions in the current WPS that exempts farm family members from this provision accommodates for farm owners and operators' special circumstances and needs, and addresses their concerns. Farmworkers and their families, the majority of whom do not have health insurance, and often do not speak, read or understand English, must not be put at risk of pesticide exposure by children and youth who have not yet reached full maturity to understand the risks and dangers of agricultural chemicals. Selena, the adult daughter of a farmworker family, told us, "If you have to be 21 to rent a car, because of the accident risk posed by younger drivers, how is it OK for children under 18 to handle toxic pesticides?"
- FWAFA recommends that the NEJAC advise the EPA Administration to **retain the provision for the designated representative** in the current WPS. Unfounded fears have been expressed by state departments of agriculture and by some growers and their associations to this provision, but Florida is a model that should put those fears to rest. The state passed the Florida Right to Know Act in 1994 and renewed it again in 2004 with the Alfredo Bahena Act, that gives farmworkers the right to have a third party, on their behalf, ask for information about the pesticides applied in the workplace. In more than 20 years since the Act was first passed, the Act has benefitted workers and caused no harm to growers. This provision is critically necessary. Farmworkers are unlikely to ask a supervisor, crew leader, contractor or grower the name of a pesticide or pesticides that were applied and when, for fear of threats, intimidation and even retaliation. They may be suffering from exposure symptoms and need treatment for which a health provider would need to know the pesticide name. They may be incapacitated and, hence, unable to request that information. The importance of a trusted third-party representative, with English language facility, to request that information on behalf of a worker, cannot be overestimated. Without it, farmworkers will suffer health symptoms rather than risk their job, and

this can lead to short and long term consequences to them and their families. It is an environmental injustice when farmworkers are excluded from seeking help to get information vital and critical to their health. The designated representative provision poses no risk to growers and farming operations and is vitally necessary to protect farmworkers. It must stay in as a provision in the WPS.

- FWAf recommends that the NEJAC advise the EPA Administration to **retain the Application Exclusion Zones regulation** in the current WPS. AEZs are designed to ensure that anyone within a certain radius of an ongoing pesticide application is protected by the applicator suspending application when someone is present and resuming application once no one is within the zone. This provision is critically important to ensure that workers and their family members are not directly sprayed by a pesticide application and that they are not subject to drift as the application is occurring. There are concerns by state regulators about the implementation of this provision in various cases and situations, but EPA has issued guidance for state regulatory agencies to assist them in enforcement. Because the AEZ moves as the application is occurring, it does not impede the application, except temporarily in cases when people are present within the zone. It should be unquestionable that people should be excluded from a zone in which pesticide application is occurring.

4) FWAf recommends that the NEJAC advise the EPA Administration to comply with the decision from 2015 to **ban all food tolerances for the neuro-toxic pesticide, chlorpyrifos**, which was banned for residential use in 2001 because of its harmful effects on children. Agricultural use was not included in the 2001 ban, and chlorpyrifos has been one of the most widely used pesticides in agriculture for more decades. Farmworker children in rural areas are just as important, valuable, and deserve just as much respect and protection as children in cities. They deserve healthy and safe environments, as do all children in our country. The science is overwhelming that exposure to chlorpyrifos can lead to learning disabilities, ADHD, neuro-developmental problems, lower IQ and even autism in children. The decision EPA took in 2015 to ban chlorpyrifos was based on scientific studies that looked at levels of the pesticide in our drinking water and on our food. An extensive review of the scientific literature and robust public comments led EPA to the conclusion that the continued use of this pesticide is not safe, nor health-protective. There is no solid basis on which EPA can make the decision to roll-back the ban on chlorpyrifos. Though not posed nor addressed as such, the continued use of chlorpyrifos on food crops in agriculture is an environmental injustice to the largely low-income, minority Hispanic and Haitian farmworkers in Florida. The NEJAC has a unique opportunity to frame this issue as one of environmental justice and strongly recommend that EPA follow through with banning chlorpyrifos.

We are submitting these comments based on our 35 years of work on issues of farmworker health and safety related to pesticides and on behalf of the lives and stories and realities of the farmworker communities with which we work. The Farmworker Association of Florida is a statewide, grassroots, farmworker member-led, non-profit organization with over 10,000 members among five offices working in 13 counties in the state. We conduct outreach, education and training on protecting oneself from pesticide exposure and we train farmworkers on their rights and protections. In the WPS revision process, we submitted over 70 surveys and public comments from farmworkers we work with, and we have conducted community-based research looking at organophosphate pesticides, which includes chlorpyrifos. Our comments are based on over three decades of work in, with and for farmworkers.

The people who harvest the food that feeds us deserve better. Rolling back the protections that EPA previously promulgated is an affront to the work that these hardworking men, women and children do

every day. We call upon the NEJAC to ensure that these farmworkers' voices are heard. We submit these comments on behalf of all those who have experienced the heartbreak of acute and chronic pesticide exposure to themselves, their family members or their children. We can do better. EPA must fulfill its mission of protecting environmental and human health. The time is now.

Thank you for this opportunity to submit these comments. Sincerely,

Pesticide Safety and  
Environmental Health Project Coordinator

A handwritten signature in black ink, appearing to read "Jeanne Eonono". The signature is fluid and cursive, with a large initial "J" and "E".

Pesticide Safety and  
Environmental Health Project Coordinator

## **Neenah Estralla-Luna, MPH, PhD**

Comments to National Environmental Justice Advisory Council

14 August 2018  
Boston, MA, USA

Questions can be directed to: Neenah Estrella-Luna, MPH, PhD [neenah@starluna.net](mailto:neenah@starluna.net)

Submitted by: Member, Alternatives for Community and Environment  
Visiting Associate Professor, Salem State University

I am Dr. Neenah Estrella-Luna. I am here on behalf of Alternatives for Community and Environment, also known as ACE. We will be celebrating our 25<sup>th</sup> anniversary this year making us, I believe, the oldest environmental justice (EJ) organization in the state of Massachusetts. I previously sat on ACE's Board of Directors, serving as Board Chair for four years. I have a Masters of Public Health and a PhD in Law and Social Policy with a specific focus on race and social justice.

The three recommendations I will make today assume that federal direct action on environmental justice will not be very vigorous under the current administration. I assume that the current administration expects, or at least will allow, states to take the lead on these efforts. The state's rights rhetoric coming from all corners of this administration, including the previous EPA Administrator, demonstrate nothing less than an abdication of responsibility for environmental justice to the states.

With that said, there is much the federal government can do to provide support for states, as well as organizations and communities working with – or in some cases pressuring – their state governments to move towards environmental justice. These recommendations are provided in that spirit.

First, states need guidance on defining environmental justice populations. Here in Massachusetts, we have a policy that defines EJ populations, but it is just a policy, not even a regulation with the force of law. We were very close to passing a very modest EJ bill that essentially codified existing policy, but were thwarted in the end by objections to the criteria used to define those communities. As a member of ACE, I participated in the statewide advisory group working with the state agencies on reviewing and revising the definition of EJ communities as required by Executive Order. I either personally conducted or oversaw with colleagues at Salem State University two studies on this specific issue. While the state ultimately did not adopt all of our recommendations, they did improve on the previous definitions. These criteria were based on standard demographic characteristics that are well known to characterize EJ communities – race or ethnicity, income, language isolation. However, members of our state legislature, pressured by those embracing an All Lives Matter form of thinking, objected to these criteria, particularly the race criteria. Their argument that EJ bill be colorblind disregards the well documented history and contemporary reality of race based prejudice and discrimination that creates environmental injustice.

EPA guidance that explicitly states that at minimum, EJ communities are defined by race or ethnicity, income, and language isolation characteristics would help in countering the absolutely ridiculous arguments that prevented the EJ legislation from passing.

In addition to that, however, I would be remiss if I did not take this opportunity to argue that good guidance on defining EJ populations should also include public health criteria. As we know, the primary goal of the EPA and of environmental policy generally is to protect the public's health. Defining an EJ population is all about identifying those most at risk for poor health outcomes if subjected to polluted or degraded environmental conditions. Including public health criteria in defining EJ communities would strengthen the ability of states to effectively regulate environmental conditions.

I am sure that, working with HHS through the interagency working group, EPA would be able to come up with public health risk indicators that could be used to identify EJ communities. Based on much health research, I recommend that asthma, elevated blood lead levels, low birth weight, hospitalizations due to heart attacks, and hospitalizations and deaths due to stroke be used as indicators of health risk.

The strongest definition of an EJ community would also include some measure of cumulative environmental burden. I suspect others will speak more eloquently than I can on that issue, so I will leave to them to describe what such a measure would look like.

In summary, the EPA would provide significant help to states, organizations like ACE, and EJ communities generally if they came up with guidance on defining EJ communities that included measures of cumulative environmental burden and public health in addition to the widely accepted demographic criteria.

Second, one of the most important EJ issues we deal with at ACE relates to public transportation. Access to affordable and reliable public transit has significant impacts on the health and well-being of our communities. One of the most persistent problems with achieving transit equity, however, is the lack of a consistent definition of equity. In fact, currently, states are allowed to develop their own definition. Given the state's rights orientation of this administration, I do not expect that to change. However, some direction or boundaries on what constitutes equity would help strengthen the ability of states, EJ organizations, and EJ communities to ensure that equity is in fact secured – or at least inequity avoided – when making or implementing public policy.

Currently in MA, our state's public transit agency, the Massachusetts Bay Transportation Authority (MBTA), defines inequity as a 20% or greater difference in experience between majority populations and minority populations.

What does this mean on the ground? It means, for example, that for every 10 late busses serving predominantly White or higher income communities, 12 busses serving predominantly non-White or low income communities must be late in order for it to be counted as inequity. Those extra two busses are anywhere from 80-110 people. Eighty to 110 non-White and low income people who are significantly more likely to work in low wage and insecure jobs. Eighty to 110 people who are more likely to be late to appointments where tardiness has material costs that they already cannot afford. I have personally collected stories from teenagers who were punished for being 5 minutes late to school because of the inadequate bus service that is tolerated by inadequate definitions of inequity.

In addition to creating a better floor by which equity is measured, I would also recommend that any such guidance include standards for data collection before equity studies are accepted by federal agencies. Again, here in MA, the MBTA relies on studies that almost entirely exclude non-English speaking populations. As we all know, English isolation is a standard characteristic marking vulnerability to environmental injustice. Equity studies that exclude non-English speaking populations should be rejected. Without such guidance, the transit agencies get away with allowing significant inequity to persist.

So, I recommend that the EJ interagency working group develop guidance for non-EPA agencies – but specifically the Department of Transportation – on defining equity.

Finally, I would like to speak to the recent proposal to remove California's historic authority to regulate its air quality by adopting fuel efficiency standards that are stricter than federal requirements. There are good legal and environmental arguments against this proposal. Unsurprisingly, I recommend that the proposal to remove California's authority to adopt strict fuel efficiency standards be rejected. But not just because there are solid environmental and legal arguments that others will make better than I can. It should be rejected because it is contrary to the state's rights orientation embraced by this Administration. If this Administration is serious about letting states take care of their own, if the state's rights arguments are not a cynical and arbitrary posture or a dog whistle for insidious belief systems, then this proposal should be rejected immediately.

Thank you for the opportunity to share these modest recommendations. I am happy to be available for any questions.

## Grace Hall

### NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL (NEJAC)

Public Comment Submission

Name: Grace Hall

Name of Organization or Community: The Environmental Justice Task Force of First Parish in Cambridge (Unitarian Universalist)

City and State: Cambridge, MA

Telephone Number: 215-858-5448

E-mail Address: gracewhall@msn.com

#### Brief description of concern:

My two major areas of concern are that climate change is rapidly increasing, and that we as a state, region and nation are doing far too little to diminish the damage that is already occurring and will continue to accelerate. In conjunction with this concern, I am well aware that the negative effects of toxic pollution (to air, water and soil) and damage from ever more severe storms as well as sea level rise, will particularly affect the most vulnerable portions of our population, those with limited incomes.

What you want the NEJAC to advise the EPA to do:

#### **Allow states to set pollution and emission standards above those mandated by the EPA.**

It is my understanding that one of the key roles of this Environmental Justice Advisory Council is to integrate environmental justice considerations in the EPA's programs, policies and activities. By limiting toxic pollutant emissions from vehicles, individuals living near highways and busy roads (mostly people of limited means and frequently people of color) would have fewer health problems, a significant issue in the Boston area.

In addition, increasing average mileage for all vehicles would reduce carbon dioxide emissions. This is key to curtailing the degree of climate change and limiting the long-term effects, such as overheating of the atmosphere and acidification of the oceans. Again, the effects of flooding, more intense storms, and overheating disproportionately affect the poor.

I do not accept the argument from lobbyists for the automobile companies that multiple standards are difficult to handle. They already need to match California's requirements. They can simply continue to meet that one standard.

#### **Cooperate with other federal agencies such as HUD to ensure that civil rights compliance is taken seriously.**

This is another of this Council's mandates, namely to strengthen the EPA partnership with other governmental agencies.

Any programs that help to reduce fossil fuel use both by becoming more efficient and by using renewable resources should be available to those who need them most. For example, renters often are unable to access funds for improving insulation or installing solar panels, since

landlords control such matters. But the landlords frequently do not care, because they are not paying the utility bills. The EPA should ensure that a proportional percentage of minority groups are able to benefit from any programs.

**NEJAC: Please focus on environmental justice.**

As a Unitarian Universalist, I believe in our principles, including the inherent worth and dignity of every person; justice, equity and compassion in human relations; and respect for the interdependent web of all existence. These constitute the foundation of environmental justice, which is an integral part of this Council's name. Therefore I urge you to focus your advice to the EPA on the needs of all Americans, poor as well as affluent, people of color as well as white. Do not forget the non-human portions of our country, the interdependent web of which we are part. Or the future generations, who will have to deal with our mistakes. It's a heavy burden and I wish you well.

As a scientist,  
Just one more item, I ask you to advise Andrew Wheeler, the acting administrator of the EPA, to have a stiff backbone and allow the EPA scientists to do science. Being loyal to a particular party or playing politics is not their job. Let them do their work, without fear.



## Suguet Lopez – Alianza Nacional de Campesinas’



### **Alianza Nacional De Campesinas**

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### ***SUBMISSION OF WRITTEN PUBLIC COMMENT TO NEJAC, August 7, 2018***

August 7, 2018

Karen L.

Martin

National Environmental Justice Advisory

Council Environmental Protection Agency

1200 Pennsylvania Ave.,

NW Washington, DC 20460

[nejac@epa.gov](mailto:nejac@epa.gov)

Dear Ms. Martin and Members of NEJAC,

Alianza Nacional de Campesinas (“Alianza de Campesinas”) is a national farmworker women’s organization that was founded in 2011 to address and advance the rights more than 700,000 farmworker women in the United States through its national coalition. Alianza’s members include groups and individuals who live and work in 11 states across the U.S. It is comprised of 18-member organizations, including one organization based in Mexico. Since it was founded in 2011, Alianza has focused its work on developing and promoting a unified policy and advocacy agenda on behalf of farmworker women, their children and families across the United States. Addressing pesticides exposure has been one of the primary issues that has worked on to address since its inception.

Alianza’s member organizations have worked to address issues related to the impact of pesticides and other environmental issues on the lives of farmworker women and community members for over three decades. This advocacy has included working on the ground in communities to better understand the environmental justice issues impacting community members and engaging directly with local, state and federal political leaders, including the EPA Administrator, to address these issues. As a part of these efforts, Mily Treviño-Sauceda, founder of the farmworker women’s movement in the US and co-founder of Alianza Nacional de Campesinas, has represented Alianza as a member of the National Environmental Justice Advisory Council (NEJAC) since summer of 2015.

Alianza, along with other partner organizations, have worked for many years to raise awareness about the health consequences that farmworker women and their families face due to exposure to pesticides. In

addition, Alianza and its members have advocated for additional representation of farmworker community members on decision making boards, stronger regulations, more training, and the ban on certain pesticides where research has proven direct negative consequences to workers' health, among other priorities. Each of these points is laid out in further detail below.

### **Farmworker Women and an Environmental Justice Agenda**

Farmworker women and children suffer unique consequences due to the environmental hazards that they are exposed to where they live and work. Among these, a great deal of academic research and other data exists to

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demonstrate the extent to which farmworker women, children and other communities have suffered adverse health consequences due to their exposure to pesticides that are applied to the crops that they harvest and handle, as well as the fields in their surrounding communities.

Health consequences from pesticides exposure may include:

- Pesticides can result in many detrimental impacts to human beings who come into contact with them on their skin, clothes, and by breathing them in.
- Exposure to pesticides results in incidence of cancer, respiratory issues, rashes, headaches, nausea, and neurological issues, among other harmful side effects.
- Women also suffer harmful negative side-effects or illness related to their reproductive health. These include miscarriages, still births and birth deformities in children, among other issues.

Farmworker women and their families are exposed to pesticides in several ways, including:

- Direct exposure by being sprayed with these chemicals while they work in the fields.
- Drift that is carried through the air to homes, schools and communities in the nearby vicinity to the fields where pesticides are applied; and
- By working as an applicator of one of these dangerous chemicals.

To protect the health and safety of farmworkers, including women and children, and other community members, it is necessary to ensure that strong protections are in place that take into consideration the risks to the workers that apply and/or are exposed to these chemicals through their work and by living in the rural communities where these chemicals are utilized. In addition to creating and passing laws and regulations that take into consideration the welfare of the community members who are in direct contact with pesticides through their work or from drift; measures must also be taken to guarantee that these laws and regulations are enforced. Too often, we know violations have occurred that undermines the purpose of the laws and regulations that were created as safeguards to protect both people and the environment.

Aside from its concerns about the chemicals that are used to grow the fruits, vegetables, seeds, plants and flowers, as well as other items, that make up the agricultural bounty in the United States and the direct impact on the health of farmworkers and other community members, Alianza is also deeply

concerned about other environmental issues that potentially impact individuals living in rural communities, specifically farmworkers.

**Other Key Environmental Issues Concerning Farmworker Women:**

- Landfills near and around the areas where farmworkers live;
- Lack of access to potable drinking water and waste management for community members, especially unincorporated areas;
- Standing water in fields or in and around the agricultural camps where some farmworkers live, which might result in exposure to mosquitos, other bugs or disease-carrying insects or animals;
- Air and water pollution resulting from use of chemicals for agriculture as well as by other factories located in rural communities, often near low-income housing and/or neighborhoods

Each of these environmental issues poses its own threats to the well-being of farmworker women, their families and other individuals who live in rural communities. The laws and regulations that are passed often prioritize financial health over the human health risks. Alianza Nacional de Campesinas strongly urges NEJAC to balance the short and long-term interests of the workers and community members living and working in rural communities across the nation, equal to their consideration of the financial well-being of the growers and the agricultural industry. Where it appears that the risks to the health of the people working with and

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among these hazards outweighs the possibility of profit, Alianza and its members call on the EPA Administrator and the members of NEJAC to put strong measures in place that prioritize the certain human costs over potential financial gain.

**Farmworker Representation on Boards and Commissions**

Alianza Nacional de Campesinas and its member organizations have some of their key environmental justice concerns, outlined above. However, with the exception of Mily Trevino-Sauceda's appointment to NEJAC and some local efforts, it is very infrequent that the perspective, concerns, priorities and recommendations of farmworkers, farmworker advocates and farmworker allies are taken into consideration as a part of the deliberative process surrounding environmental justice issues and agriculture or environmental justice issues and rural communities. In fact, important decisions are frequently made about the state of agriculture, including laws and regulations that pertain to the agricultural industry, without any input from farmworkers, farmworker advocates or farmworkers residing in rural communities.

Farmworkers are experts on the agricultural industry due to their years of experience working in agriculture and their many years living in the rural communities that are directly impacted by the industry, as well as other environmental hazards in rural communities. To ensure that the industry, workers and community members' perspectives have an equal opportunity to be weighed before environmental priorities or standards are established, **NEJAC must:**

- Designate a permanent position shall be created on the National Environmental Justice Advisory Council (NEJAC) that is specifically for a member of the farmworker community to share the

perspective, concerns and vantage point of farmworker community members who are directly impacted by recommendations made to the EPA Administrator on environmental issues, including community engagement, economic interests, enforcement and potential health risks or hazards.

- Designate one permanent position on the National Environmental Justice Advisory Council (NEJAC) that is specifically focused on the unique concerns and perspective of farmworker women to make recommendations to the EPA Administrator about environmental issues, community engagement, economic issues, health considerations and other matters as they pertain to women employed in agriculture and living in agricultural communities.
- Designate one permanent position on the National Environmental Justice Advisory Council (NEJAC) for one farmworker youth, who is an individual who was or is an agricultural worker and under the age of 35, to represent the interests and concerns of farmworker children and youth to make recommendations to the EPA Administrator about environmental issues, community engagement, economic issues, health considerations and other matters.

### **Guarantee the Safeguards and Protections Provided by the Worker Protection Standard**

Alianza has long advocated for improved safeguards and standards for workers who are exposed to chemicals used in the agricultural industry, including the safety of pesticide applicators and the health of the workers and their families that are at risk of increased exposures resulting from pesticide drift. In fact, Alianza was one of the leading organizations that worked in coalition with other advocates and allies to finalize revisions to the Worker Protection Standard (WPS) in 2015 and the Certification of Pesticide Applicators (CPA) rule in 2017 that require important safeguards for workers, applicators and their families.

The Trump Administration is currently proposing further changes to the WPS and CPA rule that would roll back vital protections for workers and the environment.. In particular, EPA is proposing to decrease the current minimum age of 18 to apply or handle pesticides, including the highly dangerous Restricted Use Pesticides (RUPs); repealing the right of farmworkers to seek the assistance of a trusted legal or personal

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representative to access basic information on pesticides they were exposed to at work; and protections from workers and bystanders from exposure to drifting pesticides during applications.

### **Review and Revisions of the WPS and CPA rule are Premature:**

- **Extensive academic and expert research was conducted prior to the finalization of the WPS and CPA rule.** Over two decades, EPA conducted studies, reviewed research and sought input from diverse stakeholders while drafting and finalizing revisions to the rules. Current efforts to repeal the protections are not grounded in evidence and are political in nature. There is no rational basis for decreasing worker safety protections.
- **Stakeholders were provided notice and opportunity to raise concerns and recommendations during the rulemaking process of the WPS and CPA rule.** Thousands of comments were submitted and considered during the rulemaking process. Extensive efforts were also made to engage stakeholders to better understand their recommendations and varied perspectives prior to the creation of the final rule.

- **It is too early to seek comments and proposed revisions to the WPS and CPA rule.** The rules have not been implemented for a sufficient length of time to give stakeholders an opportunity to provide feedback or recommendations based on any identified shortcomings or gaps.

### **The Neurotoxin Chlorpyrifos Must be Banned**

Farmworkers are exposed to different kinds of harmful chemicals during their employment. The neurotoxin chlorpyrifos is one of the most dangerous.

### **Exposure and Risks**

Workers and community members can be exposed to chlorpyrifos through direct contact, air pollution caused by chemical drift, from run-off water that gets into the water supply and, even, through residue of the chemical on clothes and the produce that we consume. The consequences can be severe. Prenatal exposure to even low levels of this chemical can lead to brain damage to children. In addition to the developmental dangers that it could pose to children, it can also result in poisoning and other illness, such as dizziness, vomiting, convulsions, numbness in the limbs, loss of intellectual functioning and, even, death.

### **Can Risks be Mitigated?**

There have been many studies done on the impact of chlorpyrifos on people. After conducting extensive research, the EPA concluded that there are no safe levels of chlorpyrifos in food or water. Some assert that if workers observe a “waiting period” then there will be a period when it is safe for the workers to reenter the field to do their work. The research suggests that workers would have to wait 18 days after the pesticide was applied for it to be safe for them to reenter the field where it was sprayed. This means that workers who enter the fields hours or a couple of days after the pesticide has been used on crops are at risk of the pesticide’s harmful health consequences. In addition, the EPA determined that applicators are at risk of dangerous health consequences even when wearing protective gear while they mix or spray the pesticides.

### **Immediate Action is Required to Protect Workers and Community Members**

**Further research on the side-effects caused by chlorpyrifos is not necessary.** There is no need to delay banning chlorpyrifos because the EPA and other researchers have conducted significant research on its impact through direct contact and consumption, as well as air and water pollution. The results have shown its harmful consequences time and again. Therefore, additional research will be redundant and unlikely to yield different results.

**NEJAC must forcefully recommend that the EPA Administrator ban the use of chlorpyrifos.** Alianza Nacional de Campesinas members have seen first-hand how pesticides, like chlorpyrifos, can cause long- lasting and severe harm, including death. Failure to ban its use will result in the continued threat of harm against workers, children and community members.

Farmworker community members' knowledge, perspective and recommendations are invaluable and necessary to fully address the environmental justice issues in rural communities across the U.S. Farmworker women and children have unique concerns that merit separate consideration. For this reason, Alianza Nacional de Campesinas urges the creation of three permanent Farmworker Community representative positions on NEJAC, one of which will be reserved for a farmworker woman and one for farmworker youth. NEJAC should prioritize the environmental justice priorities outlined above. Among these, it should call for the immediate implementation and enforcement of the 2015 Worker Protection Standard without further review or revisions. NEJAC must also recommend a permanent and swift ban of the pesticide chlorpyrifos.

Thank you for this opportunity to send these written

comments, Respectfully,



Suguet  
Lopez,  
President  
Board of  
Directors

## **Pam Nixon – People Concerned About Chemical Safety**

### **NEJAC meeting – Boston 2018**

#### **Aboveground Storage Tanks**

##### **Pam Nixon, President**

Thank you for allowing me time to speak about the proposed Hazardous Substance Spill Prevention Rule for aboveground storage tanks.

On January 9, 2014, there was a major chemical spill at the former Freedom Industries tank farm located on the river bank of Elk River caused by corrosion and inadequate secondary containment. Ten thousand gallons crude MCHM (4-methylcyclohexanemethanol) mixed with PPH was released into the Elk River in Charleston, West Virginia, only 1 ½ miles upstream of the drinking water system intake, leaving 300,000 residents without potable water for weeks. We were told not to drink it, cook with it, shower or wash dishes in it. Businesses in the area lost at least \$61 million dollars because of this disaster.

I still feel nauseous remembering the licorice smell coming from our faucets.

At the time of the spill, WV did not have regulations for aboveground storage tanks (AST) and neither did, nor does, the US EPA. As a result, in 2014 the WV legislature passed, and the governor signed the AST Act into law and most recently revised it in 2017. There are 40,877 ASTs registered with the WV Department of Environmental Protection, and over 5,355 are regulated by the DEP.

The Clean Water Act became law in 1972. It authorized EPA to create a program to prevent spills and leaks of hazardous substances from entering US bodies of water. In 1984 the underground storage tank (UST) program was created, and then revised in 2015. But there still is no federal AST program. In June 2015, Environmental Justice Health Alliance for Chemical Policy Reform and People Concerned About Chemical Safety, represented by Natural Resources Defense Council, sued EPA for failing to comply with the CWA.

In February 2016 EPA entered a Consent Decree in federal court to develop, finalize, and publish the safeguards by 2019. However, on June 15 of this year EPA proposed an action to establish no additional regulatory requirements. In other words, they will take no action.

Since the 2017 revisions to WV's AST regulations, here are five (5) companies which signed consent orders with the DEP for being non-compliant. It has ranged from creating an oily slick and not notifying the public water system of a chemical spill, to inadequate secondary containment, no leak detection methods and corrosion protection. At least 3 of the companies are members of the American Chemistry Council.

EPA's do-nothing approach for hazardous chemicals in ASTs leave us wondering when the next drinking water disaster will strike.

## **WV DEP Consent Orders**

- June 2017 Shiloh Resources LLC in Ravenswood – Created an oily slick seeping from creek bank under the lining, failed to notify public water system of chemical spill
- June 2017 Chemours Co in Washington (WV) - Failed to adequately design and construct secondary containment (DuPont spin off, and ACC member)
- Sept 2017 EQT Production Co – Tanks in 4 counties had inadequate secondary containment
- Oct 2017 Covestro LLC in So. Charleston – Inadequate secondary containment, no leak detection methods, inadequate protection from corrosion (Bayer Material Science spin off, and ACC member)
- April 2018 Union Carbide Corp in South Charleston and Institute – Failed to ensure all regulated ASTs had secondary containment system (wholly owned subsidiary of DOW, and ACC member)

## **Recommendations to NEJAC**

- EPA must fulfil CWA statutory obligation by proposing and finalizing hazardous substance spill prevention rule(s) for ASTs to protect the drinking water for US households
- Regulate AST designs and materials, and secondary containment systems to meet established engineering standards
- Require leak and corrosion detection systems, and third-party auditing mandates
- Ensure the public's right to know of chemical hazardous, and robust spill notification



## Sylvia Orduno – Michigan Welfare Rights Organization



### **Michigan Welfare Rights Organization**

23 E. Adams St, 4<sup>th</sup> Floor Detroit, Michigan 48226

MWRO.org

August 14, 2018

Dear EPA and NEJAC:

On behalf of Michigan Welfare Rights Organization and the People's Water Board – a Michigan coalition of nearly three dozen anti-poverty, environmental, labor and faith-based groups – I wish to share with you deep concerns we have regarding multiple failures with the Michigan Department of Environmental Quality and concerns with EPA's regulatory process.

I wish to provide you with two examples of this complaint and conclude with specific requests for you to review and follow up on.

In the EPA's purview, it has designated state governments to oversee compliance and enforcement of regulations for the Clean Water Act and Safe Drinking Water Act to protect drinking water sources for public health and environments. As you are well aware, the Michigan Department of Environmental Quality (MDEQ), has been cited by the Michigan Attorney General as being a responsible party for the failure to protect Flint residents from what is now over 4 years of lead poisoning to children, babies and unknowingly affected victims like non-English speaking residents. Additional harms have included incredible financial damages and personal bankruptcies, pet deaths, deaths attributed to pneumonia and other weakened immune symptoms problems; plus, on-going public health concerns stemming from much higher levels of water-borne bacterial infections as reported by the Michigan Department of Health and Human Services (MDHHS).

On the latter and as a matter of fact and public concern, since 2016 MDHHS has issued almost daily warnings of a Hepatitis A – a highly contagious liver infection -- in several state counties including Genesee County (where Flint is located); and Wayne County (where Detroit is located and continues to experience nearly 10,000 household shutoffs per month stemming from unaffordable water and sewerage bills). In response, MDHHS is calling for residents to get vaccinated and attempting to attribute the public health problems to fecal-oral transmission among opioid drug users and the LGBTQ population but the crisis of unaffordable water in these high poverty rate cities and other low income cities are a more significant and unattributed factor.

As mentioned, at least five MDEQ employees have been charged with a combination of crimes including felonies, misconduct, willful neglect of duty, tampering of evidence, conspiracy, misconduct in office, and treatment and monitoring violations. Among them are officials whose roles are: the head of the drinking water unit; a water quality analyst; a specialist for the community water unit; a district coordinator for the office of drinking water and municipal assistance, and other drinking water officials.

The MDEQ as a regulatory body has been cited by the EPA for multiple regulatory and oversight failures, and management weaknesses. But the failures lie at EPA's door too. Even the EPA's Inspector General found that the EPA knew as early as 2010 that MDEQ had not been in proper compliance with the Safe

Drinking Water Act. The EPA was also very slow to respond to the Flint crisis when the first citizen's complaint was filed in May 2014. In fact, it took nearly two years and 87 citizen complaints before EPA issued an emergency order in January 2016.

We know that Flint only scratched the surface of what has emerged as a national crisis on water infrastructure, lead and copper rule violations, poor enforcement of the Safe Drinking Water Act and growing problems with water and sewerage unaffordability, especially in low income communities.

We call on the EPA and NEJAC to conduct an assessment of the regulatory and oversight compliance of state regulatory agencies responsible for enforcing the Clean Water Act and Safe Drinking Water Act. Additionally, we call for stronger enforcement and community reporting of such violations and to highlight exemplary enforcement examples as standard models.

The second example of MDEQ concern I wish to raise is related to the on-site storage and dumping of hazardous waste into the Detroit Water and Sewerage Department wastewater system by toxic waste processing corporation U.S. Ecology. Currently, DWSD through the MDEQ allows U.S. Ecology to dump up to 300,000 gallons of treated liquid waste into City of Detroit sewers every hour daily. U.S. Ecology is petitioning to expand and increase by nine-times their toxic waste plant in the center of this urban city.

Local residents have repeatedly asked the MDEQ to hold public hearings on this corporation's request to the City of Detroit. This corporation is also seeking to convert two Detroit buildings from solid waste storage to hazardous waste storage such as arsenic, benzene, cyanide, hydrochloric acid and PCBs.

Among the many complaints by residents are MDEQ's failure to ensure that translated public notice information is made available to near-by Yemeni and Bengali communities despite petitions with hundreds of signatures against the expansion. Our environmental law attorneys have called for the agency to respond to legal questions, particularly civil rights violations that have arisen in the complaints, along with nearly 150 times since 2010 that it's violated EPA regulations on poisonous chemical dumping into Detroit public sewers.

More recently, the EPA has continued to allow MDEQ to assess, monitor and ensure enforcement of soil and groundwater clean-ups of per- and polyfluoralkyl substances, better known as PFAS, that are linked to cancers and birth defects, plus other hazardous substances. Two recent studies have also suggested that the EPA and Department of Defense – which for decades used the chemical for fire retardant foam on military bases -- has downplayed for several years the public threats posed by these chemicals. The MDEQ has identified approximately 11,300 facilities with potential PFAS contamination in communities across Michigan. These chemicals will not degrade on their own. On July 27<sup>th</sup>, residents of two Kalamazoo counties were told not to drink their tap water when PFAS was found at more than 20 times the federal health advisory limit.

Michigan residents in environmental justice communities have a serious mistrust of MDEQ leadership, management and oversight responsibilities – a reputation this agency has sadly earned; along with much skepticism of the authenticity of EPA's mandate for public health, water quality and EJ. More than ever NEJAC's role and voice is critical to address and redress these grave concerns.

In states like Michigan where criminal dereliction of duties has been charged and documented, we ask that the EPA better define how it will demand and enforce proper enforcement of the regulatory responsibilities it delegates to states. More to the point: How and when will the EPA ensure that MDEQ is properly carrying out its water regulatory responsibilities to protect public health and stop on-going harms to EJ communities? Where are the updates to the EPA's Enforcement Response Policy and Enforcement Targeting Tool that was recommended approximately a decade ago? We believe that if the EPA issued

grades to state regulatory bodies, Michigan would earn an F. This is greatly distressing as Michigan is surrounded by 20% of the world's fresh surface water and experiences a multitude of vulnerabilities that we believe need more oversight and enforcement in these times for the entire nation.

With appreciation and regard,

Sylvia Orduño  
Organizer, Michigan Welfare Rights Organization

## **Rick Reibstein**

I have been teaching environmental law and policy at Boston University since 2000 (School of Arts and Sciences, Department of Earth and Environment). A few years ago my students looked at the idea of environmental justice ordinances – how a city or town could act to bring about greater environmental justice. The students came up with some intriguing ideas:

Increase and improve affirmative outreach to the community, don't just provide the opportunity to comment. Assist the community in engaging in decision-making and being aware. Provide technical and financial assistance for participation in the process. Have frequent public reviews of progress.

Target economic development planning efforts to encourage cleaner industry to develop and locate in EJ areas; provide clean, environmentally safe jobs locally.

Require an Environmental Justice Impact Statement.

Later, another group of students continued discussion of these ideas and collected these further thoughts:

Include preferences for industries that offer solid assurances of safety and commitments that protect the community from the costs of accidents (i.e. insurance, bonds).

Make disproportionate impact sufficient to act, particularly when there is already a cumulative impact. Do not require showing of intent for action to address significant disparities or serious impacts.

Require an EJ Impact analysis as part of environmental impact assessment. Implement a fee in permit applications to pay for independent community monitoring and assessment, if a new facility will have releases, use toxics, or generate dangerous wastes. Air, water and soil should be tested where they might be impacted, to provide a baseline, if current testing does not already provide the specific information needed to assess facility-caused impacts in the future. Include monitoring in development planning. Include paying for expert judgment in interpreting data and assessing risks.

It is commonly stated that what we really need is a measure of cumulative risk. It is true that one problem with current policy is that we tend to look at each threat, each chemical, each potential problem, all by itself. A broad, not a narrow view, that encompasses the many impacts that are occurring all at once, is the true picture, even if we do not know how to construct it. What should we do about this problem? The answer is clear: gather more information.

At the beginning of the environmental movement, before we began environmental monitoring, we were in the dark. We have learned a lot, but we still don't know enough. There is more work to be done so that we get things right and the value of seizing the opportunity to continue to advance our understanding cannot be calculated. The good news is that our investments in knowing how to be greener have paid off wonderfully. The strictest cost-benefit analyses show the extraordinary value of the Clean Air Act, the studies of lead exposure show extremely high paybacks for the money invested in preventing further poisoning. The money invested in solar energy is paying off in reduced impacts and reduced energy bills. The money invested in green products and organic foods and pollution controls – all have been sources of

wealth and prosperity as well as reducing environmental destruction and our disease burden. The money we spend in understanding what harms us and how we can avoid harm is money well spent. It is hard to find another function of government so easy to justify.

We value highly that our air is not choking, that our rivers are not open sewers. We treasure our national parks, safe drinking water. But we cannot say we're done when so many communities are still being harmed as they are, have little natural beauty, fresh food or clean air and water. Not when so many communities are brown, not green. Investing in changing this will have huge pay offs.

Municipalities need resources to collect data that enables the evaluation of cumulative risk. They can start charging in permits, as suggested, but the federal government can also provide grants to get this going. We need to create the universal capacity to assess cumulative risk. Current monitoring is not sufficient. Technology has advanced so that there is no excuse about not knowing what we can know. We have the ability to monitor without great expense and we have the ability to share the data in real time.

We can create new capacities to understand that information and open, democratic processes to generate greater understanding of what can be done, and the consensus of the wise that will guide us to better, safer, communities. These issues are all more quickly resolved when they are better understood. Without the best information about impacts, which can be available if we act to develop it, we cannot make the best decisions. With better information, which can be developed through time if we get started, we will more quickly and more justly settle disputes about the communities we want to live in.

Adding to the agenda initiatives to attract and/or develop less-polluting companies, and to require pre-disaster financing of more dangerous industries, will have many benefits. Having safe economic development expertise working in currently disadvantaged communities will have lasting benefits. Good local jobs will reduce transience and other social problems.

All Environmental Assessments should include examining the impact on any EJ areas that could be impacted. And because a good Environmental Impact Statement includes a real examination of alternatives that would not be so impactful, there should be a specific requirement to look at alternatives that do not impact EJ areas.

Instituting efforts to develop cleaner economies, new monitoring programs that would give us the ability to know more about impacts, more information about how to avoid them, and frequent, affirmative public engagement, would be wise as well as just investments in creating a better world.

Supplemental Comment to NEJAC – on DATA

Rick Reibstein, Lecturer on Environmental Law and Policy, Boston University

August 15, 2018

After suggesting to NEJAC the idea of including increased monitoring as a part of development planning, permitting and implementation, to render visible the impacts currently occurring so that future impacts can be prevented or identified and understood if not prevented, I was asked by Dr. Sacoby Wilson to provide supplemental comments concerning my observation that current data is inadequate to this task.

Requiring baseline monitoring of EJ areas in environmental assessments, and sharing and compiling that data, will greatly aid the effort to assess cumulative impact. But we should not wait till we have a perfect understanding of the whole story. While we work to understand cumulative impact, we can increase protections now, by using new monitoring technologies to better see the components of impact. We can tailor such monitoring requirements to the specific impacts each proposed development will create.

Understanding cumulative impact requires knowing what is in the water people drink, the air they breathe, the soil children play in, the materials in the built environment and the products they use, as well as the contaminants in their food. Inexpensive measurement of many of these components of risk is now feasible with the development of new monitoring technology. For example, EPA's 2013 *Roadmap for Next Generation Air Monitoring* found that monitors are becoming smaller in size and lower in cost, and can now be used "to promote community engagement" and "supplement regulatory air pollution monitoring networks."<sup>1</sup>

We do not have to, and should not, wait until we have constructed a definitive risk picture comparing and combining all of these factors. The point at which judgment can determine that a burden is excessive and should not be allowed can be identified far earlier, when any component of risk has exceeded a reasonable threshold. But this can only be determined with specific measurement of existing burden. We can have that necessary information by adding a requirement for evaluating current conditions to the development planning and permitting process, including EJ impact assessment in all environmental assessments. Independent, reliable measurement of relevant components of risk will enable immediate protective action as well as eventual understanding – through compilation of monitoring information - of the cumulative risk of the combination of risks.

Current monitoring is inadequate to this task. EPA's current air monitoring networks measure the levels in ambient air of criteria pollutants, but the measurement stations are too sparsely located to evaluate impacts on most communities. If you go to EPA's Air Quality Data map, <https://www.epa.gov/outdoor-air-quality-data/interactive-map-air-quality-monitors> and select all lead monitoring stations only about a dozen show up for New England. *If you select only "active" stations only one shows up* (in Springfield – the latest data download indicated is 2015). None appear in some parts of the country – such as Colorado and Utah. If this is adequate for purposes of ensuring attainment with National Ambient Air Quality Standards, it is not adequate for assessing whether a local community already experiences local lead air deposition and should not have any additional burden. A requirement that any facility proposing to use or release lead pay for the independent measurement of lead in a potentially impacted EJ community could help fill the gap. Perhaps a better example is monitoring for any of the many hazardous air pollutants that would be emitted from facilities using toxic chemicals, as the last National Air Toxics Assessment issued in 2017 was based on data from 2011. "NATA assessments do not incorporate refined information about emission sources but, rather, use general information about sources to develop estimates of risks".<sup>2</sup> EPA's website currently assures the public that this is likely overprotective, but because actual measurement is technologically and economically feasible there is no excuse for accepting potentially flawed modeling as a substitute for it.

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<sup>1</sup> <https://www.epa.gov/sites/production/files/2014-09/documents/roadmap-20130308.pdf>

<sup>2</sup> <https://www.epa.gov/national-air-toxics-assessment/nata-overview>

It seems necessary to reiterate that more data is not needed to justify action, but data is needed to determine what specific action is needed. It is clear that certain communities receive an excessive burden of pollution, but that is not the same as being able to show that a specific increase in risk will constitute additional burden that should not be permitted. Requiring monitoring will allow the prompt identification of excessive burden in specific cases, and compiling and sharing that data will eventually provide the capacity to comprehensively grasp cumulative risk.

It is important to note also that some data is already available, but may not be accessible or understandable without the technical and financial assistance to communities in need of it. For example, water quality data is often available, but most citizens need help in finding it and understanding how the reported results compare to water quality standards and how they may relate to their health. A facility with high waste generation, or a local contaminated site, may or may not present real risks. Many communities need the assistance of specialized expertise and representation, and support to participate in public process.

It is hoped that NEJAC will support the idea of requiring EJ Impact Assessments that include baseline monitoring relevant to potential risks when an EJ community is potentially impacted. Will NEJAC also consider recommending that federal grants to cities and states are needed to foster this activity, and to create independent, reliable information depositories so that each measurement contributes to a comprehensive picture of impact? Will NEJAC consider advocating for the provision of technical and financial assistance to communities to ensure the informed and effective participation of citizens in the monitoring and information sharing systems needed to make each particular insult to health and our environment more visible? Perhaps NEJAC may also wish to examine further the question of whether EPA's current monitoring is adequate for purposes of evaluating ambient air quality.

Thank you for asking for further thoughts on this matter and good luck to you with your important work!

<http://www.bu.edu/earth/people/faculty/rick-reibstein/>, [www.bu.edu/rccp](http://www.bu.edu/rccp)

<sup>1</sup> <https://www.epa.gov/sites/production/files/2014-09/documents/roadmap-20130308.pdf>

## Virginia Ruiz – Farm Worker Justice



August 7, 2018

Ms. Karen L. Martin  
National Environmental Justice Advisory Council US.  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
[nejac@epa.gov](mailto:nejac@epa.gov)

Dear Ms. Martin and Members of the NEJAC:

Farmworkers and their families are a particularly vulnerable environmental justice community. According to the most recent data available from the U.S. Department of Labor, approximately 80% of U.S. farmworkers are Latino. Additionally, only one out of every four farmworkers reports being able to speak English well. Spanish tends to be the dominant language, though there are also farmworkers from countries where languages other than Spanish are spoken, such as Haiti. There are also increasing numbers of migrant farmworkers arriving in the U.S. from indigenous communities in Mexico and Guatemala.

Most are foreign born, and their immigration status spans the spectrum, including US citizens, permanent residents, undocumented, and increasingly, non-immigrant temporary H-2A work visa holders. The last two categories are particularly vulnerable to poor living and working conditions and exploitation.

Poverty is persistent in farmworker communities. Most farmworkers earn low annual incomes due to low wages, high incidences of wage theft, and the seasonal nature of their work. Thirty percent of farmworker families have an annual income below the U.S. federal poverty level. Additionally, few farmworkers receive fringe benefits. While low-income U.S. citizens and long-term legal permanent residents may be eligible for public benefits like food stamps and Medicaid, H-2As, undocumented and recently documented immigrants are ineligible for most public benefits.

Agricultural work is one of the most dangerous occupations in the U.S. Perhaps one of the greatest hazards for the health of farmworkers, their families and their communities is exposure to pesticides. Farmworkers have one of the highest numbers of acute chemical poisonings among U.S. workers. The US EPA estimates that up to 3,000 farmworkers suffer acute pesticide poisoning every year through occupational exposures. The numbers are likely much higher. Several factors contribute to the underestimation of the problem.



Cases may never reach the health care system, due to the inability and reluctance of injured workers to get medical care. Cases may be misdiagnosed, due to the lack of training for general practitioners in occupational or environmental medicine. Even when cases reach the medical system and are properly diagnosed, there is no coordinated national pesticide incident reporting system to collect the information in one place.

Studies have shown that agricultural workers suffer serious short- and long-term health effects from pesticide exposure. Yet, despite the urgent need to protect farmworkers and their families from pesticide exposure, they are afforded fewer legal protections than workers exposed to chemicals in other industrial sectors.

EPA has embarked on several actions during the Trump Administrations that endanger the health and well-being of farmworkers and their families.

Proposed changes to important safeguards in the Agricultural Worker Protection Standard (WPS) and the Certification of Pesticide Applicators (CPA) rule.

The WPS & CPA rule provide basic workplace protections to agricultural workers and pesticide applicators to minimize the adverse health effects of pesticide exposure. In 2015 and 2017, the EPA finalized key revisions to these regulations after a decades-long, multi-stakeholder process. The Agency is currently undergoing rulemaking to roll back important worker protections. The key WPS provisions that are under threat include a minimum age of 18 for handling pesticides, the right to a representative that can access pesticide exposure information, and safety measures to prevent exposure to bystanders during pesticide applications. And in the CPA rule, EPA is proposing to repeal a provision which protects children from applying Restricted Use Pesticides, the most toxic and dangerous pesticides on the market.

There is overwhelming support for strong worker protections in the WPS and CPA rule from diverse stakeholders. **EPA must comply with its legal duty to protect agricultural communities and the public from unreasonable harm from pesticides, and should ensure that worker protection rules are not eroded, but are effectively implemented and enforced.**

Failure to cancel all uses of the neurotoxic pesticide chlorpyrifos

In 2000, the EPA banned the use of the neurotoxin chlorpyrifos in residential settings because of emerging evidence that it posed unacceptable risks to young children. But the agency allowed continued use of the pesticide in agriculture, resulting in exposure to the children of farmworkers and other rural residents. In the 18 years since, this double standard has exposed generations of farmworker children through airborne drift, water contamination, and even the residues on their parents' work clothes. A growing body of evidence shows that prenatal exposure to very low levels of chlorpyrifos causes brain damage to children. Chlorpyrifos is a highly neurotoxic insecticide developed from World War II-era nerve gas. Exposure can cause dizziness, vomiting, convulsions, numbness in the limbs, loss of intellectual functioning and death. Every year, workers and bystanders report illness and injury from exposure.

In November 2016, the EPA issued a human health risk assessment that recognized the scientific evidence of harm from exposure to even low levels of chlorpyrifos. In its assessment, EPA scientists found that there are no safe levels of the pesticide in food or water, that unsafe exposures to farmworkers continue on average *18 days after applications*, and that workers who mix and apply chlorpyrifos are exposed to unsafe levels even when using protective gear. The Food Quality Protection Act requires EPA to cancel uses of a pesticide after a finding that it cannot be used safely on food.

However, despite these important findings, in March 2017, former EPA Administrator Scott Pruitt rejected the Agency's own science and refused to ban further agricultural uses of chlorpyrifos.

**EPA must uphold its mission to protect human health and the environment and move forward immediately to cancel all uses of chlorpyrifos.**

NEJAC can take further steps to bring to light the environmental justice concerns of farmworker communities and thereby provide guidance to EPA regarding its policies and regulations that impact the wellbeing of farmworkers and their families. We recommend NEJAC take the following actions:

- Include a panel to discuss farmworker issues on the agenda for the next NEJAC meeting, and; farmworker issues should be on the agenda for NEJAC meetings at least once each year
- Include farmworker representatives on every NEJAC
- Hold NEJAC meetings near farmworker communities

Thank you for the opportunity to submit these comments.

Virginia Ruiz  
Director of Occupational and Environmental Health



## Steven Taylor – Coming Clean

### **EPA's Proposal to Rollback the Risk Management Plan (RMP) Amendments Will Disproportionately Harm Environmental Justice Communities and Constituencies**

#### **Comments to the National Environmental Justice Advisory Council Meeting**

**August 14, 2018**

**Submitted by Steven Taylor, Program Director, Coming Clean**

Approximately 12,500 industrial and commercial facilities that present a high risk of catastrophic chemical release or explosion are included in EPA's Risk Management Plan (RMP) program under the Clean Air Act, which should work to prevent chemical disasters. About 177 million US residents, including one in three schoolchildren, are at constant risk of a catastrophic chemical incident. These are disproportionately people of color, low-income, and Indigenous individuals and communities.

In March 2012, the EPA recommended to EPA Administrator Lisa Jackson that the Agency act to prevent chemical disasters that disproportionately threaten and harm EJ communities by "using its authority under the 1990 Clean Air Act (CAA), Section 112 (r), to reduce or eliminate these catastrophic risks, where feasible, by issuing new rules and guidance to fully implement the General Duty Clause."

In January 2017, following a Presidential Executive Order on Chemical Facility Safety and Security, an extensive multi-agency working group process, and an exhaustive process of analysis, comment, and consideration by EPA itself (including 10 public listening sessions, two separate public comment dockets that received over 144,000 comments, a Small Business Advocacy Review panel, a 147-page Regulatory Impact Analysis, a 259-page response to public comments, and two reviews by the Office of Information and Regulatory Affairs), the Agency adopted amendments to its Risk Management Plan (RMP) rule under the CAA that will help to prevent chemical disasters and address the disproportionate impacts on EJ communities.

The RMP amendments were supported by extensive analysis and by tens of thousands of public comments. In adopting the amendments, EPA specifically recognized the disproportionate risks and harm these facilities pose to EJ communities.

Now, the Trump Administration has proposed to rescind almost the entirety of these modest but important improvements, that include common-sense disaster prevention provisions for "root cause" analysis of why major releases or explosions happened, independent safety audits, and research by some of the most dangerous facilities into whether they could switch to safer chemicals and processes.

Presidential Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, and EPA's own Environmental Justice policies, require the agency to identify and address potential disproportionate impacts of

its actions on people of color, low-income populations, and Indigenous peoples, and provide for "meaningful involvement" of these populations and communities in decision making processes.

The Trump Administration's new Regulatory Impact Analysis for the proposed rollback admits that its proposal will disproportionately endanger communities of color and low-income communities: **"there is evidence that risks from RMP facilities fall on minority and low-income populations, to a significantly greater degree than those risks affect other populations."**

EPA's process to develop the RMP Amendments provided multiple opportunities for affected communities to provide input and influence the development of the rule, and the adopted rule included specific elements to address disproportionate hazards and impacts.

But the current leadership of EPA took no measures to ensure meaningful involvement of these communities in the development of its rollback, and proposes no activities to ensure such involvement at any point during its rulemaking process. And the agency proposes to rollback the very elements of the Amendments that would have helped to protect these communities.

EPA held only one public hearing on the proposed RMP rollback, which was held in Washington, DC, and specifically rejected a request from fence-line and EJ organizations that the Agency schedule additional public hearings in affected communities outside of DC.

If adopted, EPA's proposed rollback of the RMP amendments will, according to the Agency's own analysis:

- Increase the risk that communities of color and low-income communities face from chemical disasters to a "significantly greater degree" than other populations; and
- Include no measures to mitigate or minimize the disproportionate impacts that the Agency itself will be creating; and
- Have been adopted without the assurance of meaningful involvement of these communities in the development of this proposal, analysis of its implications, or the Agency's decision-making process.

The NEJAC should recommend to the EPA Administrator that the proposed rescission of the RMP Amendments be abandoned in its entirety and that the rule as amended in January 2017 be immediately and fully implemented.

## Jessica Thomas – Union of Concerned Scientists

Good evening, my name is Jessica Thomas, and I'm an outreach coordinator with the Union of Concerned Scientists (UCS).

At UCS, our mission is to put rigorous, independent science to work to solve our planet's most pressing problems. And, we believe science can and should be applied to reduce racial and economic inequity.

I'm here to share with you some information on the state of science within the EPA. This information comes from 449 anonymous EPA scientists and scientific experts who responded to a survey UCS conducted during February and March of this year. Across the 16 federal agencies surveyed this year, the results at the EPA are striking - more-so than at any other agency, EPA scientists and scientific experts report low morale, job satisfaction, censorship of work, high levels of political interference, significant staff reductions, and decreased effectiveness of their offices and divisions. Since the agency's science-based work often impacts environmental justice communities and the issues that they face – these results are incredibly concerning.

Regarding workforce reductions – Over 90% of those surveyed at the EPA reported workforce reductions due to hiring freezes, departures, or retirements. Of those respondents who noticed workforce reductions, 80% reported that these reductions have made it difficult for the EPA to fulfill its science-based mission.

Regarding Effectiveness of office/division - Over 60% of respondents at EPA reported that the effectiveness of their office/division has decreased compared to one year ago.

Regarding Scientific integrity – meaning scientists at the agency are able to do their job, without political interference - *only* 35 percent of respondents agreed or strongly agreed that the agency adheres to its scientific integrity policy.

Years of research show that health burdens are disproportionately borne by poorer communities and communities of color. Our own collaborative research with our EJ community partners has demonstrated that these same communities are at heightened risk from climate change and toxics. If scientists at federal agencies are unable to do their work, communities of color, low income, and tribal communities will suffer an even greater cost.

The following are a sample of statements made by respondents that directly impact EJ communities:

When asked the question, "How have actions taken or changes made by the current administration related to science (positive or negative) helped or harmed your agency's mission?" Here are some examples of what they had to say:

- Quote "The re-examination of the Worker Protection Standard has a disproportionate adverse effect on Hispanic and/or migrant agricultural workers. The re-examination of the minimum age requirement for both the Worker Protection Standard and the Certification & Training rules will adversely effect growing teenagers who work on family farms, putting them at needless risk for pesticide exposure. Finally, the chlorpyrifos risk assessment identified neurodevelopmental defects among the offspring of women exposed to the pesticide during pregnancy-- even with its uncertainty, the research is being patently disregarded, and the children bear the risk."
- Quote "The implementation of amended Toxic Substances Control Act, which is supposed to increase the amount of chemical data used by EPA to determine its risk and whether to further

regulate its commercial use, has not lived up to the spirit of the law. Political appointees are from chemical companies and industry trade groups and are willing to neglect strongly enforcing the data required from companies in order to fast-track their commercial manufacture.”

When asked the question, “In particular, have you observed any potential impacts of policy actions on low-income communities, sensitive subpopulations and people of a minority race/ethnicity?” here are some examples of what respondents said:

- Quote “Research program on sustainable and healthy communities, which had a very large portfolio on well-being and vulnerable populations and environmental justice, basically being dismantled / - tribal programs reduced / -funding cuts include grants programs that address these issues and training of next generation scientists / -funding cuts include case studies that often are collaborative with EJ communities”
- Quote “EPA is not determining how actions are affecting EJ communities. It is not being measured anymore.”
- Quote “We were told verbally to omit the term 'environmental justice' in all documents.”
- Quote “We have seen less of an emphasis in EJ activities at EPA. We don’t interact with the community groups as often as we did a year ago, as a result, we spend less time helping these groups address their environmental issues.”
- Quote “Environmental Justice used to place a huge role in decision making however now it’s a low priority.”

We suggest the NEJAC submit these recommendations to encourage EPA to do the following:

1. Ensure Regional EJ Coordinators/Ambassadors collaborate with other federal/state/local staff working in engaging communities on environmental issues and public health. Such coordination ensures EJ communities are covered across the board in all environmental health concerns;
2. Strengthen the enforcement of existing environmental and workplace health and safety regulations;
3. Remove barriers to the timely dissemination of scientific information to the public as much as possible, particularly when related to matters of public health and safety;
4. Fully utilize agencies’ peer-review processes for quality control and assurance rather than censoring results or terminology that are legitimate products of the scientific process;
5. Encourage scientists to speak freely to the public and the news media about their work;
6. Through ethics and recusal requirements, reduce undue influence that regulated industries may have on agency scientific work and decision making, and prohibit political appointees with clear ties to industry from influencing policies on which they lobbied prior to joining the administration;

Thank you for this opportunity.

