

**SUMMARY OF THE PUBLIC MEETING  
OF THE  
NATIONAL ENVIRONMENTAL JUSTICE ADVISORY  
COUNCIL**

**January 27 through 29, 2010  
New Orleans, Louisiana**

*Victoria Robinson*

**Victoria Robinson  
Designated Federal Official**

*Richard Moore*

**Richard Moore  
Chair**

*A Federal Advisory Committee of the U.S. Environmental Protection Agency*  
[www.epa.gov/compliance/environmentaljustice/nejac/](http://www.epa.gov/compliance/environmentaljustice/nejac/)

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## 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. To date, NEJAC has held 32 meetings:

1. Washington, D.C., May 20, 1994
2. Albuquerque, New Mexico, August 3 -- 5, 1994
3. Herndon, Virginia, October 25 -- 27, 1994
4. Atlanta, Georgia, January 17 and 18, 1995
5. Arlington, Virginia, July 25 and 26, 1995
6. Washington, D.C., December 12 -- 14, 1995
7. Detroit, Michigan, May 29 -- 31, 1996
8. Baltimore, Maryland, December 10 -- 12, 1996
9. Wabeno, Wisconsin, May 13 -- 15, 1997
10. Durham, North Carolina, December 8 -- 10, 1997
11. Arlington, Virginia, February 23 -- 24, 1998 (*Special Business Meeting*)
12. Oakland, California, May 31 -- June 2, 1998
13. Baton Rouge, Louisiana, December 7 -- 10, 1998
14. Arlington, Virginia, November 30 -- December 2, 1999
15. Atlanta, Georgia, May 23 -- 26, 2000
16. Arlington, Virginia, December 11 -- 14, 2000
- 33.
17. Washington, D.C., August 8 -- 10, 2001 (*Special Business Meeting*)
18. Seattle, Washington, December 3 -- 6, 2001
19. Baltimore, Maryland, December 9 -- 12, 2002
20. New Orleans, Louisiana, April 13 -- 16, 2004
21. Washington, D.C., January 5 -- 6, 2006 (*Special Business Meeting*)
22. Washington, D.C., June 20 -- 22, 2006
23. Washington, D.C., February 6-7, 2007
24. Teleconference, August 23, 2007
25. Baltimore, Maryland, September 18 -- 20, 2007
26. Teleconference, November 20, 2007
27. Washington, D.C., June 10 -- 12, 2008
28. Teleconference, September 11, 2008
29. Atlanta, Georgia, October 21 -- 23, 2008
30. Arlington, Virginia, July 21 -- 23, 2009
31. Teleconference Meeting, September 24, 2009
32. New Orleans, Louisiana, January 27 -- 29, 2010

In addition, NEJAC, in collaboration has held other special meetings including the following:

- Public Dialogues on Urban Revitalization and Brownfields: Envisioning Healthy and Sustainable Communities, held in Boston, Massachusetts; Philadelphia, Pennsylvania; Detroit, Michigan; Oakland, California; and Atlanta, Georgia; summer 1995
- Relocation Roundtable held in Pensacola, Florida, May 2 through 4, 1996
- Environmental Justice Enforcement and Compliance Assurance Roundtable, held in San Antonio, Texas; October 17 through 19, 1996
- Environmental Justice Enforcement Roundtable, held in Durham, North Carolina; December 11 through 13, 1997
- International Roundtable on Environmental Justice on the U.S./Mexico Border, held in San Diego, California; August 19 through 21, 1999

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 transcripts and summary reports of all NEJAC meetings, which are available on the NEJAC Web site at [www.epa.gov/compliance/environmentaljustice/nejac](http://www.epa.gov/compliance/environmentaljustice/nejac). Copies of materials distributed during NEJAC meetings are also available to the public upon request. Comments or questions can be directed to OEJ via e-mail at [environmental-justice-epa@epa.gov](mailto:environmental-justice-epa@epa.gov).

**SUMMARY OF THE PUBLIC MEETING  
OF THE NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL  
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**INTRODUCTION**

The Executive Council (Council) of the National Environmental Justice Advisory Council (NEJAC) convened for a three-day meeting from January 27 through 29, 2010, in New Orleans, Louisiana. It was the 27<sup>th</sup> meeting of the NEJAC. This summary presents highlights of Council deliberations, including community concerns heard during the Public Comment period on January 27, 2010.

The 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 or the Agency) on matters related to environmental justice. The Council is currently comprised of 21 members representing academia, business and industry, community-based organizations, non-governmental and environmental groups, state and local governments, tribal governments, and indigenous organizations. One EPA staff member serves as the Designated Federal Official (DFO) for NEJAC. Exhibit 1 lists the members of the Executive Council who were in attendance, as well as those who were unable to attend the meeting.

This summary contains two chapters. Chapter 1, Executive Council Discussions, summarizes the deliberations of the Council as well as presentations to the NEJAC. It includes the following sections:

- Welcome and Opening Remarks
- Dialogue with EPA Senior Officials
- Incorporating Environmental Justice into Rulemaking
- New Strategies for Reducing Air Pollution and Improving Health in EJ Communities: Upcoming Air Rules
- Conducting EJ Analysis: Definition of Solid Waste Rule
- EPA Plan for Responding to the NEJAC Goods Movement Report
- NEJAC Work Group Reports
- Building Blocks to Creating Healthy Communities
- EPA Enforcement Initiatives
- Developing Future NEJAC Work Plans
- Farewell to Retiring Members
- Closing Statements

Chapter 2, Public Comment Period, provides a synopsis of the concerns voiced by members of the public during the comment period.

**CHAPTER 1. EXECUTIVE COUNCIL DISCUSSIONS**

**1.1 Welcome and Opening Remarks**

Ms. Victoria Robinson, NEJAC Designated Federal Official (DFO), EPA Office of Environmental Justice (OEJ); Ms. Elizabeth Yeampierre, Executive Director of UPROSE, Inc.; Mr. John Ridgway, Manager of the Information Management and Communications Section at Washington State Department of Ecology; and Mr. Charles Lee, Director, EPA OEJ, provided opening remarks as the meeting began.

Ms. Robinson welcomed the members of NEJAC and the audience, noting that this was the second time that the Council held a meeting in New Orleans. She commented that the NEJAC was one

**Exhibit 1  
Members of the  
NEJAC Executive Council**

**Members in Attendance**  
Ms. Elizabeth Yeampierre, Acting Chair  
Mr. John Ridgway, Acting Vice-Chair  
Mr. Chuck Barlow  
Ms. Sue Briggum  
Ms. M. Kathryn Brown  
Mr. Peter Captain, Sr.  
Ms. Jolene Catron  
Ms. Wynecta Fisher  
Ms. Jodena Henneke  
Mr. Hilton Kelley  
Mr. J. Langdon Marsh  
Mr. Paul Mohai  
Mr. John Rosenthal  
Mr. Omega Wilson

**Members not in Attendance**

Mr. Richard Moore, Chair  
Mr. Don Aragon  
Mr. William Harper  
Mr. Christian Holmes  
Mr. Gregory Melanson  
Mr. Shankar Prasad  
Ms. Patricia Salkin

of, if not the, busiest and most hard-working federal advisory committees. She provided brief instructions on signing up for the public comment period that afternoon and reminded EPA Regional Environmental Justice Coordinators in the audience to attend and connect with public commenters from their Regions. Ms. Robinson also acknowledged the presence of a court reporter and two notetakers from EPA support contractor APEX, Direct, Inc., and members of the Press.

Continuing her remarks, Ms. Robinson announced that a verbatim transcript and written summary of the full meeting, as well as Podcasts of selected sessions of the meeting, would be posted on the NEJAC Web site. She acknowledged the seven Council members who could not attend (see Exhibit 1), including Mr. Richard Moore, NEJAC chair and Executive Director of the Southwest Network for Environmental and Economic Justice, who, she explained, was battling health problems.

Ms. Yeampierre served as Acting Chair of the meeting in Mr. Moore's absence. She began her opening remarks with a request for a brief moment of silence for Haiti. She stated that New Orleans was "the heart of environmental justice," where climate adaptation and community resilience could have an impact on other parts of the country. Ms. Yeampierre thanked EPA Administrator Ms. Lisa Jackson for making environmental justice a national priority, noting Administrator Jackson's challenge to EPA employees to demonstrate leadership in addressing "problems that have plagued communities for many years and become worse because of climatic changes." She also thanked Mr. Lee; Ms. Robinson; Mr. Mustafa Ali, Associate Director, OEJ; Mr. Aaron Bell, Environmental Protection Specialist, OEJ; and other OEJ staff for working hard to ensure a successful event. She thanked the NEJAC and the audience for their time, noting that there were many in the audience with limited-to-no resources who were "transforming their communities." She expressed hope that EPA could provide answers and resources that would allow community members to address environmental challenges.

Ms. Yeampierre furthered her remarks, noting that the tenet of environmental is for communities to speak for themselves. She urged EPA and other agencies – including the U.S. Department of the Interior, U.S. Department of Labor, and the U.S. Department of Housing and Urban Development (HUD) – to work together and in collaboration with communities to achieve environmental justice. Ms. Yeampierre also stated her hope that future NEJAC meetings would reflect a more intergenerational demographic and include more meaningful participation from young people.

Mr. John Ridgway stated that he was honored to serve in the capacity of Acting Vice-Chair at the meeting. The 12 Council members in attendance took turns introducing themselves. The NEJAC also heard introductions from senior EPA officials who were seated at the table; these individuals are listed in Section 2.0.

Mr. Lee welcomed everyone and congratulated the City of New Orleans for the Saints going to the Superbowl. He joked that, because EPA Administrator Jackson was from New Orleans, no one at the Agency dared not to root for the Saints. He recognized Ms. Robinson, other OEJ staff, EPA regional environmental justice coordinators, and the support contractor for their hard work in organizing the meeting. Mr. Lee reviewed the meeting agenda and pointed out that OEJ intentionally scheduled the NEJAC meeting to coincide with the Conference on Environmental Justice, Air Quality, Goods Movement, and Green Jobs to ensure a high level of community participation. He stated that the Agency was mindful of the limited resources available to environmental justice communities to travel and attend such meetings.

## **1.2 Dialogue with EPA Senior Officials**

Mr. Lee served as moderator of the Council's dialogue with EPA senior officials who were appointed to their posts. He commented that, under the leadership of Administrator Jackson, activity related to environmental justice at the Agency is "unprecedented." He stated that EPA was working aggressively to integrate environmental justice into its regulatory agenda and all parts of the Agency, a task that, he added, "we've been trying to do for 15 years with little success." He said that EPA was stepping up its efforts to empower communities, as evidenced by the recent EPA-Congressional Black Caucus Environmental Justice Tour event in Mississippi.

Mr. Lee announced that EPA senior officials participating on the panel were going to detail the major developments related to environmental justice at the Agency. He re-introduced those officials seated at the table, in the order that they would speak:

- Ms. Lisa Garcia, Senior Advisor to the Administrator on Environmental Justice
- Ms. Michelle DePass, Assistant Administrator, EPA Office of International Affairs (OIA)
- Ms. Cynthia Giles, Assistant Administrator, EPA Office of Enforcement and Compliance Assurance (OECA), and EPA's National Program Manager for Environmental Justice
- Mr. Mike Shapiro, Deputy Assistant Administrator, EPA Office of Water (OW), who was representing Mr. Peter Silva, Assistant Administrator, OW
- Mr. Steve Owens, Assistant Administrator, EPA Office of Prevention, Pesticides and Toxic Substances (OPPTS)
- Mr. Scott Fulton, EPA General Counsel
- Mr. Al Armendariz, Regional Administrator, EPA Region 6 (the host Region), who, Mr. Lee explained, was speaking on behalf of all the EPA Regions

Mr. Lee also acknowledged Mr. Mathy Stanislaus, Assistant Administrator, EPA Office of Solid Waste and Emergency Response (OSWER); and Ms. Gina McCarthy, Assistant Administrator, EPA Office of Air and Radiation (OAR), who were not present for this dialogue but would be speaking the next day.

Finally, Mr. Lee asked for introductions from members of EPA's "career senior leadership" who were seated in the audience and represented various EPA Regions:

- Mr. George Pavlou, Deputy Regional Administrator, EPA Region 2
- Mr. Bill Early, Deputy Regional Administrator, EPA Region 3
- Ms. Beverly Banister, Acting Deputy Regional Administrator, EPA Region 4
- Mr. Larry Starfield, Deputy Regional Administrator, EPA Region 6
- Mr. Mike Gaydosh, Assistant Regional Administrator, EPA Region 8
- Ms. Jane Diamond, Acting Deputy Regional Administrator, EPA Region 9

Mr. Lee explained that the senior officials would provide an overview of the environmental justice mission and related new developments in their respective offices; and the senior leaders from the Regional offices would be available to answer questions during the discussion portion of the session.

#### ***1.2.1 Ms. Lisa Garcia, Senior Advisor to the Administrator on Environmental Justice***

Ms. Garcia reiterated that environmental justice was a top priority for EPA Administrator Jackson and referred to a memorandum that was issued in early January 2010. She stated that, as Senior Advisor to the Administrator, she was responsible for promoting and ensuring environmental justice throughout the Agency. She acknowledged OEJ as an invaluable resource in this effort.

Ms. Garcia explained that EPA was incorporating environmental justice into its programs in three primary areas. She explained the following two areas and said Ms. Giles could provide details regarding the third.

**Improving partnerships with communities, states, and federal agencies.** Ms. Garcia explained that EPA's objective is to have more "open doors" to NEJAC, states, other federal agencies, and communities. She recognized this objective as critical in achieving environmental justice. She announced that Administrator Jackson had begun coordinating with Ms. Nancy Sutley, Chair of the White House Council on Environmental Quality (CEQ), to bring together various federal agencies to discuss how to address environmental justice concerns in their work. She emphasized that both Administrator Jackson and Ms. Sutley were committed to this effort.

**Working to build healthy and sustainable communities.** Ms. Garcia explained that EPA's goal is to proactively bring benefits to communities. She acknowledged the need for multimedia attention and the need to look at communities in a holistic manner. She referred to OEJ's ongoing work with EPA's Office of Development, Community and Environment (or "Smart Growth" office). She mentioned that the 9<sup>th</sup> Annual New Partners for Smart Growth Conference was scheduled for February 4-6, 2010, in Seattle, Washington, <http://www.newpartners.org/program.html> and said there was a strong "synergy" between environmental justice and smart growth. Ms. Garcia also discussed the 10 Environmental Justice Showcase Communities as another effort by EPA to approach communities more holistically.

Continuing her remarks, Ms. Garcia raised Title VI of the Civil Rights Act of 1964 as another important issue and acknowledged that Title VI complaints had not received sufficient attention or timely response from the Agency in the past. She announced that Administrator Jackson had issued a memorandum the previous day, charging each Assistant Administrator in each EPA program and Region to designate an individual in their respective offices to a Title VI Work Group that will focus on addressing Title VI complaints.

#### ***1.2.2 Ms. Michelle DePass, Assistant Administrator, EPA Office of International Affairs***

Ms. DePass stated that, as Assistant Administrator of EPA's OIA (soon-to-include Tribal Activities) she served in a myriad of roles in which she could facilitate environmental justice. For example, she was National Program Manager of Border 2012, in which EPA was working bilaterally with Mexico to address risks to the most vulnerable populations along the U.S.-Mexico border. Ms. DePass stated that some of the populations live in unincorporated communities where the rate of unemployment was high and many children were disproportionately vulnerable to environmental health challenges. She said that, under the Border 2012 program, EPA was working toward incorporating environmental justice and children's health concerns.

Ms. DePass stressed that meaningful community participation and equitable treatment are integral to achieving environmental justice. She referred to open hazardous waste dumps and climate change as issues especially impacting tribal communities in the lower 48 states and Alaska, respectively. Ms. DePass said that Administrator Jackson reaffirmed EPA's commitment to tribes by placing tribal affairs with EPA's OIA to maintain the tribes' sovereignty. She added that this integration would be official by the end of February 2010.

Ms. DePass reported that OIA was also working on the Tribal Consultation process, as required by President Obama in his memorandum to Federal Agencies, which was signed during the White House Tribal National Conference on November 5, 2009. The Memorandum for the Heads of Executive Departments and Agencies directed "each agency head to submit to the Director of the Office of Management and Budget (OMB), within 90 days..., a detailed plan of actions the agency will take to implement the policies and directives of Executive Order 13175." Ms. DePass indicated that EPA's draft Action Plan would be submitted to OMB by February 3, 2010.

#### ***1.2.3 Ms. Cynthia Giles, Assistant Administrator, EPA Office of Enforcement and Compliance Assurance***

Ms. Giles stated that, as head of the enforcement program (OECA) and as the National Program Manager of environmental justice at EPA, her task was to work with the various EPA Offices and Regions to realize Administrator Jackson's goal of incorporating environmental justice in all Agency activities. She referred to the first two of the three principal areas that Ms. Garcia discussed as part of EPA's plan to incorporate environmental justice into its programs, and added the following:

**Using all of EPA's regulatory tools to advance the objectives of environmental justice.** Ms. Giles explained that EPA was reviewing its existing laws and authority in three areas:

**Rulemaking** – She stated that the Agency was examining more closely the impact of its rules to ensure that disparate impacts are not being created and to seize opportunities to correct existing disparate impacts

**Permitting** – She acknowledged this as a challenging area because it involved land use patterns; local and State government decision-making; and environmental program decision making.

**Enforcement** – She said the Agency recognized its obligation to enforce laws evenly across the country and to use enforcement tools ensure public health protection. Ms. Giles expressed the need to target enforcement efforts on the largest emitters of pollution. She gave the example of the cement and glass industry, the third largest emitter of pollution of greatest concern to public health, which cause respiratory problems such as asthma that occur disproportionately in low-income and minority communities. She referred to two case settlements, announced the previous week, that would result in 27 communities experiencing dramatic pollution reductions. She added that the settlements would achieve more reductions across the country in individual litigations. She stated that, as a key component of the settlements, facilities would be required to install continuous emissions monitors, which would allow EPA and the community to monitor compliance.

#### **1.2.4 Mr. Mike Shapiro, Deputy Assistant Administrator, EPA Office of Water**

Mr. Shapiro highlighted several environmental justice-related projects in OW:

**Urban Waters Initiative.** He explained that this initiative sought to address community and sustainability issues within the context of water programs, with the goal of providing disadvantaged communities access to and the opportunity to restore their urban waters and surrounding lands. Mr. Shapiro stated that OW would announce a small grants program later in 2010 aimed at capacity building among community groups engaged in education.

Mr. Shapiro recalled NEJAC's recommendation that OW "look beyond EPA" and solicit assistance from other agencies. He reported that, in addition to building internal partnerships with OEJ, OECA, and OSWER (specifically, the Brownfields program), OW was convening a Federal Partnership Forum in February 2010 with the U.S. Department of the Interior, U.S. Department of Agriculture, the U.S. Army Corps of Engineers, and other agencies engaged in similar work to integrate efforts and leverage resources more effectively. He stated that OW was also looking to build partnership with organizations like The River Network. In addition, he said OW was developing an overall program strategy, to be completed by spring 2010, that could benefit from feedback from NEJAC members.

**Mountaintop Mining.** Mr. Shapiro stated that this was a "high priority" issue for Administrator Jackson. He reported that OW was reexamining the impacts of mountaintop mining, ways to better protect waterways, and ways to enhance related permitting processes. He noted that multiple agencies were involved with this issue, including the U.S. Department of Interior's Office of Surface Mining, the U.S. Army Corps of Engineers, and EPA. Continuing his remarks, Mr. Shapiro pointed out that EPA signed an agreement with its federal partners to establish short- and long-term coordination actions, such as detailed examination of permits that were "in queue" for issuance. Mr. Shapiro also referred to an October 2009 environmental justice petition that EPA received under Executive Order 12898, which involved coordination between OW and OECA to ensure that environmental justice issues were being comprehensively addressed, both in terms of the petition and in the broader context of EPA's oversight of mountaintop mining operations.

**Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT).** Mr. Shapiro noted that, for first time, OW was able to combine its data on the locations of impaired waters with OECA data on locations of disadvantaged communities, as identified by EJSEAT. He stated that OW can use the tool to determine patterns that would help in evaluating national regulations, setting priorities to improve impaired waters; and conducting water quality monitoring and permitting activities.

**Fish Advisories.** Mr. Shapiro stated that OW was continuing its work in this area, which targets subsistence fishing communities. He noted the challenge of communicating with those communities who do not speak English as their native language. He presented the example of EPA's fish advisories on mercury, which were translated into many languages. He reported that a pilot project was underway to conduct a special outreach to the Chinese community to enhance communication and improve transmission of information. He also described another study in the Mississippi Delta area that involved random interviews with fishermen about their awareness and response to the mercury advisories to evaluate the effectiveness of the current outreach program.

**Drinking Water Variances in Small Communities.** Mr. Shapiro referred to feedback that NEJAC had previously provided to OW on this issue, which urged EPA to ensure that everyone in the country had access to safe drinking water. He noted that the National Drinking Water Advisory Committee had provided similar comments. Mr. Shapiro reported that OW was developing a strategy to address the needs of underserved rural communities and gave assurance that the ultimate goal was to provide everyone with safe drinking water.

#### **1.2.5 Mr. Steve Owens, Assistant Administrator, EPA Office of Prevention, Pesticides and Toxic Substances**

Mr. Owens restated that environmental justice was a top priority for Administrator Jackson. To that end, he said, OPPTS is taking steps to integrate environmental justice concerns into its decision-making and rulemaking processes. He explained that OPPTS is leading the other EPA offices in developing guidance that incorporates environmental justice into rulemaking and, he added, Mr. Jim Jones, Deputy Assistant Administrator, OPPTS, would be describing that effort in greater detail in the subsequent panel discussion (see Section 3.0).

As he provided an overview of OPPTS, Mr. Owens stated that the office had two major functions: (1) to oversee and regulate pesticide use in the U.S.; and (2) to manage toxic substances under the Toxic Substances Control Act (TSCA). He reported that, under Administrator Jackson's leadership, OPPTS was working with non-governmental organizations (NGOs), industry groups, and others, to get Congress to reform TSCA and give EPA the authority to more effectively regulate chemicals based on risk-based safety standards. He indicated that chemicals were not currently subjected to risk-based standards.

Continuing his remarks, Mr. Owens explained that while awaiting this increased authority from Congress, Administrator Jackson has charged OPPTS to "take actions...necessary to protect the American people" under its current authority. As an example, he explained that EPA released four action plans on December 30, 2009, pertaining to phthalates, flame retardants, fluorinated chemicals, and short-chain chlorinated paraffins. The release of these action plans, he said, achieved Administrator Jackson's commitment to do so by the end of 2009. He added that action plans for benzidine dyes and pigments, and Bisphenol A (BPA) were currently undergoing internal agency review and would be released soon.

Mr. Owens announced that Administrator Jackson also emphasized the importance of disseminating information to consumers as another means of protecting them from potentially harmful effects of chemicals. He pointed to this as a "key aspect" of environmental justice. Mr. Owens shared that when he became Assistant Administrator of OPPTS, he was startled to learn that while nearly 84,000 chemicals were on the "TSCA inventory" (a list of chemicals believed to be in commerce in the U.S.), the identity of 20 percent of those chemicals was unavailable to the public due to confidentiality claims. To address this issue, he said, EPA has embarked on a significant effort to reduce the number of confidentiality claims by industry.

Mr. Owens described several specific substances that OPPTS was regulating that have environmental justice implications:

**Lead.** He indicated that EPA was engaged in an aggressive outreach program to reduce children's exposure to lead. He reported the "good news" that children's lead exposure rates had been decreasing over the years. He added the "bad news," however, that elevated levels of lead in blood were still being observed in African American and other minority children between the ages of 1 and 5. Mr. Owens also described EPA's Renovation, Repair and Painting (RRP) Rule, which would require any RRP projects in houses constructed prior to 1978 to be conducted by contractors certified in lead-safe work practices. He noted that the RRP Rule, which would go into effect on April 22, 2010, would include a "closed loophole" from the previous Administration that had excluded homes based on whether children under 6 years old resided there.

**Formaldehyde in pressed wood products.** Mr. Owens acknowledged that concerns had been raised about formaldehyde emissions in government-provided trailers after Hurricane Katrina. He reported that OPPTS had issued an Advanced Notice for Proposed Rulemaking in December 2008 to examine policies related to regulating formaldehyde in pressed wood products; and had held six Public Meetings around the country, including one in New Orleans, in early 2009. He said that OPPTS was developing risk-based levels for formaldehyde and expected to issue a Proposed Rule in 2011.

**Pesticides.** Mr. Owens noted concerns about farm workers' exposure to pesticides. He said that OPPTS was approaching this issue from several angles, including examining the acceptable levels of pesticide exposure to adult and child farm workers; and assessing the appropriate timeframe before workers can return to fields after spraying. He pointed out that "spray drift" was another pesticide-related issue of concern and, to address it, OPPTS was developing a new approach to risk assessments related to spray drift. He added that the Agency was also working on new certification and training requirements for applicators of pesticides to reduce exposure to workers and others. Wrapping up his remarks related to pesticides, Mr. Ownes referred to a petition EPA received from environmental advocacy groups. The petition, he said, requested that buffer zones be established to reduce exposure around homes and schools near fields being sprayed with pesticides.

Concluding his remarks, Mr. Owens said that "needless to say, under Administrator Jackson, things have been ramped up quite a bit." He expressed his desire to work with the Council and members of the public to ensure that children

and families in disadvantaged communities were protected from harmful exposure to pesticides and industrial chemicals.

#### **1.2.6 *Mr. Scott Fulton, EPA General Counsel***

Mr. Fulton began his remarks by stating that he approached the issue of environmental justice “as EPA’s lawyer.” He reported that the Office of General Counsel was conducting a thorough review of how the Agency could use its existing authority to more effectively address environmental justice.

Mr. Fulton expressed his desire to build on the past good works of the NEJAC; Professor Richard Lazarus, Georgetown University Law Center; the Environmental Law Institute; and others, with the goal of finding mechanisms within the law that allow it to serve as an “important enabling vehicle for environmental justice.” He ended by saying that he looked forward to engaging with the NEJAC and hearing the Council’s advice.

#### **1.2.7 *Mr. Al Armendariz, Regional Administrator, EPA Region 6***

Mr. Armendariz stated that, from a Regional office perspective, environmental justice was an integral part of what he did every day. He noted the difference between the specific programmatic focus of the other panel members and the cross-program work of the Regional offices. He explained that EPA’s Director of Environmental Justice and Tribal Affairs in Region 6, Ms. Jeannine Hale, reported directly to him. He also thanked Mr. Larry Starfield, Deputy Regional Administrator for EPA Region 6, for assigning the Deputies of Region 6’s various programs (e.g., water, air, Superfund, etc.) to a steering committee on environmental justice to ensure that environmental justice was being integrated into their programs. He added that he viewed environmental justice as “a way for us to prioritize.”

Mr. Armendariz described four issues that had been his focus during his seven weeks as Regional Administrator:

- “Fix[ing]” the air permitting program for one of the larger states in Region 6.
- Examining issues such as hypoxia off the coast of Louisiana to determine how they are affected by coal-fired power plants and climate change.
- Engaging in dialogue with the Region’s Superfund teams about ongoing projects to “clean up the legacy of mining waste,” on tribal lands and in rural areas throughout Oklahoma and New Mexico.
- Engaging in dialogue with Regional senior staff on issues in Mossville, Calcasieu Parish, Louisiana, which is situated next to an “impressive array of industrial facilities, and [residents] have a lot of concern with pollution in their communities.”

Continuing on, Mr. Armendariz thanked the Regional Deputies in Region 6 for selecting Port Arthur, Texas, as an EPA Showcase Community. He pointed out that the Port Arthur community was also represented by NEJAC member Hilton Kelley, who also is Director of the Community In-power and Development Association. Reflecting on efforts to move residents away from exposure to toxic fumes after the barge-tanker collision on January 23, 2010, Mr. Armendariz called those efforts “effective” and said they reminded him of the important role community groups play in environmental protection and environmental justice.

Mr. Armendariz emphasized the importance of interagency collaboration, stating that he had been hearing about people receiving different messages from EPA and other federal agencies.

Mr. Armendariz echoed Mr. Owen’s earlier statements about the need for TSCA reform. In addition to ensuring a level of safety to consumers, he stated that EPA should place more emphasis on potential harmful exposure to people who work at chemical processing and disposal facilities. He said that those individuals, their families, and the communities in which they live may be more exposed than the general public.

#### **1.2.8 *Discussion with the NEJAC***

Following the presentations by EPA senior officials, Executive Council members asked questions and engaged in a discussion that included the following issues:

**Interagency Coordination.** Ms Yeampierre advised EPA to assess how states were addressing environmental justice issues before reaching out to collaborate with them. She referred to the Environmental Justice Interagency Task Force in the State of New York, which had not engaged environmental justice communities “in a meaningful and respectful way.” She urged collaboration with community partners to “figure out what’s real and what isn’t.”

Mr. Ridgway referred to the Interagency Federal Partnership Forum on the Urban Waters Initiative that OW was convening in February 2010. He requested that Mr. Shapiro keep the NEJAC – and, if appropriate, members of the public – apprised of such meetings and ensure that environmental justice issues are raised. Mr. Ridgway concluded his comments by expressing uncertainty about the priority that other federal agencies place on environmental justice.

Mr. Lang Marsh, Fellow, National Policy Consensus Center at Portland State University, highlighted the Sustainable Communities Partnership between EPA, HUD, and U.S. Department of Transportation (DOT) to work on policies related to sustainable communities. He noted that Administrator Jackson had inserted environmental justice as a factor to be considered as part of the interagency agreement. Mr. Marsh expressed hope that the three agencies would not only integrate environmental justice concerns into their policies but also involve other stakeholders on the regional, state, and local community levels. He recognized the “difficult marriage” between sustainability and environmental justice but said that many opportunities exist in that partnership. He also noted that DOT had greater financial resources than EPA, which, he asserted, will allow more opportunities to assist community projects.

Mr. Armendariz informed NEJAC members that he had met with his counterparts from HUD and DOT the previous week. He explained that HUD conducts an environmental analysis before siting public housing in any community. The mutual goal of HUD and EPA working together, he said, was to ensure that environmental justice and pollution concerns were part of HUD’s decisions about siting, especially with respect to where industrial facilities are located. Mr. Lee added that OEJ and the Smart Growth office, among other EPA offices, were working closely on the Partnership for Sustainable Communities. He recognized the need for EPA to provide comprehensive presentations to NEJAC about the progress of the Sustainable Communities Partnership.

Ms. Banister stated that Region 4 was working on incorporating environmental justice into its partnership with DOT and HUD. She referred to a recent dialogue between EPA, DOT and HUD leadership, during which participants visited disadvantaged communities in Atlanta.

Mr. Rob Verchick, Deputy Associate Administrator, EPA Office of Policy, Economics, and Innovation (OPEI), stated that EPA’s Smart Growth office, now located within OPEI, had gone through a reorganization that resulted in the creation of a new Office of Sustainable Communities. He stated that EPA would be an active participant in the Smart Growth Conference in Seattle the following week, along with HUD and DOT; and he expected that environmental justice would be discussed as a key component in that interagency partnership. Mr. Verchick further stated that he was conducting briefings with EPA’s new Office of Sustainable Communities about incorporating environmental justice issues into its work, including issuing grants, technical assistance, and helping communities engage in Smart Growth and sustainable development.

**Water Issues.** Ms. Yeampierre noted that ports are being expanded throughout the country and urged EPA to consider what “redevelopment” means in terms of environmental justice, climate adaptation, and community resilience. She said that “great potential exists” for interagency collaboration and meaningful engagement with communities and stakeholders.

Ms. Jolene Catron, Executive Director, Wind River Alliance, expressed concern about hydraulic fracturing; its potential impact on drinking water in the Rocky Mountain West; and the fact that hydraulic fracturing was exempt for regulation under the Safe Drinking Water Act.

Mr. Pavlou commented that staff from EPA Region 2 meet annually with tribal elders of the seven federally-recognized tribes in the Region to discuss the tribes’ concerns, including hydraulic fracturing. He reported that the seven tribes have expressed concern about the Environmental Impact Statement issued by the State of New York on natural gas extraction in terms of potential surface water and groundwater contamination. He added that EPA has incorporated the tribes’ concerns into the Agency’s cover letter to the State of New York. Mr. Pavlou concluded his comments by describing EPA’s role as a “transfer agent” of concerns on this matter.

**Tribal Issues.** Mr. Peter Captain, Sr., Vice President, Tanana Chiefs Conference, reported that the State of Alaska did not recognize tribal sovereignty and did not consult the tribes on regulatory issues that impact their lands. He urged EPA not to turn over environmental authority to the State and said that the Alaskan tribes had a government-to-government relationship with EPA but not with Alaska. He presented the example of Pebble Mine, one of the world's largest open-pit mines, which is situated above fisheries. He expressed concern that any mishap at the mine would drastically affect the fisheries. He noted that while most Alaskan tribes were not opposed to development, precautionary measures were required to protect the fisheries. Ms. DePass responded that she looked forward to coordinating with him and EPA Region 10 on the issues raised.

Ms. Catron explained her complex role under federal, state, and tribal jurisdictions and in working with two tribes. She expressed interest in learning how "EPA tools" are made available to tribal communities.

**TSCA Reform.** Ms. Wynecta Fisher, Director, Mayor's Office of Environmental Affairs, City of New Orleans, asked how EPA and the U.S. Department of Health and Human Services (HHS) would work together to help environmental justice communities understand the dangers of toxic substances such as BPA. Mr. Owens explained that EPA was working closely with the Food and Drug Administration, Centers for Disease Control, and National Institute of Environmental Health Sciences (NIEHS) – all of which were agencies under HHS and were engaged in BPA research – while working on its action plan for BPA. Mr. Owens recognized the importance of interagency cooperation on BPA and other chemicals. He further explained that EPA was engaging in internal discussions about forming an interagency technical work group to focus on environmental justice related to children's environmental health issues. This, he said, was called for by Executive Order 12898, which was signed by President Bill Clinton.

Mr. Ridgway asked about the role of industry and other stakeholders in reforming TSCA to broaden EPA's authority in regulating industrial chemicals. Mr. Owens noted that several states are at the forefront of banning or restricting harmful substances and products in their respective jurisdictions. He further explained that several trade associations, such as the American Chemistry Council, have been supportive of TSCA reform, the need for risk-based safety standards for chemicals, and expanding EPA's regulatory authority on this issue. Wrapping up his comments, Mr. Ridgway said EPA was working closely with several industry groups who were not as supportive of TSCA reform. Mr. Owens acknowledged that all stakeholders should play a role in the discussion.

**Title VI of the Civil Rights Act of 1964.** Mr. Omega Wilson, President, West End Revitalization Association, asked for details about the "triggers" for Title VI complaints. Mr. Fulton replied that a fact sheet on Title VI and its triggers could be provided.

Ms. Jody Henneke, Deputy Commissioner, Texas General Land Office, referred to an internal EPA memorandum on how to respond to Title VI complaints. She requested that the EPA Regions share that memorandum with the states in their respective jurisdictions. Mr. Fulton clarified that the memorandum dealt more with the process of Title VI rather than guidance. He acknowledged that states could benefit from some guidance on dealing with Title VI complaints.

**Environmental Justice Showcase Communities.** Mr. Lang asked for an update on the 10 Environmental Justice Showcase Communities from the various EPA Regions. He asked whether funding (or other investments) were available from the Sustainable Communities Partnership to help in the showcase communities. Mr. Armendariz referred to an EPA meeting that had taken place in Region 6's Showcase Community, Port Arthur, Texas, with the mayor, industrial representatives, and members of the community the previous week. He said he expected to be debriefed on action items from that meeting. Mr. Lee added that partnerships around showcase communities were being formed between EPA Regions and outside EPA, including with foundations. He added that EPA would provide a more comprehensive report to the NEJAC on the status of the Showcase Communities.

Mr. Pavlou reported that EPA Region 2 had reached out to their Showcase Community and had held meetings to discuss how best to spend the \$100,000 from OECA. He added that plans were in the works to hold another meeting in the community to ensure strong community participation. He also pointed out that the region was "reaching out" to coordinate with HUD and DOT and was also acting as a "convener of influence" between the city and state to address issues including inspections. He added that lead-based paint was also a concern in the community.

Mr. Gaydosh expressed his interest in talking with Mr. Marsh about EPA Region 8's Showcase Community and the

Region's partnership with HUD and DOT on engaging the environmental justice community as part of a pilot project in the City of Denver.

Ms. Banister provided an update on Region 4's Showcase Community in Jacksonville, Florida. She reported that the Region was taking a multi-media approach in the city, which has several Superfund and Brownfields sites. She said the Agency was working with other federal agencies, and that a meeting was scheduled for February 10, 2010, to allow EPA to hear community members' concerns and questions before embarking on an action plan.

**Enforcement.** Mr. Kelley asked about EPA Region 6's plan to ensure that states are "doing their job" in terms of enforcement. He referred to testimonies about the lack of enforcement in Region 6 and a "rubber stamp" approach to approving air and water permits without proper review. Mr. Kelley challenged EPA Region 6 to get state agencies like the Texas Commission on Environmental Quality (TCEQ), to "step up to the plate." Mr. Armendariz responded that Region 6 was currently engaged in addressing permitting problems at TCEQ as well as other state agencies. He emphasized that enforcement was a priority on the regional and federal levels at EPA; and added that he would ensure that the state agencies in his region understood EPA's enforcement priorities.

Ms. Giles reported that EPA had posted on its Web site the results of the Agency's review of all state enforcement programs. She stated that enforcement was "only as good as the permits being enforced." She added that Administrator Jackson had stressed the importance of enforcing EPA's regulations consistently, and that steps were being taken to ensure that people were equally protected across the country.

**Other Issues.** Ms. Fisher asked EPA to consider offering lead outreach funds as competitive grants for local governments to enforce lead regulations. She said enforcement was a major issue in New Orleans and provided the example of the city not having enough inspectors to follow up on reports of dry-sanding violations. She also asked how EPA would monitor renovations by unlicensed contractors, while pointing out that many such projects were ongoing and due, in part, to the poor U.S. economy. Mr. Owens acknowledged the challenge of enforcement. He noted that unlicensed contractors could be penalized under TSCA and expressed hope that enforcement could be enhanced through periodic, random checks and reports from "trained and responsible contractors" about their unlicensed competitors. Mr. Owens also stated that he would follow up on Ms. Fisher's suggestion about offering grants to local governments for enforcement.

Mr. Wilson asked for details about the "triggers" (or criteria) for relocation of residents who may be disproportionately exposed to harmful chemicals under the Uniform Relocation Assistance Act. Mr. Fulton stated his understanding that EPA's authority over such relocations was limited to Superfund sites. Mr. Lee added that the NEJAC had endeavored to address questions about relocation triggers in the 1990s, when he was a Council member. Reflecting on progress former NEJAC members had attempted to make, Mr. Lee reported that, as result of a historic NEJAC recommendation, former OSWER Assistant Administrator Mr. Elliott Laws issued a memorandum about relocations related to Superfund sites. Mr. Lee also referred to an EPA relocation effort in Pensacola, Florida. He acknowledged that relocation remained an issue that requires further work by OSWER.

Mr. Catron added to Mr. Armendariz's comment about the need for "one government" by referring to "one environment." She urged for the view of the environmental issues in a "more holistic" rather than a "linear" fashion.

Ms. Yeampierre asked for a status of cleanup and air monitoring activities following the October 23, 2009, gas plant explosion in Cataño, Puerto Rico. Mr. Pavlou replied that the release had been contained, and that EPA Region 2 was "continuing to work with the facility" on cleanup of the area and adjacent wetlands. He also stated that air monitoring was being conducted in areas of greatest impact. He added that EPA was working with the Agency for Toxic Substances and Disease Control to develop action levels that, if exceeded, may result in relocating surrounding communities from the area. Mr. Pavlou pointed out that EPA had strived to maintain a good relationship with area activist Ms. Rosa Hilda Ramos who, he said, was "highly complimentary" of the Agency's handling of the situation and "praised the government of Puerto Rico for its response to the explosion."

### 1.3 Incorporating Environmental Justice into Rulemaking

Ms. Lisa Garcia, EPA Senior Advisor for Environmental Justice; Mr. Jim Jones, Deputy Assistant Administrator, EPA

OPPTS; Mr. Charles Lee, Director, EPA OEJ; and Mr. Rob Verchick, Deputy Assistant Administrator, OPEI, jointly presented on how EPA is incorporating environmental justice into its rulemaking processes.

Ms. Garcia provided an overview of the Agency's commitment to environmental justice. She stated that the reports and recommendations of the NEJAC provide the following reminders to EPA:

- Environmental burdens are frequently borne unevenly and unfairly.
- Environmental pollution and impacts are frequently concentrated among minority, low income, tribal and other vulnerable populations.
- Environmental benefits (e.g., risk reductions) and amenities (e.g., parks, bike paths) are also often distributed unevenly.

Ms. Garcia informed NEJAC members that EPA would keep them updated on the Agency's progress toward Administrator Jackson's commitment to ensure the following:

Throughout EPA's process of developing regulations, disproportionate impacts will be considered – particularly on minority, low income, tribal and other vulnerable populations.

During decision-making processes, EPA will meaningfully engage people who are potentially most affected.

EPA will begin a process for obtaining public input in further development of the Agency's rulemaking initiative to incorporate environmental justice.

Ms. Garcia reiterated Administrator Jackson's emphasis on the importance of integrating environmental justice in all of EPA's decisions. She indicated that the Agency's Environmental Justice in Rulemaking Initiative was one of the Administrator's highest priorities. She added that environmental statutes authorize EPA to establish enforceable standards for industry, governments and individuals; however, she pointed out, the Agency also uses other tools such as research, education, information, and voluntary stewardship to promote adherence to the standards. She stressed that "regulations represent the core of EPA's work" and the public judges EPA largely by the quality and effectiveness of its rules.

Continuing her remarks, Ms. Garcia noted that rules were not the "whole picture." She explained that "writing rules is only the first part" of the regulatory process, and "benefits are only realized if the rules are effectively implemented and enforced." Ms. Garcia pointed out that if disproportionate impacts and environmental justice factors are not taken into account when rules are developed, permitting and enforcement efforts could be limited. She added that public testimony at NEJAC meetings had made this clear.

Turning her attention to EPA's Environmental Justice in Rulemaking Initiative, Ms. Garcia articulated the initiative's following goals:

- Integrate environmental justice into the fabric of EPA regulation development.
- Ensure that rule writers and decision makers take into account the impacts on people suffering the greatest burdens.
- Continuously improve technical and scientific capabilities to identify, quantify, and address disproportionate impacts.

Ms. Garcia indicated that substantial progress had been made under Administrator Jackson's leadership since Summer 2009. She acknowledged Mr. Jones, who would later describe EPA's progress in developing guidance for all stages of the rulemaking process; Mr. Lee, who would describe the Agency's efforts to build a strong science foundation; and Mr. Verchick, who would discuss EPA's commitment to transparency in rulemaking and fostering public access.

### ***1.3.1 Guidance to Incorporate Environmental Justice in Rulemaking***

Mr. Jones stated that integrating the consideration of disproportionate impacts and environmental justice throughout EPA's rulemaking process was critical because it provided the Agency with a strategic opportunity to avoid negative consequences and bring desired environmental benefits to those who need them the most. He added that waiting until the rule implementation and enforcement phases often left limited ability to take action. He described EPA's

work under the Initiative as falling under two categories: (1) developing rule-making guidance for considering disproportionate impacts and environmental justice, from the earliest stages through final decisions; and (2) providing an analytical framework, expanding data resources, and improving technical and scientific capabilities.

Mr. Jones stated that rule writers were focusing on the following issues:

- What questions should be asked in thinking about disproportionate impacts and environmental justice?
- Who needs to be engaged in meaningful ways to inform the analysis and decision process?
- When should questions be asked and when should populations be engaged?
- How should economic and risk assessments be structured?
- How should data gaps be addressed?
- How should EPA incorporate lessons learned into regulatory decisions within the statutory contexts that govern them?

Mr. Jones reported that a draft guidance document had been completed in December 2009, followed by a senior-level internal review and a briefing with Administrator Jackson. He said that internal comments were being incorporated and EPA anticipated issuing an Interim Final version for implementation in Spring 2010. He said that EPA would assess how the guidance is implemented over the coming year, seek external input from NEJAC and other interested parties on policy and implementation issues, and aim to finalize the guidance by the end of 2010.

Shifting his attention to how EPA planned to address technical and scientific challenges associated with incorporating environmental justice into rulemaking, Mr. Jones reported that an Agency-wide team had been formed to address those issues. The team, he explained, would "kick off" its work at a Symposium in March 2010 on strengthening the ability to quantify and characterize disproportionate environmental health impacts on minority and low-income populations. He stated that the team's work was expected to continue for 1.5 years or more, and EPA planned to develop interim products to help rule writers fulfill guidance recommendations. Mr. Jones emphasized that the advancement of technical, scientific capabilities in this area was a continuing EPA effort that would grow through learning, experience, and external input.

As part of his overview of the Rulemaking Guidance, Mr. Jones summarized the general stages of EPA's rulemaking process and the questions and actions associated with them:

**Commence Activity.** Does the regulation have potential to impact human health or environmental conditions of minority, low-income, tribal and other vulnerable populations? Does the regulation present an opportunity to address existing or create new disproportionate environmental justice impacts? Does the regulation provide information helpful to environmental justice analyses or populations?

**Analyze the Problem.** What are the data needs and data sources for the environmental justice assessment? What is the scope and basic methodology for the environmental justice assessment? What are the expected outputs of the environmental justice assessment? Does the regulation involve populations that have not participated in environmental decision-making? What steps, beyond public notice and comment, will be taken to meaningfully engage environmental justice stakeholders?

**Identify Options.** How will the public participation process provide transparency and meaningful participation for vulnerable populations, particularly for environmental justice populations? How will existing and new disproportionate impacts on vulnerable populations be identified and addressed, particularly regarding impacts to environmental justice populations? How will actions taken in the above two questions impact the outcome or final decision?

**Issue Proposal and Solicit Public Comment.** State in the proposal preamble (a) how environmental justice concerns were analyzed and addressed; and (2) what environmental justice stakeholders were consulted. After proposal is published, seize the opportunity to meaningfully engage affected populations.

**Review, Comment, and Finalize Rule.** Do environmental justice assessments need to be refined or revisited? Do comments raise new issues that warrant consideration? Follow the proposal process steps to finalize the rule.

### **1.3.2 Scientific Foundation to Rulemaking**

Mr. Lee described EPA's effort to build a strong scientific foundation for the Agency's environmental justice program and how it relates to EPA's efforts to incorporate environmental justice in rulemaking and other regulatory processes. He expressed Administrator Jackson's emphasis that (1) science must be the "backbone of EPA programs;" (2) EPA must follow the rule of law; and (3) transparency must be key. He said that these three themes, which "comprise the foundation of an evidence-based environmental justice program," were critical for the Agency to be able to respond to the following questions in a consistent manner:

- What conditions define an EJ concern in the context of decision making?
- How do you identify populations or communities that experience environmental injustice?

Mr. Lee stated that in 2007, OEJ identified six factors that represent conditions associated with disproportionate impacts, increased vulnerability to environmental hazards, and adverse health effects. He added that the factors tended to also be prevalent among minority, low-income, tribal, and other vulnerable populations. He listed the following six factors:

- Proximity to environmental hazards
- Susceptibility/vulnerability
- Unique exposure pathways
- Multiple and cumulative environmental burdens
- Diminished ability to participate in the decision-making process
- Physical infrastructure

Mr. Lee said that during the process of compiling the six factors, "chronic community stress" also emerged from the scientific community as another factor. He reported that OEJ had commissioned scientific papers to collect this data. He said that the papers would summarize the science on how these factors affect disparities in environmental exposures, vulnerabilities, and health outcomes.

Mr. Lee announced the upcoming EPA Symposium, "Strengthening Environmental Justice Research and Decision Making" on March 17 through 19, 2010, in Washington, D.C. He stated that the Symposium included sessions on the aforementioned factors, other potential factors, data sources, and measurement and analytical approaches; EPA's frameworks for risk assessment and incorporating environmental justice in statutory authorities; other frameworks external to EPA on how to incorporate EJ into decision making (e.g., Health Impact Assessments); and sessions to identify critical elements of a framework for incorporating environmental justice considerations within the context of rulemaking. He mentioned the following expected outcomes of the Symposium:

- Scientific papers on how each factor contributes to environmental health disparities.
- Overview of analytical methods and frameworks for incorporating environmental justice considerations into rulemaking at EPA.
- Short- and long-term action agendas, including research and data needs for advancing the practice of disproportionate impact analysis in decision making at EPA.
- A network of scientists and policy makers for a sustained focus on science and policy issues associated with disparities in environmental health.

Concluding his remarks, Mr. Lee noted that the outcome of the Symposium would advance EPA's technical efforts under the Environmental Justice Rulemaking Initiative in the following ways:

Inform the question of "how to" conduct technical analyses.

Develop analytical methods as part of an iterative learning process.

Utilize a robust body of data on disproportionate impacts in the public health arena and identify data gaps.

Engage affected communities as well as scientific, policy, and academic stakeholders with interests and experience in assessing disproportionate environmental and public health impacts on minority, low-income, tribal and other

vulnerable populations.

### **1.3.3 Public Access to Rulemaking Process**

Mr. Verchick described EPA's commitment to transparency and detailed the steps the Agency is taking to foster public access. He began by recognizing the late Mr. Luke Cole who was a former member of the NEJAC and, Mr. Verchick said, was "the first person to teach me about environmental justice or what [Mr. Cole] called 'environmental poverty law'" in the late 1980s. He stated that Mr. Cole was a believer in the "power of the people, especially when armed with the best information available."

Mr. Verchick introduced EPA's Rulemaking Gateway Web site which, he said, EPA expected to be available for public access by early Spring 2010. He explained that the purpose of the Gateway was to provide basic information about the "high priority rules...in our pipeline." Mr. Verchick stated that EPA currently had 90 rules in the pre-proposal and proposed phases, and 20 to 25 of those had been "flagged" as relevant to environmental justice. He demonstrated the various pages on the Web site. After the demonstration, Mr. Verchick asked the Council for feedback on additional information that would be useful to include on the Web site.

The following issues and questions were discussed following the EPA presentations related to Incorporating Environmental Justice into its Rulemaking process:

**General Rulemaking.** Ms. Stanislaus noted the importance of regional and community-based planning that included community leaders in the decision-making process.

Ms. Briggum commended EPA on its efforts, noting that the NEJAC had discussed the need to incorporate environmental justice into rulemaking for a long time. She asked about EPA's approach to conducting environmental justice analyses and distinguishing between "disparate impacts" and "adverse impacts." Mr. Jones responded that although the Rulemaking Initiative focused on environmental justice communities, the goal was to increase environmental protection in all communities.

Ms. Henneke asked that EPA consider its threshold for pre-proposal, noting a common criticism of rulemaking – "once you get to the proposal stage, you're done." Mr. Verchick responded that EPA would be careful not to make information available before it was ready. He said that the Agency routinely lists the "possible rules in the pipeline" in the *Federal Register* every 6 months, and the Gateway Web site was merely doing the same "but in a more understandable way."

Ms. Fisher requested that EPA "revisit" the risk assessment data used in developing and updating its rules. She asserted that it was unclear how often those data were evaluated; and that the Agency should examine multiple environmental stressors in its rulemaking. She further urged EPA to work with various community groups that conduct their own sampling, in an effort to reach agreement on what constitutes risk.

Mr. Ridgway asked about the role of EPA's regions in the rulemaking process. Mr. Jones responded that the regional offices were included in discussions. He acknowledged, however, that EPA Headquarters could improve its efforts to ensure regional participation and input.

Mr. Marsh recommended that EPA evaluate the "full life cycle of consequences" as part of its regulatory activity. Mr. Stanislaus stated that EPA was moving toward this approach. He acknowledged that there were "upstream and downstream impacts" that had not been properly assessed or disclosed.

Mr. John Rosenthal, President, National Small Town Alliance, noted that the rulemaking process "expected lay people to provide comments within 30 days on work...that takes up to 8 months to accomplish." He asked how EPA would ensure that lay people had the "capacity to give a response;" and how the Agency would get back to the public about whether their comments did or did not influence its decision. Mr. Stanislaus stated that it was EPA's responsibility to communicate the challenging language of rules to lay people, involve stakeholders early in the process, and follow up with them after their comments have been collected.

Mr. Wilson stressed the importance of interdepartmental coordination on compliance issues. He said all relevant offices should be involved. Mr. Verchick stated that OPEI, which oversees rulemaking, had observed many silos and noted President Obama's goal of "silo-busting." He reported that EPA formed a Work Group for each rule that was "in the making" to initiate early dialogue and coordination among internal stakeholders. He also referred to a process of interagency reviews that involved collaboration. He acknowledged that the two systems had room for improvement. Mr. Stanislaus encouraged Mr. Wilson to continue raising this issue to keep EPA accountable.

**Rulemaking Gateway Web site.** Ms. Henneke encouraged the use of "common language" on the Web site.

Ms. Brown noted that rulemaking topics generally tended to focus on a single medium. She urged EPA to shift to a multimedia approach. Mr. Jones replied that EPA only had the authority to develop rules based on a particular medium-specific statute (e.g., Clean Air Act, Clean Water Act, etc.). Having said that, he recognized the importance of approaching rules with a "multimedia mindset." Mr. Stanislaus added that work was underway to incorporate demographic tools.

Ms. Brown suggested that the Rulemaking Gateway tab on "Rulemaking Effects" should be changed to "Rulemaking Impacts." Ms. Brown asked how "environmental justice" was defined in the Rulemaking Gateway. She noted that the definition was evolving as EPA continued developing EJSEAT. Mr. Verchick acknowledged that the definition of "environmental justice" used on the Rulemaking Gateway Web site may require clarification. He expressed concern about not correctly "flagging" environmental justice-related rules and recognized the need for further internal coordination.

Ms. Brown stated that it would be helpful to incorporate a discussion about the industrial processes related to rulemaking. She noted that communities may be more interested in specific industries than the affected media (i.e., water, air, etc.). She suggested industry listings as another portal for people to enter the Gateway.

Mr. Ridgway encouraged EPA to share the Web site with other federal agencies so they can replicate it. He asked that the panelists' PowerPoint presentation be posted on the NEJAC Web site, and he requested that NEJAC send a representative to the March 2010 Symposium in Washington, D.C.. Mr. Chuck Barlow, Assistant General Counsel, Entergy Corporation, suggested adding a link to the Web site to receive and share comments from the public. He noted that this addition could allow community members to find partners that they might not expect.

**Media Outreach.** Ms. Fisher suggested that EPA examine social networking as a means to involve the community. Mr. Verchick stated that the Rulemaking Gateway would include a social networking component that will allow the public to submit comments on rules. He asked for feedback on how best to implement this. Mr. Stanislaus also asked for suggestions on how to expand the Agency's outreach to those who are not necessarily associated with environmental justice communities.

Mr. Kelley reminded the audience of the power of the media. He urged for a "fresh approach" to involving young people during this information age. He encouraged the use of iPods, search engine advertisements, public service announcements, and the entertainment industry as part of a national EPA media campaign to connect with the public.

**Other Issues.** Mr. Wilson expressed concern that environmental justice funding was not "getting to the ground." He urged EPA to allocate funds to "projects that funnel some resources back to the affected community."

Ms. Fisher described the challenge municipalities face in obtaining funding to clean up incinerators that were previously legal to operate but are no longer legal. Mr. Stanislaus acknowledged that this issue was unresolved.

Mr. Giles acknowledged that more discussions were required, but that EPA did not want to wait to act. She agreed that there would be inconsistencies and lessons learned throughout the process. She expressed a desire to "learn and adapt" and urged the NEJAC to provide feedback. Ms. Garcia agreed that the Agency wanted to "roll this out" quickly. She acknowledged the importance of reaching out to different stakeholders and reported that EPA's Office of Public Affairs was already involved in discussions about technological improvements to the Rulemaking Gateway Web site. Mr. Lee urged NEJAC members to provide feedback on how to engage the public in a practical way.

#### **1.4 New Strategies for Reducing Air Pollution and Improving Health in EJ Communities: Upcoming Air Rules**

Ms. Gina McCarthy, Assistant Administrator, EPA OAR, stated that air regulations “drive change.” She acknowledged that air quality varies from one geographic area to the next. The following sections summarize the key issues and rules in EPA’s Air Program that Ms. McCarthy discussed.

**Climate Change.** Ms. McCarthy stated that climate change had garnered a great deal of attention in Congress, EPA, and especially in OAR. She stressed, however, that climate change was just one of the issues OAR worked on, and she expressed concern that the increased focus on climate change had shifted attention away from traditional pollutants. She pointed out that there were tremendous opportunities for a coordinated effort to address climate change and traditional air pollution goals.

Continuing her remarks, Ms. McCarthy acknowledged the challenge of addressing greenhouse gas issues while simultaneously achieving improvements that are required “on the ground” to improve public health. She reported that an OAR study related to climate change had confirmed that greenhouse gases were a public health problem and that mobile sources contributed to it. She emphasized that the Agency was ready to “move beyond the science to talk about what we actually do” to achieve reductions.”

She articulated that OAR’s two most notable actions related to climate change in 2009 were (1) the proposal for a Light Duty Vehicle Rule that would push forward new fleets of cleaner vehicles; and (2) the Mandatory Reporting of Greenhouse Gases Rule that requires large emitters to report greenhouse gas emissions. Wrapping up her remarks regarding climate change, Ms. McCarthy said she viewed these actions as “potentially powerful incentives” for air pollution reduction.

**National Ambient Air Quality Standards.** Ms. McCarthy reported that Administrator Jackson had announced on January 25, 2010, the first updated National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO<sub>2</sub>) in 35 years. She said this exemplified the fact that EPA had not kept up with its mandate to revisit the NAAQS every 5 years. She echoed the Administrator’s desire to ensure that such reviews were being conducted in a timely manner and were based on “sound science.”

In terms of the NO<sub>2</sub> NAAQS, Ms. McCarthy stated that the Agency took a “leap of faith” by moving away from annual area standards and setting 1-hour peak standards; and by placing monitors where the highest readings were expected (instead of “in the middle of nowhere”). She stated that the new standards were based on roadside emissions, as well as on data pertaining to vulnerable communities in some cases. She pointed out that vulnerable communities were taken into consideration not just for NO<sub>2</sub> standards but for other pollutants as well. She referred to this as a step toward addressing cumulative impacts of multiple pollutants. Ms. McCarthy acknowledged that, in establishing the new NO<sub>2</sub> NAAQS, the Agency had initiated a new way to approaching monitoring, setting up a new peak standard, and focusing on disproportionate impacts.

Ms. McCarthy highlighted ozone and particulate matter (PM) 2.5 as having significant public health consequences. Ms. McCarthy reported that the last science review of the NAAQS for ozone revealed that the national ozone standard set in 2008 was not based on science and there was no lower limit on safety for ozone. She stressed the need to drive the lower limit as low as possible and to revisit the NAAQS as often as the law required. She explained that EPA recently released a revised ozone standard that was based on science, but it was very challenging to implement. She noted that while it was relatively easy to set standards, it was far more challenging to ensure they were implemented. To this end, she said EPA was working with the states on a tighter implementation schedule.

Ms. McCarthy further reported that significant progress had been made in revisiting the PM 2.5 NAAQS. She pointed out, however, that some geographic areas were considered “non-attainment” areas based on new data, and some were classified as such even under the old standards.

Concluding her remarks specific to NAAQS, Ms. McCarthy said EPA would revisit primary and secondary standards for the remaining four criteria pollutants – carbon monoxide, lead, PM 10, and sulfur dioxide [SO<sub>2</sub>] – in the next five years.

**Clean Air Interstate Replacement Rule (CAIR).** Turning attention to the CAIR rule, Ms. McCarthy explained that the pollutants subject to this rule included ones that were often traded. She acknowledged that the cap-and-trade program was not a popular one. She noted that there were “good” and “bad” forms of trading. In particular, she said trading of certain pollutants had led to significant cost-effective pollutant reductions. On the other hand, however, she acknowledged that trading of toxic pollutants was not good, and for those pollutants the focus should be on reduction of localized impacts.

**Residual Risk Rules.** Ms. McCarthy described these as “bundles” of rules that control specific sources of toxins. She explained that OAR was moving these “bundled” rules quickly through the rulemaking process in order to achieve toxic reductions in a timely manner. As example, she pointed to the Portland Cement Plant Rule, noting that this rule was proposed in May 2009 and was expected to be finalized in March 2010. She explained that this rule would reduce current mercury emissions from Portland cement facilities by approximately 80 percent by 2013.

**Sector-Based Rules.** Ms. McCarthy described sector-based rules as those dealing with certain industrial or commercial sectors. She provided the following specific examples and asked for input from NEJAC members on these rules:

- **Utility NAAQS Rule.** She described this sector-based rule as dealing with every air pollutant associated with the utility industry as a whole.
- **Gold Mines.** Ms. McCarthy announced that a new standard was due to be proposed in April 2010. She noted that gold mines were the sixth highest source of mercury emissions in the U.S.
- **Industrial, Commercial, and Institutional Boilers.** She stated that a new rule for these boilers would also be proposed in April 2010. She said that there were opportunities for existing technologies to reduce traditional and toxic pollutants, and greenhouse gases.

Wrapping up her remarks, Ms. McCarthy acknowledged the work of Ms. Vernice Miller-Travis, Commissioner, Maryland State Commission on Environmental Justice and Sustainable Communities; Ms. Brown, and the rest of the NEJAC’s School Air Toxics Monitoring Work Group. An update of the Work Group’s activities is presented in Section 1.7.

Ms. McCarthy agreed with Ms. Yeampierre’s earlier comments that, ideally, DOT would have been present at the meeting. She acknowledged that DOT faced as much of a challenge as EPA. She noted that by convening a “green cabinet,” President Obama was “forcing conversations among agencies as never before.”

Ms. McCarthy described her work with air permitting in Texas, during which she had met Mr. Kelley and other environmental justice advocates and took a helicopter ride along the Port in Houston area. This, she said, was an “eye opener” for her about refineries. She made several commitments related to rulemaking for refineries:

- To engage in “consolidated rulemaking” to address malfunctioned exemptions as a whole, instead of in a rule-by-rule fashion.
- To evaluate start-up and shut-down conditions and integrate source-specific emissions targets into the rulemaking process.
- To examine industry sector-specific rules. She said that in the refinery New Source Performance Standards (NSPS), EPA would propose requiring continuous emission monitoring of flares and flare minimization plans; and promoting flare gas recovery.

Members of the Council engaged in a discussion about Ms. McCarthy’s presentation:

Ms. Yeampierre noted that emissions trading did not address the issue of facility siting. As a result, she said, facilities continued to be located and expanded in vulnerable communities, thereby making offsets “not meaningful.” Ms. McCarthy stated that she and Administrator Jackson understood the concerns about trading as they related to climate issues. She noted, however, that investment opportunities could be created if the trading system worked. She said that the challenge would be to ensure that such investments would involve upgrading the facility in a way that would benefit the community.

Ms. Yeampierre expressed concern about power plants in urban environments, especially old generation power plants that are put into operation during times of highest demand. She urged EPA to develop incentives for businesses to take older high-polluting power plants out of operation. Ms. McCarthy acknowledged that a more extensive conversation was warranted on this issue.

Ms. Henneke encouraged EPA to consider shut-down and start-up activities associated with maintenance and emergencies (e.g., hurricanes) in a different manner so as not to penalize facilities for unusual and unexpected events.

Mr. Barlow described “a different kind of environmental justice” among customers who “pay their utility bills with a large chunk of their income.” He urged EPA to keep in mind that sometimes such costs fall on those who already have difficulty paying those basic bills. Ms. McCarthy responded that Mr. Barlow’s company had actually called for EPA to regulate utilities, even though many utility owners would not encourage a cap-and-trade program. She stated that despite the controversy, there is consensus that air pollution problems exist and laws need to be enforced. She reported that EPA was going to implement the CAIR Rule, Utilities NAAQS Rule, and NSPS for utilities as part of conveying the message that, “If you invest this way in your fleet, you will achieve required reductions, address greenhouse gases, and...create jobs.”

Mr. Kelley asked about whether EPA would conduct fenceline monitoring at facilities, in addition to roadside monitoring. Ms. McCarthy referred to a successful pilot study in which technology was developed to do better fenceline monitoring. She noted that the Agency was still figuring out how best to use the technology and make it available to the public. She said that she would discuss this issue more with Mr. Kelley.

Mr. Ridgway expressed concern that the school air toxics monitoring data would not be available until mid-year 2010. He stressed the importance of making data available to the public in a more timely manner. Ms. McCarthy stated that the data would be made available as soon as quality control and quality assurance (QA/QC) reviews were completed.

Mr. Ridgway noted that the annual air emissions data reported in Toxics Release Inventory (TRI) was often inaccurately estimated. He urged EPA to take steps to help make TRI data “reflect reality.”

Mr. Ridgway asked how EPA was dealing with “international releases,” or pollution from other countries that is concentrated in regions such as Alaska and the Arctic where there are few, if any, industries. Ms. McCarthy stated that EPA was engaged in work on pollution from international sources. She committed EPA to doing a better job at communicating those activities and the challenges they were facing.

## **1.5 Conducting EJ Analysis: Definition of Solid Waste Rule**

Mr. Mathy Stanislaus, Assistant Administrator, OSWER, introduced the Definition of Solid Waste (DSW) Rule, as presented in Section 5.1. Section 5.2 summarizes the presentation by Ms. Charlotte Mooney, Recycling and Generator Branch Chief, OSWER, on the status of plans to revise the Rule. Section 5.3 presents an overview of initial public response to the DSW provided by Ms. Vernice Miller-Travis, Comissioner, Maryland State Commission on Environmental Justice and Sustainable Communities.

Mr. Stanislaus introduced the discussion on the DSW Rule, which deals with the recycling of hazardous waste and associated consequences. He stated that EPA had developed a draft methodology that the Agency was “completely open” to revising, as necessary, “to make it work.” He reported that EPA was looking at the DSW Rule as a pilot to inform the incorporating of environmental justice in rulemaking.

As part of placing the DSW Rule in context, Mr. Stanislaus talked about the Sierra Club’s petition to EPA to withdraw the DSW Rule. He explained that the petition asserted that the DSW Rule, which was finalized in 2008, did not adequately consider environmental justice. In response, he said, EPA held a Public Meeting on June 30, 2009, during which commenters raised similar concerns about the need to more closely examine the environmental justice impacts of the Rule. He acknowledged the long history of environmental justice as related to the issue of recycling solid waste, where small recycling operators had left a legacy of contamination in communities.

Mr. Stanislaus expressed great interest in feedback from the NEJAC on the DSW Rule. He added that comments would

also be solicited during a Public Round Table Discussion that afternoon; a video Town Hall meeting in Washington, D.C., on February 23, 2010; and via public teleconference on February 25, 2010. He gave the deadline of March 15, 2010, for submission of public comments. He reported that the DSW Rule would then be subjected to an environmental justice analysis. Finally, Mr. Stanislaus committed to provide an update to the NEJAC at its next meeting in June 2010.

Ms. Mooney summarized the goals of the DSW Rule were to: encourage recycling and resource conservation, protect human health and the environment, and define "solid waste" in the context of court decisions. She described the Agency's draft plan for conducting an environmental justice analysis on the Rule. She stated that the plan was available for public discussion and that EPA was soliciting public input in an effort to make process improvements before the analysis was actually conducted. She presented six steps of the environmental justice analysis of the DSW Rule.

Ms. Mooney reviewed EPA's plan for revising the DSW Rule, as follows:

- EPA will revise its methodology based on public input.
- EPA will conduct the environmental justice analysis following the revised methodology.
- Following the draft EJ analysis of the Rule, EPA will conduct a peer review and also engage the public again to get input.
- The results of the analysis will be revised based on public input and peer review comments.
- The revised analysis will be used as part of the information assessed in developing EPA's response to the Sierra Club petition. The response will be published for public comment, and then finalized after incorporating and responding to public comments.

Ms. Mooney stated that the rulemaking team would like to discuss the best way to obtain input from the NEJAC on the draft methodology. She reported the Agency's goal of completing the draft DSW Environmental Justice Analysis by Summer 2010, depending on the number and complexity of public comments received. She echoed Mr. Stanislaus's earlier commitment to update the NEJAC on progress on the DSW Rule at the next meeting.

**Public Input.** Ms. Miller-Travis thanked Mr. Stanislaus for slowing down the decision on the DSW Rule. She referred to the public dialogue on June 30, 2009, which gathered people from around the country. She reported that after Mr. Stanislaus had committed to conducting an environmental justice analysis of the DSW Rule at the July 2009 NEJAC meeting, the analysis was completed "3 weeks to the day." She commended EPA for the "historic" nature of the quick turnaround. She also acknowledged the work of Earthjustice, formerly the Sierra Club Legal Defense Fund, which filed the petition on behalf of the Sierra Club.

Ms. Miller-Travis highlighted the following points in her presentation:

Comments on EPA's draft methodology

- Provides a detailed comparison of the current law and what happens when the exclusion goes into effect.
- Uses a straight-forward method of the racial and economic condition of communities in the vicinity of a polluting facility.
- Recognizes the importance of cumulative vulnerability and impact.
- Shows that EPA is proactively seeking the advice of community groups and environmental organizations.

Areas of general concern

- What level of reliability should we expect when EPA regulates something?
- Has EPA been right in developing prescriptive detailed standards under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA)?
- How committed is EPA to fundamental principles of public participation and community involvement?
- Is it important that the community have the opportunity to participate in decision-making about where hazardous waste facilities are located, how they operate, etc.?
- Does it matter whether the federal or state governments inspect the facility, or can we trust self-audits?

Ms. Miller-Travis stated that the environmental community perspective of sustainability was higher environmental performance; improved health; and improved environments in communities of color, indigenous, and low-income communities. She noted, however, that “more hazardous substances recycling with less environmental performance” was not sustainable. Summarizing her statements, Ms. Miller-Travis explained that the “primary issue is whether or not hazardous waste recyclers would be regulated under RCRA Subtitle C.” She asserted that EPA had not previously been able to hold polluters responsible for their actions. She expressed concern that historically, voluntary actions outside RCRA Subtitle C resulted in “harm to people’s lives.”

Ms. Miller-Travis urged EPA to apply the most stringent methods to oversee how hazardous waste was treated, stored, and disposed. She stressed that the DSW Rule would be a critical tool for many federal statutes that depend on the definition of solid waste. “So we have to make sure we get it right,” she said. She reported that three states – Idaho, New Jersey, and Pennsylvania – were already using the current DSW Rule. She expressed concern about the location of exempted hazardous waste recycling facilities in minority and low-income communities in those states. She said that the 23 facilities that were taking advantage of the exemption had collectively been the subject of at least 21 informal and 21 formal enforcement actions in the past 5 years. She added that six of those facilities had previously been identified for RCRA corrective action; and nine facilities had been designated as federal Superfund sites. She noted that while the DSW Rule was under revision, people were already experiencing adverse impacts from exempted recycling facilities.

Ms. Miller-Travis challenged community members to “step up and come to the table.” She presented a formal recommendation for the NEJAC to establish a Work Group with OSWER on the development of an environmental justice analysis methodology for rulemaking, with the DSW Rule as its first focus. She recommended Mr. Paul Mohai, Ms. Sue Briggum, Mr. Robert Bullard, Director, Environmental Justice Resource Center, Clark Atlanta University; Ms. Eileen Gauna, Professor of Law, University of New Mexico; Mr. Michael Lythcott, President, The Lythcott Company; Mr. Eric Schaeffer, Director, Environmental Integrity Project, affected community and Tribal representatives, and maybe even herself to serve on the Work Group.

Following the presentation about the DSW Rule, members of the NEJAC made the following comments:

**Proposed Work Group.** Ms. Briggum echoed Ms. Miller-Travis’s request for a new NEJAC Work Group. Mr. Mohai agreed to serve on such a Work Group. Mr. Stanislaus agreed with the proposal to establish a Work Group to engage more people. He noted that the timeline for the DSW Rule did not line up with the next NEJAC meeting. Ms. Garcia stated that formation of a Work Group would be discussed right away to facilitate interaction and public input.

**Other Issues.** Mr. Kelley asked whether the Department of Agriculture or DOT were involved. Ms. Mooney responded that, while most of the work involved EPA offices due to the hazardous waste focus, comments were solicited from other agencies.

Mr. Mohai expressed concern about whether appropriate sites would be identified and noted that questions may be raised about sampling. Mr. Stanislaus acknowledged the challenge of forecasting where facilities may be sited.

## 1.6 EPA Plan for Responding to the NEJAC Goods Movement Report

Ms. Gina McCarthy, Assistant Administrator, OAR; Mr. Rob Brenner, Director, OAR Office of Policy Analysis and Review; Mr. Richard Parkin, Acting Director of Office of Ecosystems, Tribal, and Public Affairs, EPA Region 10; Mr. Enrique Manzanilla, Director of Community and Ecosystems Division, EPA Region 9; and Ms. Gay MacGregor, Senior Policy Advisor, EPA Office of Transportation and Air Quality, discussed the recommendations presented in the NEJAC’s Goods Movement Report, and its plan for reviewing and responding to them.

**Report Overview.** Ms. McCarthy began by commending the NEJAC for a report that was “extremely well-done and very informative.” She stated that goods movement was a subject of great interest to Administrator Jackson and had been identified as a “priority area” for the Agency in 2010. She announced that EPA had issued rules that addressed diesel vehicles, pointing out that the Agency was “pushing the envelope” to get low-sulfur diesel available to support new retrofit technologies. She also noted that EPA was “working on engine standards.” She acknowledged that more could be done to deal with the abundance of “diesel engines out there” and that many vulnerable communities were in

transportation hubs.

Ms. McCarthy stated that grant money was available for further research on goods movement and ways to mitigate its adverse effects. She welcomed feedback on how well that funding was being used to reduce pollution. She expressed hope that the work on goods movement would fill data gaps on emissions related to transportation, and allow EPA to gain a greater understanding of localized exposures based on public health concerns.

Mr. Brenner provided some background on EPA's work on Goods Movement. He stated the Agency had originally started the Goods Movement program as the Diesel Retrofit Initiative, which dealt with retrofitting dirty diesel engines. He said that the ultimate goal of the Initiative was to retrofit or replace over 10 million dirty diesel engines. He acknowledged that much work was required to achieve this goal. Mr. Brenner reported that the locations of transportation nodes (i.e., where engines were being used) were a significant focus, including ports, truck stops, rail yards, and bus yards. He noted that these transportation nodes were primarily located near low-income and minority communities. He announced that the Goods Movement Initiative was a means of "ramping up" Agency efforts.

Mr. Brenner explained that an EPA "response team" was reviewing the 41 recommendations presented in the NEJAC's Goods Movement Report, and he described how the team was organized. He noted that the effort for co-led by OAR (overall lead for recommendations involving Agency-level response); Region 9 (lead for environmental justice and mobile sources); and Region 10 (lead for air). He added that other EPA offices outside OAR were also involved, including OECA (under which OEJ, Office of Enforcement, and Office of Federal Activities were housed); and Office of Research and Development (under which OPEI and the Smart Growth office was housed). He stressed the importance of a coordinated effort across the Agency to respond to the recommendations and achieve the goals of Goods Movement.

To further demonstrate the need for interoffice coordination, Mr. Brenner referred to Mr. Omega Wilson's suggestion during the Conference on Environmental Justice, Air Quality, Goods Movement, and Green Jobs earlier that week. At that conference, Mr. Wilson suggested that conference participants "get into the communities." Mr. Brenner noted that "once people see it," they are motivated to make it a priority on their daily personal agenda. He added that other groups, in addition to EPA, should be involved as partners, such as pollution control equipment providers. He acknowledged the help of Mr. Terry Goff, Director of Public Policy and Regulatory Affairs, Caterpillar, Inc., in developing the Goods Movement Report. Mr. Brenner stated the importance of developing such partnerships so that the community could benefit from "green" jobs that may be created from retrofitting efforts.

Mr. Brenner also recognized the importance of involving other federal agencies, such as DOT and CEQ, to ensure that environmental justice concerns related to Goods Movement were incorporated into transportation legislation. He appealed to the NEJAC for input on how EPA can more effectively communicate and engage with communities in a meaningful way.

Mr. Brenner presented EPA's timeline for responding to the NEJAC recommendations. He explained that the recommendations had been divided into three groups: He noted that the responses would be labeled "draft" prior to NEJAC review because EPA was seeking feedback from the Council. The timeline also included a teleconference in mid-April for EPA to provide a progress update to the NEJAC; completion of a draft report for Agency review by May 30, 2010; and a final report of responses by June 2010.

**EPA Region 10.** Mr. Parkin described a voluntary air emissions reduction program in Region 10, and discussed tools that EPA Regions were starting to use to increase effectiveness in addressing Goods Movement. He explained that every EPA Region had a collaborative effort with state and local agencies, ports, industries, environmental groups, and other stakeholders, to reduce diesel emissions. He stated that EPA Regions 9 and 10 worked together on the West Coast Collaborative. He reported that the Collaborative had been awarded several grants in support of initiatives in the ports and marine sector.

Mr. Parkin also described a collaboration between the Port of Tacoma and the major ports of Taiwan. The partnership involved the signing of a declaration to reduce diesel emissions at all their ports and share "best practices." He also presented the example of Region 2 issuing several million dollars in grants under the American Recovery and Reinvestment Act of 2009 (ARRA) to the Port Authority and others to finalize a clean air strategy to reduce diesel

emissions in Newark, New Jersey. As another international example, Mr. Parkin described the partnership between the Ports of Seattle, Tacoma, and Vancouver, British Columbia to reduce seaport-related emissions by 30 percent by the end of 2010. He also noted that several EPA Regions had funded Community Action for a Renewed Environment (CARE) projects that addressed Goods Movement activities, such as traffic and idling in neighborhoods.

Turning his attention to other tools that had been used in Region 10 to address Goods Movement concerns, Mr. Parkin noted the following:

- **Environmental Justice Review.** In 2009, Region 10's Environmental Justice Program conducted an environmental justice review in two communities in South Seattle that were affected by Goods Movement. He noted that the review served as a powerful tool to enhance community involvement in EPA activities and enhance the Region's Environmental Justice Program Integration efforts.
- **National Environmental Policy Act (NEPA).** Through EPA's NEPA review responsibilities, the Agency had the opportunity to discuss environmental justice matters in specific projects with other federal agencies. He stated that Region 10 had taken the opportunity to become a cooperating agency on major transportation issues which, he pointed out, gives the Agency input on decision-making.
- **State Performance Partnership Process.** Mr. Parkin stated that much of the Agency's work in urban neighborhoods in Region 10 was conducted by partner agencies to whom EPA had delegated programs. He noted that EPA could use the Performance Partnership Process to negotiate activities.

**EPA Region 9.** Mr. Manzanilla began his remarks by saying the State of California "has an extensive goods movement footprint." He referred to the state's Goods Movement Action Plan, which identified four major transportation corridors in California: (1) Central Valley, (2) San Francisco Bay Area, (3) Los Angeles/Long Beach/Inland Empire, and (4) San Diego, along the U.S.-Mexico border. He discussed Region 9 goods movement work as related to its NEPA review responsibilities, Clean Air Act enforcement, collaboration and innovation, and collaboration and community empowerment.

- **NEPA.** Mr. Manzanilla mentioned California's I-710 freeway as a major goods movement corridor in the Los Angeles/Long Beach area that had attracted much attention. He stated that, under NEPA, Region 9 was working with Caltrans to assess the various public health and air quality impacts associated with a proposed expansion to the I-710 corridor. He added that the Agency was encouraging the use of the Health Impact Assessment (HIA) tool for the Environmental Impact Statement (EIS) for the project. He noted that EPA was also coordinating with community groups to encourage the Ports of Los Angeles and Long Beach to adopt the HIA process in the assessment of their port projects.
- **Clean Air Act Enforcement.** Mr. Manzanilla reported that EPA was working with the local jurisdiction in Los Angeles and Long Beach to ensure that the CAA Plan included port-related emissions control measures. He expressed support for the leadership and active work of the California EPA's Department of Toxic Substances Control to focus its inspection and enforcement authority along a 23-mile stretch from the Ports of Los Angeles and Long Beach via I-710 to East Los Angeles. He added that the Agency was acting on information generated by the community members and local governments. He noted that it was an important collaboration that EPA was supporting financially using State Environmental Justice Cooperative and Showcase Communities grant funding.
- **Collaboration and Innovation.** Mr. Manzanilla informed Council members that Region 9 was working to support state and local partners in the development of a Clean Air Action Plan for the southern California ports. He added that it would be a 5-year plan to reduce pollution from all port-related sources by nearly 50 percent. He said that the Agency was also working with the Port of Oakland and community groups. He mentioned that EPA Region 9 had signed a Memorandum of Understanding (MOU) with EPA Headquarters, the California Air Resources Board, the South Coast Air Quality Management District, and the San Joaquin Valley Air Pollution Control District to address the need for new technology to further address emissions from on-road and off-road mobile sources.
- **Collaboration and Community Empowerment.** Mr. Manzanilla noted that much of its funding – from the Diesel Emissions Reduction Act (DERA) and CARE program, among others – has landed in "goods movement communities" such as West Oakland, San Diego, and Riverside. He expressed the importance of investing in those communities to create collaboration and empowering mechanisms.

**EPA Office of Air and Radiation.** Ms. MacGregor explained that EPA had already addressed several of NEJAC's Goods Movement recommendations. She referenced Recommendation 15, "EPA should ensure effective, early control requirements on international ships...". She reported that EPA had submitted an application under the Marine Pollution (MARPOL) Annex VI, the treaty that governs international emissions from ocean-going vessels. She noted that the U.S. joined the treaty in 2008. Ms. MacGregor stated that, under the treaty, the U.S. submitted a joint proposal with the Canadian government in 2009 to designate areas of the coast for low-sulfur fuel use. As a result, she said, every ship going through those waters would need to use decreasing fuel sulfur levels over time. Ms. MacGregor said EPA expects approval of its proposal in March 2010 and implementation in 2012. She stated that, on December 22, 2009, EPA proposed standards for U.S. ships that matched the standards that had been proposed under MARPOL Annex VI in 2008. She said she expects the standard to be effective.

Ms. MacGregor described the history of EPA funding for work in diesel emissions reduction, from the formation of the Diesel Retrofit Program in March 2000 with no financial resources; to the current budget of \$300 million from ARRA and \$120 million as part of the 2009-2010 fiscal appropriation. She also announced a new EPA Tribal Grant Solicitation effort for which, she said, there were eight applicants.

Continuing her remarks, Ms. MacGregor described EPA's outreach efforts to the seven diesel collaboratives in the country that are "very involved in communities." She expressed EPA's commitment to engage in targeted outreach to potential grant applicants.

Ms. MacGregor turned her attention to the Council's Recommendation 31, "EPA should, through its SmartWay and other programs, encourage shippers, trucking firms, and railroad companies to use corporate modeling and management tools like the FLEET model and EMSs to measure their environmental footprints." She reported that all the big shippers and carriers of goods were members of SmartWay. She further reported that financing mechanisms have been included in the program to make low-cost loans available to carriers to retrofit their trucks. The program, she explained, was also engaging the airline and marine shipping industries in developing models that will quantify emissions. She said those models should be completed in 2011.

**NEJAC Dialogue.** Mr. Captain noted that the Northwest Passage would be open within the next decade, adding that the quickest way to the Far East from Europe would be through that passage. He stated that the Eskimos rely heavily on whaling, fishing, and sealing in those waters. He asked whether EPA had any plans to address the impacts of ships traveling through the Northwest Passage "on the livelihood of the Eskimos." Mr. Brenner acknowledged that this issue warranted further discussion. Mr. Parkin stated that EPA Region 10 was already involved internationally with a group of countries "around environmental issues in the Arctic." He agreed that this should be added to this list of priorities for the Region.

Mr. Ridgway asked about the enforcement mechanism for low-sulfur fuel requirements on ocean-going vessels, for example, in the Northwest Passage. Ms. MacGregor responded that the Coast Guard was responsible for enforcing the MARPOL Annex VI treaty. She acknowledged the Coast Guard had to patrol a very large area, out to about 200 nautical miles. She noted that the primary enforcement would take place when ships come through ports. Mr. Ridgway stressed the importance of involving other agencies on this issue.

Mr. Wilson urged EPA to identify a member of NEJAC, like himself, with experience in Goods Movement and community-facilitated strategy, to serve as a point-person to represent community concerns. A community-facilitated strategy emphasizes the lead role of communities in addressing the adverse effects of Goods Movement. Mr. Wilson noted that he had served in the role as community point-person during his time on the NEJAC but that he was retiring from the Council after the meeting. He also asked that EPA provide funding for community groups to be included in the community facilitated strategy process, noting that many members of the public were there "on their own dime." He suggested the idea of a "Community Goods Movement team." Mr. Brenner agreed that the Agency needed to engage communities on this issue in a meaningful way.

Mr. Wilson noted that the Goods Movement recommendations were based on air quality issues. He pointed out, however, that impacts to waterways, wetlands, public water, and land should somehow be included in the evaluation. Mr. Brenner agreed that other media should be addressed in Goods Movement assessments.

Mr. Wilson expressed concern that members of academia were competing with community groups for Goods Movement funding. He urged that EPA require academic researchers to establish partnerships with affected community groups as part of grant awards. Mr. Mohai clarified that “university people are resource people” and that service was part of their job. He added that they don’t charge by the hour, and that all the research that he had done involved secondary data sources. He stated that he wouldn’t take any funding from communities. Ms. Yeampierre noted that not all educational institutions were the same.

Mr. Wilson noted that most of the work in Goods Movement dealt with existing corridors that were slated for expansion. He pointed out that attention should also be placed on areas (such as tribal lands and “virgin territory”) where new corridors were being proposed. Mr. Brenner stated that these areas should be captured – and communities could get engaged – during the permitting process for proposed new corridors.

Mr. Marsh referred to the Sustainable Communities Partnership between HUD, EPA, and DOT as an ideal partnership for goods movement and community facilitation. He noted the value of “amplified funding sources” among the three agencies. Mr. Manzanilla stated that EPA Region 9 had initiated dialogue with HUD, DOT, and other agencies about Goods Movement, among other issues, in the San Joaquin Valley. He agreed that the partnership could be leveraged, and other agencies should also be included.

Mr. Marsh noted that most of the work of the Goods Movement Work Group was based on data that was three to four years old. He added that a significant contribution to diesel emissions and poor air quality was from stationary engines. Ms. McCarthy stated that the Office of Air Quality Planning and Standards (OAQPS) was developing Maximum Achievable Control Technology (MACT) standards for stationary diesel engines that incorporated “lessons learned” from mobile sources.

Ms. Yeampierre asked how EPA planned to address the issue of “diesel magnets” in terms of land use. Ms. MacGregor announced that EPA was preparing to issue “hot spot guidances” in conjunction with DOT. She referred to a new mobile emissions model called MOVES (Motor Vehicle Emissions Simulator Model), which allowed for quantitative particulate matter hotspot analysis.

Ms. Yeampierre asked whether EPA would start regulating diesel as a hazardous air pollutant (HAP). Ms. McCarthy stated that this was an issue worth discussing further. Mr. Brenner added that the issue was evaluated by the Science Advisory Board (SAB), which “stalemated” on the science behind designating diesel as a HAP. He wondered whether a HAP designation would give EPA additional authority to regulate diesel and said EPA should consider “bringing the issue back to the SAB.”

Ms. Yeampierre asked how EPA planned to address facilities like rail yards that were considered mobile sources but had trucks as stationary sources that operated permanently within the facility. Mr. Brenner noted that it was an issue of legal authority and said that it required further discussion among the stationary and mobile source groups in the Agency.

## **1.7 NEJAC Work Group Reports**

Two NEJAC work groups – the School Air Toxics Monitoring Work Group and the Nationally Consistent Environmental Justice Screening Approaches Work Group – presented information to the Council and provided updates of their ongoing efforts.

### **1.7.1 EPA School Air Toxics Monitoring Initiative**

Members of the EPA Office of Air Quality Planning and Standards (OAQPS) and the NEJAC School Air Toxics Monitoring Work Group described their work on the Agency’s School Air Toxics Monitoring Initiative.

Mr. Richard (Chet) Wayland, Director, Air Quality Analysis Division, EPA OAQPS, updated the NEJAC on EPA’s School Air Toxics Monitoring Initiative. He provided an overview of the “genesis” of the School Air Toxics Monitoring study, as well as summarized the outreach and communications component of the study. While discussing EPA’s charge to the NEJAC’s School Air Toxics Monitoring Work Group, Mr. Wayland stated that EPA looked to the Work Group to gain

insights on communication strategies on (1) the type of information communities will need; and (2) additional steps EPA should take to assure materials are accessible.

While providing a status report of the project, Mr. Wayland indicated that EPA-funded monitoring had been completed at 41 of the 65 schools. He said that monitoring of the remaining 24 schools would be completed by April 2010, adding that the delay was due to the need to resample for volatile organic compounds (VOCs) at those locations due to a malfunction in the equipment. He announced that reports for the two schools in Tennessee had been completed in September 2009; five reports would be completed in February 2010; and the remaining reports would be ready by July 2010. He noted that of the 65 schools, one school in Virginia refused access and was replaced by an adjacent school.

Mr. Wayland discussed several outstanding issues in the project related to manganese, which he said was detected at elevated levels in samples collected at several schools in Ohio and West Virginia. He also discussed issues related to VOC monitoring, as described earlier, and acrolein, which was shown to be elevated in the majority of schools. In terms of acrolein, Mr. Wayland reported that EPA was conducting additional laboratory tests to determine whether the results were affected by the type of canister used and how the canisters were cleaned. He expected the tests to be completed by the end of January 2010.

Mr. Wayland presented the following "lessons learned" from the project:

- Transparency has pluses and minuses.
- Posting data in real time provides ample opportunity for the public to review the data.
- Focusing solely on "schools" may not capture maximum air toxics exposure in the communities.
- Coordination upfront with communities is vital but it takes significant time and resources.
- Local communities know the issues and where they occur and can help determine where to monitor and how to respond to issues.
- Monitoring is important but good emissions inventory and other data is needed.
- Need to coordinate with the communities on follow-up actions.

Ms. Brown; and Ms. Miller-Travis, co-chairs of the NEJAC School Air Toxics Monitoring Work Group, summarized the Work Group's recommendations to the NEJAC on the Initiative. Work Group members Mr. Mohai; Mr. Nicky Sheats, Director, Center for the Urban Environment, Thomas Edison State College; Mr. Elvin Lang, Environmental Justice Coordinator, Alabama Department of Environmental Management; and Ms. Rita Harris, Environmental Justice Program, Sierra Club, were also seated at the table.

Ms. Miller-Travis acknowledged the work of Ms. Candace Carraway, Environmental Justice Coordinator, OAQPS; and Ms. Laura McKelvey, Community and Tribal Programs Group, OAQPS; as well as her fellow Work Group members. She also recognized the contributions of several others, including Ms. Robinson, Mr. Wayland, Ms. Kelly Rimer, OAQPS; Ms. Alison Davis, OAQPS; Mr. Dave Guinnup, OAQPS; Ms. Cynthia Peurifoy, EPA Region 4; and Mr. Paul Wagner, EPA Region 4.

Ms. Miller-Travis summarized the Work Group's findings and recommendations for EPA, adding following the conclusions reached by the Work Group:

- EPA should seek advice from the NEJAC on designing and implementing future phases of the school air toxics monitoring project.
- EPA should revise the charge to (1) Expand the role of the NEJAC and its Work Group beyond communication strategies, (2) Delineate a role for the NEJAC and its Work Group to provide meaningful review of all project protocols.

Mr. Wayland presented the Agency's proposed new charge for the NEJAC. He stated that, although the parameters of the next phase of the monitoring project were not yet defined, EPA wanted to assure that the needs of all children and especially those in low-income, minority and Tribal populations were identified and addressed in the next monitoring effort. He explained that the purpose of the new charge was to gain insight from the NEJAC about:

- Elements to be addressed in any future school air monitoring projects.
- How to best identify and address the concerns of the EJ communities in the context of the monitoring effort.
- How to effectively engage communities in collaborative approaches to address problems identified in the monitoring projects.

Mr. Wayland explained that as part of the new charge, EPA would solicit NEJAC's responses to the following questions:

- How should the next phase of this initiative be structured, particularly with emphasis on assuring that environmental justice communities benefit from it?
- What steps should EPA take to identify and address the concerns of educators and EJ communities?
- What are the best mechanisms to build collaborative problem-solving capacity to address the EJ issues and concerns among the federal agencies, states, and communities that are impacted by EPA's new monitoring projects?
- What are the appropriate analytical approaches and methodologies to ensure EJ and children's health concerns are adequately considered?

Mr. Ridgway asked for more information about the school that refused to participate in the study. He expressed interested in "lessons learned" from that experience that could be applied to other reluctant schools. Mr. Wayland explained that it was a "small Christian school" that did not want government representatives on their property. He noted, however, that the adjacent school 20 feet away agreed to participate, so EPA conducted its monitoring there.

Ms. Briggum requested that EPA consider in its revised charge to the NEJAC other situations where good communication of accurate data was important. She said it would be helpful if "best practices" from this study could be replicated.

Ms. Catron stated that tribes do not have access to Supplemental Environmental Projects (SEPs). Ms. McCabe stated that there was no rule that excluded tribes from obtaining funding from SEPs.

Ms. Yeampierre made a motion, Mr. Ridgway seconded it, and the Council unanimously agreed to adopt the Work Group's Report. Ms. Robinson clarified that the NEJAC adopted the Report included in the members' meeting binders with the three additional addenda distributed in a handout.

Mr. Omega asked whether the study considered schools where elevated incidence of asthma and a greater number of students in special education programs were observed; as well as schools located near concentrated animal feeding operations (CAFOs). Mr. Sheats agreed that proximity to CAFOs should be considered in the next phase of the study. Mr. Mohai stated that the next phase offered new opportunities to focus on other kinds of environmental problems. He acknowledged that the study did not include a representative sample.

Mr. Marsh asked how EPA planned to address Mr. Wayland's concern that a focus on schools may not capture the areas of maximum exposure. Mr. Wayland clarified that EPA was seeking feedback on whether the Agency was monitoring in the right places. He asked whether the NEJAC felt the scope of the Initiative should be expanded beyond schools.

Mr. Ridgway agreed that the TRI should not be the sole criteria by which the selection of sites for the next phase would be considered, especially in light of documented errors in some TRI data and the age of the data, as well as the absence of data from CAFOs and other potential sources. Mr. Wayland clarified that the USA Today study only used TRI data; but EPA used more than that.

Mr. Mohai echoed Mr. Wayland's comments about the need for better data.

The Council agreed by consensus to adopt the revised charge for the Work Group.

#### **1.7.2 *Nationally Consistent EJ Screening Approaches***

Ms. Sue Briggum and Ms. Eileen Gauna, Co-Chairs of the NEJAC Nationally-Consistent EJ Screening Approaches Work Group, presented an update to the Council on the Work Group's progress on evaluating EPA's EJSEAT.

Ms. Briggum noted that the issue of screening methodologies was highly technical and that EJSEAT required a very extensive knowledge base. She acknowledged the importance of the various components of the Work Group: (1) "ordinary people" (such as herself and Ms. Gauna); (2) representatives from grassroots organizations (such as Mr. Moore and Mr. Wilson); and (3) representatives from academia (such as Mr. Mohai, Mr. Shankar Prasad, Executive Fellow, Coalition for Clean Air).

Ms. Briggum summarized EPA's charge to the Work Group, noting that the Work Group reached consensus on all of its recommendations for EPA except for one. She described the process of the Work Group's deliberations, which were comprised of briefings by EPA on EJSEAT and frequent correspondence with EPA staff about the data base; two in-person meetings; and numerous conference calls. In addition, she said, academic members of the Work Group tested the EJSEAT methodology in select locations (including California, Michigan, and New York).

Ms. Briggum outlined the Work Group's fundamental guidelines, or principles, explaining that a screening tool must:

- Be accurate in identifying potentially adversely impacted communities of color and low income communities.
- Be able to assess changes over time.
- Allow national comparisons.
- Be transparent and understandable.
- Be scientifically sound – for its purpose.
- Be practical, use available data, and have data sufficient for the intended use.
- Be useful – and avoid misuse.
- Communicate what the screening tool can and can't do

Ms. Gauna presented the Work Group's observations and findings during its evaluation of EJSEAT:

- General Observations. A consistent national approach is needed for some applications to identify potential high impact areas. EJ SEAT is more appropriate when evaluating past, rather than managing future, impacts – that is, reviewing if a priority area had more or fewer inspections, faster or slower cleanups, received its "fair share" of grants, etc. EJSEAT has limits when used to determine future activity. It is a very coarse screen. It may miss important local factors that affect prioritization.
- Specific Data Limits. EJSEAT relies on NATA and TRI data, which do not include a significant proportion of the sources of concern to EJ communities. Important populations such as Native Americans and Hispanics are not accurately captured by census takers. Much of the data is modeled rather than monitored.

Ms. Briggum stated that, during the evaluation, the Work Group reduced the original four factors – health, environmental, compliance, and demographics – down to two: environmental burden and social vulnerability. Ms Briggum also shared the Work Group's comments on an alternative normalizing period and a protocol for prospective use.

Ms. Gauna presented the Work Group's recommendations to the NEJAC, as follows:

- EPA is to be commended for seeking diverse stakeholder views on the development and use of this tool.
- Similar outreach should be undertaken as EJSEAT and other tools are implemented.
- EPA should undertake sensitivity analyses to understand how EJSEAT elements affect scores.
- EPA should publicize EJSEAT results for each state.
- Data on soil contamination, surface and groundwater contamination, nuisance and non-point source pollution should be considered for inclusion.
- EPA should evaluate, in collaboration with Native American groups, how to capture risks for these populations.
- EPA should consider creating a community-level screening tool.
- EPA should evaluate how EJSEAT might be configured to allow comparisons over time.

- EPA should press to obtain census tract health data on cancer, lead poisoning, asthma and other respiratory diseases.
- EPA should create an EJSEAT training program to prevent misunderstanding and misuse of tools like EJSEAT.
- EPA should solicit broader comment on how to use EJSEAT.

Mr. Barlow asked why the different age categories (e.g. under 5 years of age; over 65 years of age) had different levels of relevance. Mr. Mohai stated that he was in the “camp” that was not inclined to include the age variable. He explained his position by citing his research study in most variables clearly showed that elevated levels of pollution and environmental problems occurred in areas where people of color live, except for the age variable, which pointed to white suburbs of Detroit. He attributed this to average life expectancies being generally higher in areas that were environmentally and economically “better off.” He referred to a recently published paper in the American Journal of Public Health that examined the distribution of polluting industrial facilities in the TRI. The inclusion of the age variable in that study, he explained, indicated that people over 65 were least likely to live near polluting facilities. He expressed concern about the age indicator potentially shifting the focus away from areas commonly associated with environmental justice communities.

Mr. Omega described the position of the “other side” of the age indicator controversy, which was based on the social science perspective. He said that if the social context was not being addressed, then other issues such as employability, health, and insurability would be overlooked.

Mr. Mohai noted EJSEAT used geographic data (such as census tracts), instead of data on individuals. As a result, he pointed out, even though older people may individually be more vulnerable, EJSEAT showed that those areas where older people were concentrated were actually “better off” areas.

Mr. Yeampierre requested that learning disabilities be considered as well.

Mr. Ridgway requested greater explanation of the 16 factors, including how they were measured, the source of the data, and the timeline for a trend analysis. He suggested that EPA make each measurement clear so that community members can gauge each one relative to projects they’re interested in.

Mr. Ridgway encouraged the Council to advise EPA to ensure resources in its Regions to put data into context. He stated his interest in the limitations on the data, what they mean, and how they could be used. Mr. Mohai agreed, adding that the State of Michigan was planning to use EJSEAT as a screening tool as part of developing its environmental justice State Implementation Plan. He noted that other States may also look to EJSEAT as a model or starting point for their environmental justice analyses. Ms. Henneke added that EJSEAT primarily dealt with air issues that would be delegated to the States.

Ms. Brown asked whether the Work Group had suggestions for EPA on “ground-truthing” the data contained in EJSEAT. Ms. Briggum stated that public input would be solicited on the annual publications of screening results. Mr. Wilson acknowledged the need for ground-truthing of the data. He noted that this activity would not have to necessarily supplant the data already collected. Mr. Kelley added that it was time for the States to pay attention to those “on the ground.”

Mr. Marsh commended EPA and the Work Group, saying that the recommendations captured all the concerns that had been previously raised by the NEJAC. However, he expressed concern about potential misuse of the data. He stressed the need for census tract data for health.

Ms. Yeampierre stated that EJSEAT included social indicators but not population density or proximity to pollution sources. Mr. Gauna confirmed that those two factors were not included in EJSEAT. She noted that there were already many indicators of vulnerability. She said that not all possible indicators were included so as not to overly complicate or confound the assessment.

Ms. Giles stated that EJSEAT was intended to be an enforcement-related screening tool, which, she added, explained the emphasis on regulated sources.

Ms. Henneke noted that 2010 was the year for another census count. She wondered how much the new data would impact the Work Group's upcoming work. Having worked on the census count 10 years prior, she said she was aware of the limitations of census data, including mapping errors and data gaps. She also expressed concern about the increasing number of Native Americans living in urban areas who may not be accurately represented on census data. Ms. Wilson reported that the Work Group had discussed the issue of "urban Indians" who did not live on tribal land. He asked for the NEJAC's input on how to address this issue. Ms. Catron offered to draft language on this to include with the Work Group's recommendations.

Ms. Yeampierre made a motion, Mr. Ridgway seconded it, and the Council unanimously agreed to adopt the Work Group's Report with the addendum that Ms. Catron was preparing.

## **1.8 Building Blocks to Creating Healthy Communities**

Mr. Mustafa Ali, Associate Director, OEJ, stated that the applicants for the 2009 EPA Environmental Justice Achievement Awards represented over 60 organizations. He recognized Ms. Lisa Hammond, Program Manager, OEJ, for her role in the evaluation and selection process.

Mr. Ali announced that five candidates were selected for the award, and he introduced the awardees:

- Ms. Elizabeth McDade, Coalition to Prevent Lead Poisoning
- Ms. Stephen Groner, Fish Contamination Education Collaborative
- Ms. Harold Mitchell, The Regenesis Project
- Ms. Wannetta Mallette, Mitigation Agreement Commission/Low Country Alliance for Model Communities
- Ms. Thomas Jelenic, The Clean Trucks Program

Continuing his remarks, Mr. Ali explained that each award winner would provide an overview of their respective projects; highlight the results in terms of public health and other benefits; and discuss the building blocks that were necessary in creating healthy communities. He pointed to the following as examples of what constitutes a "building block" within the context of the awards:

- Building sustainable partnerships where communities are equal partners.
- Creating a sustainable product.
- Capacity building through attracting and leverage resources.
- Identifying leaders and maintaining their support.
- Building youth involvement in the developmental aspects of the project.
- Broadening education in the marketing of project goals.

Following Mr. Ali's overview, each of the award winners presented information about their projects as summarized below.

### **1.8.1 Ms. Elizabeth McDade, Coalition to Prevent Lead Poisoning**

Ms. McDade presented her organization's project in Rochester, New York, as an example of the building block, "identifying leaders and maintaining their support." She stated that in 1999, a school district principal and now Board member of the Coalition to Prevent Lead Poisoning discovered that "all the children in his special education classes were lead poisoned." She said he began conducting outreach to the Department of Public Health, local legislators, and others, and his efforts resulted in the formation of the Coalition in 2001.

She further reported that the Coalition formed a consensus-based (versus majority rule) Board, which required that over 32 percent of its members lived in, or worked with, populations that were affected by lead poisoning. She explained that over 41 percent of the dwellings in the neighborhood had been constructed prior to 1950. She pointed out that, of the zip codes where the highest percentage of lead poisoning occurred, about 80 percent of Latino and African American children were living there.

Ms. McDade stated that the research associated with these communities was used to establish partnerships. She mentioned a lead summit in 2004 that gathered over 500 attendees, including representatives from the Department of Public Health and the University of Rochester Medical Center. She noted that while the City of Rochester had a lead ordinance, mechanisms were not in place to appropriately enforce it.

She also described an awareness campaign that included a multi-lingual DVD and letter-writing chain, among other activities, to educate the public about lead poisoning. Continuing her presentation, Ms. McDade announced that the collaboration with various community organizations and council members resulted in the passage of an "historic lead-based paint poisoning prevention ordinance." Furthermore, she described the Coalition's ongoing work with State Senators David Gantt (Democrat) and Joe Robach (Republican) to introduce statewide legislation, which had not yet passed.

Ms. McDade stated in addition to its own work, the Coalition had supported other organizations' efforts to obtain grants for Monroe County to make over 370 housing units safe. She mentioned that other lead coalitions were being formed that were modeled after theirs.

She presented data that showed a decline in blood lead levels in children as a result of the Coalition's efforts. Specifically, she reported that in 1999, there were 1,698 children with elevated levels of lead in their blood; and in 2008, that number had dropped to 363. She further reported that 90 percent of properties were passing city inspections. She described several awards that the Coalition had received, and a HUD grant that was awarded to the City of Rochester.

Ms. McDade stressed that collaboration with medical providers, educators, the media, and others, was critical to the success of their project.

#### **1.8.2    *Mr. Stephen Groner, Fish Contamination Education Collaborative***

Mr. Groner described his organization's project as a program that was coordinated with EPA Region 9 for the Palos Verde Shelf Superfund site. The site, he explained, was created from the outfall of a sanitary sewer from the release of DDT and PCB. He said the goal of the project was to help EPA engage communities that were affected by the contaminated. His presentation focused on a description of how the program was designed and how the results were applied.

Mr. Groner began by referring to studies on smoking by Professor Kip Viscusi, which helped the collaborative realize that behavioral changes were not only based on knowledge, but also on the "motivators and barriers" of an individual. He noted that many public education programs only focused on providing knowledge. He asserted, however, that a much more effective campaign would be possible if based on a fuller understanding of the audience.

To that end, Mr. Groner described an awareness campaign his organization undertook, which approached "awareness" from more of a scientific, research perspective similar to the smoking studies. His organization's awareness campaign involved a control group and an experimental group of anglers in two portions of the contaminated area. He noted that two community organizations were also involved in the effort. He said that they engaged anglers by asking them to quantitatively and qualitatively describe their perceptions and motivators. He reported that they also sampled fish to understand chemical exposure.

Mr. Groner noted that "lessons learned" included not focusing on the anglers' own health but instead the health of their families; identifying the fish of concern in a "culturally-appropriate" way; and designing practical reference guides that would not be discarded. He reported a positive response from the experimental group, which took home five times fewer fish than the control group.

In summary, he stated that knowledge should not be confused with behavior change and risk reduction; and research should be conducted to understand the audience. He provided a Web site for more information: [www.pvsfish.org](http://www.pvsfish.org). He indicated that the study would be published in the academic journal, Social Marketing Quarterly, in March 2010. He added that a Professor at Cal State was consulted for the project.

### **1.8.3 Mr. Harold Mitchell, The Regenesis Project**

Mr. Mitchell stated that his project was an example of leveraging resources. He described “visioning” and a holistic focus as key elements of The ReGenesis Project, which was implemented in a community impacted by two Superfund and four Brownfield sites. He identified economics, the environment, social factors, and health conditions as indicators of healthy and sustainable communities; and then listed the issues of concern for the community that fell under those four indicator categories.

Following the identification of issues, Mr. Mitchell said the ReGenesis Board began crafting charettes, with the help of EPA Region 4. He pointed out that his organization received grant funding, and the first \$20,000 small grant from EPA Region 4 allowed his group to build local partnerships. He stated that, in addition to EPA, other agencies including DOJ, DOT, the Federal Highway Administration, HUD, and the City of Spartanburg eventually got involved in the project.

He mentioned that part of the visioning included establishing recreational opportunities, which resulted in the construction of a new recreational facility. He described the cleanup of abandoned homes that formerly had drug activity and were littered with AK 47 shells. Mr. Mitchell showed “before” and “after” photographs of the neighborhood.

Turning his attention to health factors, he Mr. Mitchell described a partnership with Texas Southern University to validate the health issues that were being observed in the community. He noted that this partnership resulted in a grant award from HHS to build a community health center. He described the eventual growth of the facility and services offered there.

Mr. Mitchell also described the project’s experience with the HOPE VI grant, which allowed for the construction of over 600 new homes. He credited the HOPE VI development for bringing in commercial stores like Save-A-Lot, a credit union, and a new dental facility. Continuing his remarks regarding partnerships, he noted that the Department of Labor and a local community college had worked together to conduct training in asbestos abatement.

He reviewed the following “lessons learned” from the ReGenesis Project:

- Achieving Environmental Justice requires a holistic approach.
- Build entire communities, with emphasis on health, education, housing, job creation and training, housing, and quality of life, while addressing environmental issues.
- Communities must empower themselves, through means such as:
- Organizational Structure
- Capacity Building
- Shared Vision
- Understand History of Environmental Justice
- Form Key Partnerships, focused on answering one key question:
- Who do you need to work with to make your vision a reality?
- Acquire and leverage resources
- Interagency Working Group (IWG)
- Public Private Partnerships
- Elected Officials
- Utilize Collaborative Problem-Solving

Mr. Mitchell noted that there was a missed opportunity in terms of using the available funding for these kinds of projects, especially under ARRA. He acknowledged that the presence of EPA Region 4 “really kept the ball rolling for us” and facilitated the project’s partnerships with other agencies. He urged for the continuation of the interagency working group to support projects like his.

### **1.8.4 Ms. Wannetta Mallette, Mitigation Agreement Commission/Low Country Alliance for Model Communities**

Ms. Mallette acknowledged Dr. Sacoby Wilson and Mr. Herb Fraser-Rahim, who represented the MAC and LAMC, respectively; and the efforts of EPA Region 4, particularly Ms. Cynthia Peurifoy, and the South Carolina Department of Health and Environmental Control (SCDHEC). She noted that she was presenting on the building block, "creating a sustainable product."

Ms. Mallette stated that the emphasis of this project began over 20 years ago, when the South Carolina State Ports Authority selected Daniel Island as the site for its new terminal, The Global Gateway. She stated that in the mid-1990s, SCDHEC built an interstate that connected Daniels Island to the mainland; and soon after that, the island was annexed to the City of Charleston. She described a design competition sponsored by the City of Charleston for an affluent housing development on the island.

Continuing her description of the project's origin, Ms. Mallette stated that the public permitting process began for the terminal in 1997, drawing fierce opposition to construction of the terminal from the residents on Daniel Island, environmental groups, and lawmakers. In response to the opposition, she said that the South Carolina General Assembly directed port expansion to a former naval base instead.

Ms. Mallette reported that the environmental impact study for the new terminal location in North Charleston included over 40 neighborhoods defined as environmental justice populations. She said that the South Carolina State Ports Authority completed the North Charleston Terminal draft EIS in 2005, resulting in the formation of LAMC that October. According to Ms. Mallette, the State had not evaluated cumulative social and environmental justice impacts of the terminal relocation in the draft EIS.

She noted that during the EIS public comment process, LAMC representatives put in over 3,500 volunteer hours and met three to five times a week over a six-month period. She further said that more than 800 comments were submitted in the draft EIS. Ms. Mallette reported that, after an extensive review of the EIS, Executive Order 12898, and NEPA; and meetings with the City of Charleston, a LAMC Community Mitigation Plan was developed.

Pointing out that the Mitigation Plan was the "first of its kind in the nation", Ms. Mallette explained that it called for the development of affordable housing, ongoing environmental protection, formation of an education endowment, funding for a maritime training institute, development of economic opportunities, creation of health centers, funding for a master revitalization plan, and creation of a contingency fund.

Ms. Mallette highlighted the tri-party agreement between City of North Charleston and LAMC; and the City of North Charleston and the South Carolina State Ports Authority. She reported that the LAMC City Revitalization Plan was completed in November 2009, and she expected that the City of North Charleston would approve and incorporate it into the Comprehensive Development Plan in March 2010. She mentioned that LAMC had also developed partnerships with several universities in the area to leverage administrative, technical, and financial resources.

#### **1.8.5 Mr. Thomas Jelenic, The Clean Truck Program**

Referencing his organization's project, which included development of a Clean Air Action Plan (CAAP). Mr. Jelenic noted that it had been "a long process" but with "tremendous success." He added that the Ports of Long Beach and Los Angeles teamed to develop Plan in 2006. He noted strong community and political opposition to expansion of the ports at the time due to concerns about air quality impacts. He listed the five major emissions source categories at the port – ships, harborcrafts, locomotives, cargo handling equipments and trucks. He highlighted trucks as having a particular impact on communities because they move through the neighborhoods.

Mr. Jelenic stated that the Ports undertook the task of developing the CAAP based on concerns about air quality issues. He described the goals of the CAAP as follows:

- Seeks to reduce port-related emissions.
- Establishes performance standards for each source category including heavy-duty trucks.
- Established a CAAP stakeholder group.

Mr. Jelenic said that the members of the CAAP stakeholder group were appointed by the mayors of the Cities of Long

Beach and Los Angeles to provide input on the implementation of the Plan. He noted that environmental organizations, businesses, labor groups, government agencies, and academic institutions were included among the stakeholders. He also outlines various stakeholder issues, including the following:

- Collection of concession versus registration fees
- Diesel versus liquefied natural gas (LNG)
- Employment requirements
- Security requirements
- Maintenance requirements
- Truck company accountability
- Living wage requirements

He noted that several of these issues were controversial among members of the group. He acknowledged, however, that while consensus was not always reached, the forum for discussion was invaluable.

Mr. Jelenic reported that, as a result of the CAAP stakeholder process, all trucks must meet EPA's 2007 standards by 2012; 50 percent of Port-funded trucks must run on LNG; Transportation Work Identification Credential (TWIC) requirements had to be incorporated; and truck company accountability standards had to be met.

Highlights of the discussion that followed the presentations are presented below:

Mr. Wilson asked Mr. Jelenic how he established the collaborative partnerships for his project. Mr. Jelenic stated that the partners for the CAAP stakeholder group were selected by mayors of Long Beach and Los Angeles. He noted that the appointed individuals had been active stakeholders in the community for a long time.

Ms. Briggum mentioned that the NEJAC had recommended in a Pollution Prevention report the establishment of this awards program to recognize and show appreciation for excellence in collaborating and achieving environmental justice in communities. She acknowledged Mr. Tim Fields, MDB, Inc., and formerly with EPA OSWER, for his efforts in advancing this effort.

Mr. March thanked the panelists for their "extremely impressive accomplishments." He asked Mr. Mitchell to describe his collaboration model and explain how he was able to maintain the partnership over such an extended period of time. Mr. Mitchell stated that he learned from the "do's and don'ts" of the NEJAC and saw the power of creating and organizing a community. He said that, under an atmosphere where people wanted to work together, he was able to leverage different agencies.

Mr. Wilson and Ms. Catron noted that Mr. Mitchell's experience reflected the plight that many communities across the country faced, including Indian Country. Mr. Wilson said he was inspired by Mr. Mitchell's example and he expressed his appreciation.

## 1.9 Enforcement Initiatives

The NEJAC engaged in discussions with Ms. Ignacia Moreno, Assistant Attorney General, U.S. Department of Justice (DOJ); and Ms. Giles about how environmental justice concerns were being incorporated in DOJ and EPA enforcement activities, respectively.

**U.S. Department of Justice.** Ms. Moreno stated that she oversaw a division at DOJ with responsibility for about 150 environmental and natural resources statutes enacted by Congress, as well as environmental treaties with federally-recognized tribes. She explained that DOJ had client agencies across the government, which presented a unique opportunity to "bring to life" President Obama and the Attorney General's commitment to environmental justice. She added that, in the settlements and consent decrees DOJ negotiates, the agency could look for opportunities to work with settling parties to ensure direct benefits to the affected communities. She stressed the importance of "inviting business partners to the table as well," so that they could see the benefits of having community input often and early.

Ms. Moreno committed to working with EPA on its national priorities and strategic plan. She also mentioned working with other agencies on large transportation projects to ensure that environmental justice concerns were being

considered in their analyses. She acknowledged the challenging economic downturn and the need to revitalize the economy, adding that efforts to create jobs should not include unfair burdens from any new pollution sources.

**EPA.** Ms. Cynthia Giles, Assistant Administrator, OECA, recognized that enforcement was key in making environmental laws “real on the ground.” She stated that OECA had oversight responsibilities over environmental programs that were delegated to the states. She explained that every three years, EPA’s enforcement office selects areas for particular focus for federal enforcement actions (for example, National Enforcement Priorities). She reported that three current areas of particular interest were (1) the New Source Review/Prevention of Significant Deterioration; (2) CAFOs; and (3) air toxics.

Following the remarks from EPA and DOJ representatives regarding enforcement initiatives, discussion ensued among NEJAC members. Highlights of the discussion are presented below.

Ms. Yeampierre stated that she was part of the National Transport Equity Campaign and expressed interest in meeting with Ms. Moreno to discuss their efforts.

Mr. Wilson asked how DOJ might facilitate communication between DOT and the community on a proposed transportation corridor in North Carolina that had received Title VI complaints. He stated that DOT had refused to meet with community members in person and were having closed-door meetings with the State. Ms. Moreno committed to following up on this issue.

Mr. Marsh noted that there was opportunity to expand the scope of SEPs. He observed that communities “are not very informed about SEPs” and he urged EPA to engage in greater outreach in this area. Mr. Rosenthal expressed his hope that SEPs could return direct benefits to communities; and he said the communities – “not the offending party” – should define those benefits. Mr. Kelley acknowledged the problem of the offending party often having control of SEPs. Ms. Giles noted that SEPs were voluntary, which meant that EPA couldn’t order companies to implement them in a specific way.

## 1.10 Developing Future NEJAC Work Plans

The Council discussed the direction and future work of the NEJAC, including opportunities for the NEJAC to coordinate with other Federal Advisory Committee Act (FACA) committees – within and outside EPA – with Mr. Rafael DeLeon, Director, Office of Cooperative Environmental Management. Mr. DeLeon oversees the Agency’s national advisory committees.

Mr. Lee discussed major action items and themes of the meeting; and Ms. Robinson reviewed upcoming activities for the NEJAC.

**Coordination with Other FACA Committees.** Mr. DeLeon discussed the Federal Advisory Committee Act (FACA) and ways that environmental justice and increased diversity could be incorporated into EPA committees. Ms. Yeampierre stressed the importance for getting NEJAC representation on all FACs that may have some impact on environmental justice. She acknowledged the limitations of the NEJAC on influencing FACs outside of EPA, but she expressed a desire to explore ways to promote a “systems change.” She urged Mr. DeLeon to ensure that FACs don’t “work in silos” and, if appropriate, compel them to report to the NEJAC on relevant environmental justice issues.

Ms. Wilson asked about the funding mechanisms under FACA and how communities might benefit from them. Mr. DeLeon stated that, in general, all EPA FACs were sponsored – and funded – by an EPA office or program. He said the primary mechanism for communities to receive funding would be if an EPA office or program made funds available through grants or contracts. Mr. Lee added that OE was the sponsoring office of the NEJAC, as well as most of the Council’s Work Groups.

Mr. Marsh stated that he was also a member of the Environmental Financial Advisory Board (EFAB) FAC, which was chartered “to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities (Federal Register: January 28, 2009 [Volume 74, Number 17]).” He commented that EPA should consider charging the NEJAC to address “environmental finance” regarding issues of concern for

environmental justice communities. Mr. DeLeon agreed with the idea.

Mr. Ridgway expressed frustration that the Council was engaged in such in-depth deliberation toward the end of the meeting. He requested that EPA allow more opportunity for deliberation earlier on the agenda at future meetings. Mr. Lee agreed that, while it was a good meeting, the agenda could have been "more deliberate."

Mr. Ridgway noted that the NEJAC's by-laws were "completely out of date." He asked for EPA to revisit this issue so that the NEJAC and the public could have a clear understanding of how the Council worked. Mr. DeLeon stated that FACs had to be rechartered every two years. He committed to working closely with Mr. Lee and Ms. Giles on the issue of NEJAC's by-laws. Mr. Lee referred to public commenter Mr. Bob Bullard's similar call for more detailed information about the structure of the NEJAC. He agreed that it was important for EPA and the NEJAC to be transparent on this issue.

Mr. Ridgway asked how the NEJAC could engage with the Interagency Work Group on Environmental Justice. Mr. Lee acknowledged the NEJAC's concern about the role of other Federal agencies. He recognized that the relationship of NEJAC with other federal agencies and the Interagency Work Group was a key issue that warranted further discussion.

Ms. Yeampierre added that "time is of the essence" and urged EPA to approach this issue holistically. She expressed hope that the questions about interagency collaboration and the relationship of NEJAC with other FACs and Work Groups could be resolved prior to the next meeting in June 2010.

**Major Action Items and Themes.** Mr. Lee listed the following as "immediate action items" for the Council and the Agency:

- Analysis and recommendations from NEJAC to EPA on OSWER's Definition of Solid Waste Rule.
- Letter from NEJAC to the EPA in support of the CARE program.
- Response from EPA on NEJAC's Goods Movement Report, School Air Toxics Monitoring Report, and EJ Nationally Consistent Screening Approaches Report; and, from the July 2009 meeting, the Council's recommendations on Small Drinking Water Variances.

Mr. Lee also identified the following "big bucket issues" that emerged during the meeting. He acknowledged that not all of them could be addressed by NEJAC and may have to be coordinated with other federal advisory committees:

- Environmental justice and rulemaking
- Interagency collaboration around environmental justice
- Climate adaptation and community resilience
- Holistic, multimedia, and multi-stressor considerations in EJ analyses
- Impacts of CAFOs
- Use of funds from SEPs

Mr. Lee also recommended that the NEJAC immediately establish a Work Group on environmental justice and rulemaking, with the DSW Rule as the Work Group's first focus. He committed to coordinating with the appropriate sponsoring office (OSWER) to ensure support.

**Next Steps.** Ms. Robinson identified the following upcoming activities for the NEJAC:

- Teleconference at the end of February or first week of March. She pointed out that agenda items under "Old Business" for the January 2010 meeting would be covered during the teleconference.
- Teleconference in mid-April on EPA's progress on responding to the recommendations presented in the NEJAC's Goods Movement Report.
- NEJAC face-to-face meeting in the 2<sup>nd</sup> week of June or 2<sup>nd</sup> week of July in Washington, D.C.
- NEJAC face-to-face meeting in late October in Kansas City.

She reiterated that the Old Business items on the meeting agenda would be covered in teleconference. Specifically, the Old Business topics included updates from Mr. Yeampierre, who served as the NEJAC liaison to the Children's Health Protection Advisory Committee School Siting Task Force; and Mr. Don Aragon, Executive Director, Wind River Environmental Quality Commission, who served as the NEJAC liaison to EPA's Tribal Operations Committee.

Ms. Catron requested that the NEJAC consider forming a Work Group on Tribal adaptation to climate change, green economy, and renewable energy.

Mr. Lee stated that the next NEJAC meeting in Washington, D.C., would be a good venue for interagency coordination and opportunities for other federal agencies to hear from community members. Ms. Fisher suggested that EPA request that each agency prepare a "white paper" that details how they were implementing Executive Order 12898. Mr. Marsh supported the idea of inviting other federal agencies to the next NEJAC meeting. He encouraged structuring their discussions around specific issues. For example, he suggested engaging DOT and HUD about the Sustainable Communities Partnership; and talking with the Office of Management and Budget about their role in supporting environmental rulemaking throughout the federal government. Ms. Fisher noted that other agencies might not understand the issues associated with environmental justice. She suggested the formation of a Work Group to introduce environmental justice to agencies.

Ms. Fisher urged EPA to request that Administrator Jackson approach President Obama about revising Executive Order 12898. Ms. Yeampierre expressed concern about "political push-back" from reopening the Executive Order. She said she would be interested in more dialogue and hearing from the environmental justice community about this issue. Ms. Fisher agreed to avoid a "political battlefield" and deferred to others who had been involved in the environmental justice movement for a longer period of time. Mr. Rosenthal noted that, instead of revising the Executive Order, President Obama could follow Administrator Jackson's lead in issuing a recommitment to environmental justice. Mr. Wilson urged EPA to examine how to create a connection between Interagency and state activities but acknowledged sensitivity issues around primacy.

### **1.11 Farewell to Retiring Members**

Ms. Robinson and Mr. Lee honored the following retiring members of the NEJAC with plaques as tokens of appreciation:

- Mr. Greg Melanson
- Mr. Chris Holmes
- Mr. William Harper (whose proxy representative PG&E, Ms. Deidre Sanders, read a statement on his behalf)
- Mr. John Rosenthal
- Mr. Omega Wilson
- Mr. Richard Moore

Mr. Lee said it was a time to celebrate the contributions made by each retiring member. He recalled that, when he was the NEJAC's DFO, he used to tell each incoming member that his measure of the NEJAC's success was when someone's term ended, they were proud of accomplishments during their tenure on the Council. The Council recognized the retiring members of the NEJAC with personal testimonials.

### **1.12 Closing Statements**

Mr. Lee expressed his commitment to facilitate a thoughtful and comprehensive discussion among EPA senior officials on the complex issues raised by Mr. Bob Bullard about addressing race and low-income concerns specified in Executive Order 12898.

Ms. Robinson, Ms. Yeampierre, and Mr. Ridgway thanked everyone for their participation. Mr. Ridgway added that, "in the spirit of Richard Moore," he wanted to thank the hotel staff and others for their behind-the-scenes support. Earlier in the day, Mr. Lee had also recognized Ms. Joi Ross, President of APEX Direct, Inc., and EPA contractor for OEJ support (which includes NEJAC meetings). He noted that EPA's contract with APEX represented the Agency's move

toward engaging small, disadvantaged, minority, and women-owned businesses.

## **CHAPTER 2. SUMMARY OF PUBLIC COMMENT PERIOD**

On Wednesday, January 27, 2010, the National Environmental Justice Advisory Council (NEJAC) held a public comment period to directly engage concerned citizens and members of affected communities. The public comment period convened at 3:55 p.m. and continued until approximately 8:45 p.m. to allow time for remarks from everyone who registered and chose to speak. Spoken comments were received from 22 individuals from around the country, including Washington State, the San Francisco and Oakland Bay Area, Mississippi, and right there in Louisiana. Two written comments were received and read into the public record.

The public comment period provides an opportunity for NEJAC members to interact directly with concerned citizens. Following each speaker's testimony, NEJAC members engaged the speaker with additional questions, comments, and suggestions. Where applicable, NEJAC members provided more information on the tools and strategies available for community organizations. Speakers commented on topics ranging from new monitoring equipment to school siting, in the following main categories: (1) land use and zoning; (2) impact of Goods Movement; (3) perception of "Smart Growth" as a means of gentrification; (4) confined animal feed operations (CAFOs); (5) lack of communication between ports; (6) risk assessment and measurement; (7) the need for a systems or paradigm shift in EPA and NEJAC; (8) value and expertise of community groups; and (9) the need for interagency collaboration.

This chapter summarizes the spoken testimony offered during the public comment period, as well as discussions among NEJAC members in response to those comments.

### **2.1 Mr. John Bosch, Retired U.S. EPA Air Program**

Mr. John Bosch introduced himself as a retired EPA employee and said he had worked in EPA's Office of Air Quality Planning and Standards (OAQPS) in North Carolina for 38 years. He said he worked with emissions factors and emissions inventory compilation procedures during his time at EPA, and now had some regrets because those procedures "had become obsolete and were misleading" in terms of correctly measuring emissions.

Mr. Bosch complained about the "use of emissions factors up to six to ten times" of what was reported to EPA "using the Agency's own standards and protocols." He acknowledged that monitoring had improved, noting examples in Europe where, he said, refineries that were consistently monitored at the fenceline for one week each year over a three-year period, showed reductions in emissions of volatile organic compounds (VOCs) by two-thirds. Mr. Bosch asserted that monitoring allowed the source to take corrective action.

In addition to inaccurate emissions reporting, Mr. Bosch said sewage outfall was another problem. He stated that fenceline monitoring could solve this problem, and he urged EPA to incorporate fenceline monitoring as a compliance monitoring tool.

Wrapping up his comments, Mr. Bosch made the following recommendations:

- Make fenceline monitoring a permitting requirement.
- Make monitoring equipment available to environmental justice communities through a "lending library basis."

Mr. Bosch noted that there were five or six different new technologies available. He said he was working with the U.S. Department of Defense and other organizations (in both the public and private sector) to help facilitate better quantification of emissions. He added that open source fenceline monitoring techniques were a critical part of that work.

Mr. Kelley asked whether the fenceline monitoring devices could pinpoint the source of specific emissions in areas where various refineries and chemical plants are located. He also asked about the portability of the device. Mr. Bosch first clarified that he was not representing any particular company or device. He noted that there were different techniques for different situations (such as, refineries, landfills, waste water lagoons, and CAFOs, among others). He

said that the particular device that he had used was portable, adding that it had been “backed by 100 Stanford Ph.D.s” and required no maintenance or calibration. He said, “You just put it in your car and drive around.” He referred to the graphs he had brought and distributed to the Council. He added that the device was currently being used in Canada, Europe, and in Region 2 (in the U.S.).

## 2.1 Ms. Patricia Whitney, Bayou Interfaith Shared Community Organizing (BISCO)

Ms. Patricia Whitney, Executive Assistant, Bayou Interfaith Shared Community Organizing, described her organization as a non-profit group located 60 miles southwest of New Orleans “in the wetlands of America.” This area, she stated, was part of the fastest growing land-loss area in the world. Ms. Whitney added that “one football field of land [was lost in their area] every 36 to 40 minutes.” She referred to it as “a man-made phenomenon spreading across the Gulf Coast region.” She urged EPA to proactively the “destruction and complete annihilation of the environment, the loss of environment.” She stated that port, maritime, and mining activities have caused destruction to their wetlands. She further declared that this problem was a “human rights issue.”

Ms. Whitney asked EPA to take “timely action” on the following two issues:

- Revise the definition of environmental justice to include “destruction,” not just pollution.
- Incorporate water and soil (in addition to air) in the Goods Movement program

Follow-up questions and comments from the NEJAC members focused on the following issues:

Ms. Yeampierre referred to a presentation that Ms. Whitney made at a recent environmental justice conference organized by Mr. John Rosenthal. She described the presentation as “very impactful” and noted that it graphically showed the projected land loss that Ms. Whitney was talking about. Ms. Yeampierre asked Ms. Whitney to share with the NEJAC a copy of that PowerPoint presentation. Finally, she expressed appreciation for the “holistic way” in which Ms. Whitney was addressing coastal erosion. Ms. Yeampierre added that this perspective, or approach, demonstrated “adaptation and community resilience” and was a potential “template” for environmental justice communities.

In terms of expanding the definition of environmental justice, Ms. Fisher noted that the definition is “out there” (it can be “Googled,” for example); however, she said, a white paper or fact sheet should be created for federal agencies (such as, U.S. Department of Transportation and U.S. Department of Commerce) to “help them know how to *apply* that definition ... and how to know if they’re violating it.” Ms. Fisher added that “examples of environmental justice” were also needed.

Ms. Fisher asked whether Ms. Whitney’s organization was working with their local zoning departments. Ms. Whitney confirmed that they were, in certain parishes. She noted, however, that many parishes had been designated as flood zones, and that zoning was being conducted “after the fact.” She commented, “what comes down when dealing with zoning is, death by permit and relocation by design.” She emphasized zoning as one of her community’s environmental justice issues.

Ms. Yeampierre described the definition of environmental justice as “the disparate impact of the environmental burdens in low-income communities and communities of color.” She said that in addition to “living next to an environmental burden,” these communities also “lack environmental amenities that exist in privileged communities.” She emphasized that all affected residents had “a right to represent themselves in this.”

Ms. Yeampierre challenged Ms. Whitney’s claim that her community was “there first.” Ms. Whitney answered that she was speaking for the Native American populations, as well as various multi-heritage populations.

Ms. Catron advised Ms. Whitney to learn how to “talk the EPA/EJ language” and “EPA-ease.” She encouraged her to look up information on the EPA Web sites and relay that information to her community. As an example, Ms. Catron referred to the preferred use of the terms “dispute resolution” and “collaborative problem-solving,” rather than “anger management.”

Ms. Catron acknowledged that the affected tribal people in the area were not federally recognized, resulting in lack of

access to many resources. Ms. Whitney reported that she was working with specific tribes that were seeking funding and relocation on these issues. She mentioned that BISCO was trying to help them to build their capacity for applying for funding.

Ms. Henneke reinforced the fact that the Gulf Coast is receding at a fast rate, and losing wetlands and shoreline. She reported that, in Texas, 15 to 20 linear feet a year was being lost. She offered to connect BISCO with another group she had worked with, America's Energy Coast.

Ms. Henneke encouraged Ms. Whitney to look at the "whole picture," noting that many parts of the Gulf Coast had become a resort and retirement area with a mix of affluent and low-income communities. She said that some cities were 98 percent rental and some were higher income.

Mr. Kelley asked whether global warming and rising waters were the cause of erosion in Ms. Whitney's community. Ms. Whitney stated that it began with the levying of the Mississippi River, which stopped the replacement of sediment. She also asserted that mineral extraction and dredging operations of the forest industry and the oil and gas industry were contributing factors.. She cited dredging violations throughout the wetlands. "It's a domino effect," she said.

Mr. Ridgway asked whether anyone from EPA had suggested that these issues were not related to environmental justice. Ms. Whitney replied that "this is becoming embraced and is understood [as an environmental justice issue]."

### **2.3 Mr. Angelo Logan, East Yard Communities for Environmental Justice**

Mr. Angelo Logan, East Yard Communities for Environmental Justice in east Los Angeles, commented on the Goods Movement recommendations. He stated that his organization was created because of the saturation of diesel exhaust and other impacts of goods movement on his community. "Communities are dying because of diesel exhaust [and] the expansion of the goods movement industry," he said. As an example, he stated that projections for the Port of Los Angeles for the year 2035 were that 43,000 containers would come through the port each year. "If you were to put all the containers involved back-to-back, they would circle the earth 6.5 times," he said. He noted that all the containers were handled by trucks, trains, and ships, most of which were powered by diesel.

Commenting that diesel is killing our communities,"Mr. Logan presented the following recommendations:

- Establish a decision-making process that empowers impacted communities. He urged EPA to ensure sufficient financial resources for communities and tribes.
- Establish better multi-agency collaboration, facilitated to achieve consensus. He suggested that this process should be facilitated by an independent party. (He expressed his disappointment that DOT and other transportation agencies were not present.)
- Establish "unit-risk value" and consider diesel a hazardous air pollutant.
- Create additional regulatory and enforcement strategies.
- Have a community-driven process.

In response to a question by Ms. Yeampierre, Mr. Logan confirmed that his organization had raised the issue of idling ships and barges in the ports. He clarified that the issue had been raised verbally at meetings but not yet in writing.

### **2.4 Mr. Robert Bullard, Environmental Justice Resource Center, Clark Atlanta University**

Mr. Robert Bullard said he directs the Environmental Justice Resource Center, Clark Atlanta University and was a member of first NEJAC in 1995. He added that he had chaired the NEJAC's Health and Research subcommittee. He referred to the list of NEJAC members and recommended that the list also include non-NEJAC members who helped the Council in its work. He noted that this could shed light on the breadth of the work of the NEJAC.

Mr. Bullard asked whether the Council's charter, which was included in the meeting binder, was the original charter for the NEJAC or "the revised one" issued by the previous Director of OEJ, Mr. Barry Hill, under the Bush Administration. He expressed concern that there was no mention of the Executive Order in the Council's charter.

Mr. Bullard asked whether there were definitions for the terms “disadvantaged communities,” “underserved populations,” and “vulnerable populations,” in Executive Order 12898. He commented that “environmental justice” did not mean “only” income. He stated that leaving out “race” from the definition defeated the purpose of the Executive Order and the NEJAC.

Mr. Bullard also asked about the nomination process for NEJAC members. In particular, he questioned whether the process for selecting members was “open to the public” or a “closed, hand-picked system.” He asked for a written response to this question.

Follow-up questions and comments from the NEJAC members focused on the following issues:

Ms. Robinson acknowledged the hard work of the many [current and former] members of the NEJAC subcommittees. She noted that the meeting binders included all the NEJAC members’ names, as well as member listings of every active NEJAC Work Group. Specifically, she stated that there were currently two active Work Groups: one on School Air Toxics Monitoring; and one on Nationally Consistent Environmental Justice Screening Approaches.

Regarding the charter, Ms. Robinson stated the charter is renewed every 2 years. She clarified that the charter included in the meeting binder was not the “original charter,” however, “the language and the intent of the original charter” remained unchanged. She added that the current charter reflected a “fine-tuning” of the original charter. Ms. Robinson explained that the original charter was “fine-tuned” because its scope was vague and it did not reflect current Agency work. She further explained that the charter was revised approximately 1.5 years ago. Mr. Lee confirmed that the charter “effectively has not been changed.” He explained that the NEJAC provides advice to the environmental justice administrators.

Regarding the process of selecting members, Ms. Robinson explained that it was an open process. She stated that NEJAC and Work Group members were solicited through OEJ’s electronic environmental justice list serv and by word-of-mouth. She also pointed out that, in an effort to include a diverse perspective, EPA sought representation from academia, business and industry, community-based organizations, and indigenous and tribal groups. She mentioned that EPA might seek to add a community-based representative to the Council within the next two years because of the current focus on air issues. Continuing her explanation of how NEJAC members are selected, Ms. Robinson noted that the Agency “may seek representatives from a specific affiliation category or perspective” (for example, someone with expertise in air-related issues). In addition, she said, EPA receives and considers recommendations from the Regions, as well as from current and former NEJAC members. She explained that Administrator Jackson reviewed all the candidates. Ms. Robinson further reported that the most recent “solicitations for names” occurred twice last year, and several names were submitted for consideration.

Mr. Lee referred to the “evolving nature of NEJAC.” He outlined the “parent, Executive Council” character of the original NEJAC, with subcommittees, that were affiliated with various EPA offices (for example, the former Waste and Facility Siting Subcommittee). He noted that, under the present NEJAC structure, subcommittees were called Work Groups.

Ms. Yeampierre agreed with Mr. Bullard that language is a very powerful concept. Mr. Lee agreed that race needed to be “on the table” and should be discussed at length in another venue. Mr. Bullard remarked that, “if we are going to run from [race],...it is just as good as this NEJAC being the NEJAC under the Bush administration.” He urged that NEJAC “start fresh and get back on track.” Ms. Yeampierre added, “let’s bring this ‘new school.’” She stated that her organization represented all generations and noted the absence of young people on the NEJAC. She also acknowledged that some NEJAC members were “long-time members” and some have new perspectives that “need to be embraced.” She urged EPA to “make sure that we talk in such a way that brings in new partners.”

Ms. Briggum commented that the Nationally Consistent Environmental Justice Screening Approaches Work Group was engaged in lengthy discussions about the issue of race. She expressed hope that Mr. Bullard and others would see that the Council was still being true to the charter.

## 2.5 Ms. Emily Enderle, EarthJustice

Ms. Emily Enderle described EarthJustice as an environmental law firm. She spoke about solid waste and urged EPA to stay – or suspend – the DSW Rule, based on the assertion that the current version posed a disproportionate environmental burden on people of color and environmental justice communities. Ms. Enderle said that a study was being conducted on this issue and asked that EPA suspend the rule pending the study's completion. She reported that 1.5 million tons of hazardous waste were being recycled.

Ms. Enderle stressed the need for a definition of non-hazardous solid waste that includes tires, solvents, and spent oil. She stated that these were generally located disproportionately in low income, environmental justice communities. She said EarthJustice had asked OSWER to address this issue.

She also urged for better regulation of pesticides, describing them as “very noxious,” and coal combustion waste. Finally, she mentioned the need for greater attention on the identification of hot spots within the context of the Clean Air Act.

Follow-up questions and comments from the NEJAC members focused on the following issues:

In response to a question from Mr. Kelley, Ms. Enderle clarified that some companies used solid waste for fuel, and such companies were exempt from the Clean Air Act.

Mr. Wilson asked for clarification on “new technology” in North Carolina, where animal waste from CAFOs located in environmental justice communities was being used for fuel. Ms. Enderle committed to getting an answer about this issue for him at a later date.

## **2.6 Ms. Albertha Hasten, Louisiana Environmental Justice Community Organization Coalition (LEJCOC)**

Ms. Albertha Hasten, Louisiana Environmental Justice Community Organization Coalition, focused her comments on relocation. She spoke about listening and trusting as key elements in communication between the community and EPA. She stated that, “we are just ordinary people, and we are given a voice.”

Ms. Hasten urged EPA to (1) look into relocation; and (2) educate those communities who are on the fenceline. She stated that the people in her community “have respiratory problems and are dying,” and that some are children. Ms. Hasten further stated that she was encouraged that her community was now communicating with NEJAC and EPA, in an attempt to resolve issues. She urged the Council to act on her community’s behalf. In particular, she asked NEJAC to recommend that EPA relocate the community.

Ms. Yeampierre commented that Ms. Hasten “represents the environmental justice movement and what it is all about.” She noted that the movement was “about ordinary people and their struggle” and commended Ms. Hasten for bringing her issues to the NEJAC so that they could be addressed.

## **2.7 Ms. Dothula Baron-Hall, Rural Empowerment Association for Community Health (REACH)**

Ms. Dothula Baron-Hall, Rural Empowerment Association for Community Health (REACH) in North Carolina, stated that there were large CAFOs in her area that were affecting the community’s health. She added that goods movement was also a factor, and she reported that some community members had “sat and counted the number of trucks” flowing through the area. She described these trucks as carrying livestock and internal organs of the livestock.

Ms. Baron-Hall described her efforts to get the government and voters to recognize that they have major issues. She suggested that part of the problem was that industry “is so wealthy and powerful, with many lobbyists.” She urged EPA to consider the community as “the major player in this whole process.” She stated that people needed to be informed and consulted, through a collaborative and facilitated communication process. She stated that the burden of proof had historically been on people who were affected. She said the financial burden and burden of proof should instead be placed on industry. “We support you,... continue to support us,” she pleaded.

Follow-up questions and comments from the NEJAC members focused on the following issues:

In response to a question from Mr. Kelley, Ms. Baron-Hall clarified that there had been no community meeting, no public notice posted, and no notice from the state prior to the companies moving in. She said the community had no idea about their activities until the CAFOs became a problem. She acknowledged that the General Assembly had passed some legislation regarding methane gas containment; she stated, however, that many industries contract farmers to raise animals in CAFOs and “operate cess pools.” Ms. Baron-Hall said she recognized that, “it’s a monetary thing,” adding that contract farmers generally do not have the funds for new technology. Mr. Kelley encouraged Ms. Baron-Hall to contact her EPA Regional office, because communities were required to be given public notice about these new companies.

Ms. Briggum referred to a NEJAC report that provided a citizen’s guide to hazardous waste facility siting. That guide, she said, explains people’s rights to public notice and hearing. Ms. Briggum noted that many people had approached the NEJAC with the same concerns, and stated that they needed to see this guide.

Ms. Fisher stated that, based on zoning, it was legal for the CAFOs to operate. She suggested that Ms. Baron-Hall submit her public comment within the context of zoning issues and present them during zoning hearing(s). Ms. Fisher also suggested that Ms. Baron-Hall identify the Head of the planning and zoning commission in her area, and request that they send her notices about zoning hearings.

Mr. Wilson referred to the NEJAC’s discussion during its July 2009 meeting about setting up a Work Group on CAFOs and animal problems. He also mentioned the NEJAC’s teleconference meeting in September 2009, during which a large number of people shared similar experiences regarding CAFOs. He expressed concern over “a level of irresponsibility surrounding this issue.” Mr. Lee gave assurance that the issue was being taken seriously and had not been forgotten by EPA. Mr. Lee referred to the Agency’s enforcement priorities, which show the different ways that EPA was examining the issue. He suggested that any Work Group created by the NEJAC on this issue should submit solid advice that EPA could act upon.

Ms. Yeampierre added that food had become a major environmental justice issue, including the use of pesticides and the distribution of food in urban areas. She suggested that groups from these areas of interest be included in the next NEJAC meeting.

## **2.8 Mr. Steven Fischbach, Esq., Rhode Island Legal Services**

Mr. Steven Fischbach, Rhode Island Legal Services, commented on school siting issues. He reported that the average age of a school facility was 50 years old. He added that school funding had not kept up with enrollment numbers.

He explained that in his community, two schools were “built on hazardous waste sites.” One, he said, was built on the old city dump, and the other was built on a toxic waste site. Mr. Fischbach stated that, in New Bedford, MA, EPA had approved the construction of a school on an earthquake fault and in an oil field. He noted that there was a “lack of laws” governing school siting. He reported that only five states had laws prohibiting building schools on toxic waste sites; and only 12 states had any kind of laws “involving participation.” He stressed the need for a thorough and transparent environmental review process.

Follow-up questions and comments from the NEJAC members focused on the following issues:

Mr. Lee indicated that, in 2006, Congress had passed a high-performing energy bill that contained a clause asking EPA to help develop guidelines around school siting. He agreed that school siting was a very significant issue that demanded greater attention.

Mr. Paul Mohai commented that it was a “moral imperative” to address these issues, especially since “children are more vulnerable physically, and also cannot control where they live and where they go to school.”

Ms. Catron asked about formulas for risk assessment that were based on children’s age, or health issues. (Due to time constraints, it was determined that this and other questions would be addressed later.)

## **2.9 Ms. Margaret Gordon, West Oakland Environmental Indicators Project**

Ms. Margaret Gordon introduced herself as co-Founder and co-Director of the West Oakland Environmental Indicators Project, and a commissioner of the Port of Oakland. She emphasized that she was not attending the meeting in her capacity with the Port of Oakland. She focused her comments on goods movement, which she described as a “regional, national, and local issue” that had not been addressed. She stated that the international trade and logistics companies

that work around ports, rail yards, airports, and trucking companies were not communicating with the ports. She described them as “unseen stakeholders” and asked how to make those companies pay for polluting the air in environmental justice communities.

Ms. Gordon added that there was also no communication among port authorities, “from Canada down to Chile.” She reported that she was involved in Governor Arnold Schwarzenegger’s Action Plan on Goods Movement, but noted that there was no *national* policy on goods movement issues, particularly with respect to environmental justice issues related to land use, ports, transportation, public health.

Ms. Gordon commented that there was no zoning for “buffer communities,” asserting that “this is gentrification.” She also expressed her feeling that “you can’t expand a port if you can’t clean up what is already there.” She cited the need to educate the surrounding communities about port-related issues.

Ms. Yeampierre agreed with Ms. Gordon that there was no communication between the different ports, local, state, or nationally. She recognized this as an important issue because, she said, “communities are growing along the water.” She expressed her view that “green technologies” were being brought into waterfront areas and were displacing communities.

## **2.10 Mr. Joseph Foti, World Resources Institute**

Mr. Joseph Foti, World Resources Institute, stated that he worked for a program called the Access Initiative. He commented that the impacts of climate change on certain communities were disproportionate. He expressed concern for how affected communities were adapting to climate change. He offered the following three recommendations for EPA:

Ensure humans and vulnerable populations were included in any large-scale vulnerability and impact assessments on the national and state levels.

Maintain focus as the Agency moved from assessment to planning and prioritization of issues.

Include vulnerable communities into the “mainstream” of planning processes at all levels.

Mr. Foti acknowledged that EPA had led efforts to develop adaptation plans for forests and Gulf Coast areas. He stated that the Agency had not, however, taken into account or made plans for the communities in those areas. He expressed a desire to see a “national platform for public participation” on climate change adaptation. He expressed his view that capacity-building was necessary among members of the community and government. He stated that, to date, only 10 states had developed climate adaptation plans. He urged for processes to be transparent and enforceable.

Mr. Lee noted an ongoing effort involving EPA, the White House, environmental justice groups, and communities related to a National Ocean Policy. He reported that EPA had so far held public hearings in Alaska, San Francisco, and New Orleans on this. Mr. Lee explained that more public hearings and meetings were forthcoming. He pointed out that the issue of climate adaptation was a “long-running” one that was being addressed by the NEJAC.

Mr. Marsh requested that Mr. Foti make some materials on this issue available to members of the NEJAC via e-mail. Mr. Foti agreed.

## **2.11 Mr. Denny Larson, Global Community Monitor (GCM)**

Mr. Denny Larson, Global Community Monitor, expressed concern about air-related issues. He said there was a “lack of appropriate, updated air monitoring” to identify toxic hot spots. He added that school siting should be given increased attention. Thirdly, he described the need to empower communities through hands-on monitoring and data interpretation as “urgent.”

Mr. Larson explained that he had developed a toolkit to aid communities in monitoring particulates. He expressed his view that the methods of measurement being used EPA were antiquated and not good enough, especially at stationary bases around the country. He stated that, for example, “inappropriate” and “inadequate” monitoring devices were used after the Port Arthur spill, resulting in inaccurate numbers.

Mr. Larson stated that the priority sources are known, based on past studies. He expressed hope that EPA would develop a comprehensive time table for testing, and he urged for a “hands-on partnership” with communities.

Follow-up questions and comments from the NEJAC members focused on the following issues:

Ms. Yeampierre cited an air quality study by the Department of Health in New York City that was mandated by the Office of the Mayor. She noted that the air monitoring systems were mainly placed in the business district, not in the communities. She suggested that some mobile air monitors could be made available to young people to do the testing which, she said, would allow them access to technology. She further suggested that this could be an effective way to “involve the next generation of the environmental justice movement” and help them become good environmental stewards. She added that such activities could also help young people “make the connection” between their science classes and what was going on outside. She stated that this could make them the next environmental stewards.

Ms. Catron stated that Mr. Larson’s comments were very timely, because EPA planned to install 40 new monitors in each Region. In response, Mr. Larson said “that is not good enough,” adding that communities needed to know where the sources were, from the fenceline. He expressed the need to trace a “path” from fenceline monitors to the data collected in the community.

Mr. Kelley asked whether the technology mentioned by Mr. Bosch during a previous public comment could be effective; what were some of the ways that government could help; and what were some of the problems with the state-run programs in Region 6. Mr. Larson responded that EPA was “not doing their job.” He expressed hope that, under Administration Jackson, things would change. He stated that the Agency needed to start looking in Louisiana and Texas. He expressed his view that EPA was relying on modeling and risk assessment that was “bad science.” Ms. Briggum stated that NEJAC was interested in accurate monitoring as well.

## **2.12 Mr. Delma Bennet, Mossville Environmental Action Now (M.E.A.N.)**

Mr. Delma Bennet, a member of the Mossville Environmental Action Now organization in Mossville, Louisiana, reminded the Council that he had approached them at the July 2009 meeting. He reported that there had been 10 deaths in his community this year, although the deaths could not be directly linked to industrial areas. Mr. Bennet noted that Mossville was an African-American community surrounded by 14 different industrial plants. He reported that Mossville residents had three times the amount of dioxin in their blood than people in other communities.

Mr. Bennet said that Mossville was surrounded by several other communities but seemed to be “the only one complaining.” He noted that with the exception of casinos, chemical plants were the primary industry (economically) sustaining the communities in the area. This fact, he suggested, was potentially preventing other communities from raising concerns. He added that “plant workers” in the area “may not care whether they die” because the plants afforded them an income and a way of life.

When asked for his view of the ideal outcome of the situation, Mr. Bennet expressed his desire for the plant owner to “make his home in a dome surrounding the chemical plant.”

## **2.13 Ms. Helen Reddout, Socially Responsible Agriculture Project (SRA) Project/Community Association for Restoration of the Environment (CARE)**

Ms. Helen Reddout stated that she was a consultant for the Socially Responsible Agriculture (SRA) Project, but that she represented the Community Association for Restoration of the Environment (CARE) in Washington State. She asserted that there was a “tragic amount of lack of information.” Pointing to one example, Ms. Reddout cited her community’s request for a list of permits of the dairies in their area, to “prove they were allowed to be there.” Continuing her explanation, she said the County was not able to produce any permits. Ms. Reddout expressed concern that there was “no claim of responsibility for enforcement, even by Region 10 EPA in Seattle.”

Ms. Reddout reported that her town was one of ten “Showcase Communities.” She stated that the reservation wells there had been tested at “10 times the normal parts per billion.” She noted that, despite County reports dating back to 1972 that showed adverse effects, the dairies were allowed to “continue at status quo.” She emphasized that, “without enforcement, [we] have nothing.”

Urging for action, Ms. Reddout explained that residents had “barricaded themselves in their own homes” and that some had dry heaves because the “stench” was so bad. She further said the community had monitoring equipment that shows “the actual effects of the cattle farms’ contribution to air pollution” in their area. As she pleaded for action, Ms. Reddout added, “the government is supposed to protect [us],”

Follow-up questions and comments from the NEJAC members focused on the following issues:

Mr. Ridgway referred to the NEJAC conference call on enforcement priorities in September 2009, in which Ms. Jan Whitefoot, Concerned Citizens of the Yakima Reservation in Washington, had spoken on the same topic. He agreed that EPA should make this a high priority enforcement issue; and that Showcase Communities should have an impact on what they do going forward. He committed to passing her message on to EPA.

Mr. Rosenthal asked about the source of well contamination. Ms. Reddout answered that it was dairy farm waste and described lagoons with fermented feces, urine, pesticides, hormones, manure, and other substances. She added, “it’s like a direct funnel going into the groundwater.”

Ms. Catron asked whether the community was in a tribal area and whether the tribal council had “treatment of state authority” for water or air quality standards. Ms. Reddout confirmed that her community was located in a tribal but non-reservation area. She stated that she was very suspicious of the accuracy of the testing results. She further stated that it was the consensus of community members that they should go directly to the tribal council.

Ms. Catron advised that Ms. Reddout to “go through EPA,” because the tribe does not have enforcement authority.

Ms. Brown asked whether Ms. Reddout’s community had been involved in efforts around it as a Showcase Community. Ms. Reddout responded that the community “has been involved; but has been ignored.” She stated that EPA was aware that enforcement was needed.

## **2.14 Mr. Sacoby Wilson, University of South Carolina**

Mr. Sacoby Wilson – Research Professor at the University of South Carolina and Chair of the Environmental Section of the American Public Health Association – acknowledged the importance of recognizing the value and potential expertise of community partners affected by environmental justice issues. He recognized Mr. Omega Wilson and he mentioned several community groups who were working on several issues, such as industrial hog farms and Port of Charleston revitalization issues. All these groups, he stated, were doing community monitoring and surveillance work, and had received funds from EPA to do their own research. Mr. Wilson noted that this “empowerment through information” gave the community the “tools and awareness” to deal with issues. He expressed a desire to see EPA’s CARE Grants program expanded.

Dr. Wilson encouraged the creation of programs that would provide community groups with equipment and train them to do their own monitoring. He urged collaboration among the Occupational Safety and Health Administration (OSHA), EPA’s Office of Environmental Health, and others to develop regional grant programs, “where college students and others would be trained to do community-based research.”

Mr. Wilson also recommended the creation of a Southeast-based collaborative training institute. He described the institute as a community-based program for training local communities. Potentially, he stated, the institute could be funded by NIEHS.

He recommended that these programs be funded up to \$1 million, and by a “tiered process.” He also recommended that EPA: 1) engage in more “joint permitting;” 2) phase out “grandfathering;” and 3) explore bringing more green jobs to communities.

Ms. Briggum pointed out that EPA’s CARE program “came out of” concepts developed by the cumulative risk and analysis report prepared by the NEJAC. She stated that she was glad that the program was “working out well” and needed expansion.

## 2.15 Ms. Susana Alamanza, People Organized in Defense of Earth and Her Resources (PODER)

Ms. Susana Alamanza, Co-Director of People Organized in Defense of Earth and Her Resources (PODER) in East Austin, Texas, explained that she attended the meeting to present the report: "The Health Case for Reforming the Toxic Substances Control Act (TSCA) of 1976." She suggested that "chemical policies" should be "overhauled." This, she asserted, could potentially reduce chemical exposure, reduce rising rates of chronic disease, improve health, and lower health care costs.

Ms. Alamanza expressed her belief that companies should be required to provide "basic information" on potential health hazards, including explanations of how the chemicals should be used, and how people could be exposed. Ms. Alamanza stated her opinion that EPA had "ample authority to take action." She asked NEJAC to work with EPA to ensure that TSCA is reformed.

In addition, she recommended that school siting issues be addressed. She said attention should be given to "current" schools as well as "future" ones. Ms. Alamanza stated that in her community, "SMART" growth stood for "Send Mexicans Across the River Today." She also said that she believed gentrification was taking place in her community and that "it's about relocating people of color." She urged NEJAC members to examine the role of "race and income" regarding this issue.

Ms. Yeampierre commented that environmentalists literally "roll over us" in environmental justice communities. She also said she agreed with Ms. Alamanza on the "SMART growth" issue, stating that it was a problem "happening at every level, including small [community] businesses." Ms. Yeampierre expressed concern that "their successes are going to result in displacement."

## 2.16 Mr. Cecil Corbin-Mark, Environmental Justice Leadership Forum

Mr. Cecil Corbin-Mark introduced himself as the Deputy Director of the Environmental Justice Leadership Forum; the Co-Chair of a coalition partnership of over 50 organizations in New York State working on chemical policy reform; and as serving on the Board of the Center for Environmental Health in Oakland, California. Mr. Corbin-Mark commented that the "chemical policy structure" in the U.S. was broken and placed communities at risk.

He cited studies that found that, among African-American and Latina women, the pre-natal exposure to pesticides in Harlem and Washington Heights caused birth weights to be an average of 6.6 ounces lower than normal. He reported that low birth weight had been shown to cause attention deficit disorders and learning disabilities. He claimed that certain products used in those communities, such as insecticides and Chinese or cockroach chalk, were unregulated and were extremely toxic. He expressed his support for EPA's effort to identify substances that need regulation, including disclosure on the labeling by the companies.

Mr. Corbin-Mark urged NEJAC to take action, noting two populations that could especially benefit: 1) persons with allergies, or who otherwise needed to avoid these ingredients; and 2) doctors and first responders, such as paramedics, who needed to make decisions quickly for a patient. He added, "just because something is difficult, doesn't mean we shouldn't do [it]."

Follow-up questions and comments from the NEJAC members focused on the following issues:

Mr. Wilson asked what Mr. Corbin-Mark expected from the Council. Mr. Corbin-Mark answered that he believed it was important for NEJAC members to "raise their voices" as a collective body. He added that pesticides were a "uniting factor," because "everyone is exposed to them." He claimed that rural industries were especially affected.

Mr. Wilson asked whether there was a clear definition of classified and unclassified pesticides. Mr. Corbin-Mark explained that all pesticides contained harmful inert ingredients, noting that some ingredients were not even listed. He expressed that the real resolution was for Congress to reform TSCA.

Ms. Fisher raised the issue that consumers used products and engaged in activities everyday that could be hazardous

to their health, such as using plastic wrap and plastic forks. She added that, "when passing through a drive-through," the expectation is that the food would be good and safe. She noted that even if the food was discolored or something to that effect, it might be eaten anyway. She expressed the general sentiment that, "we think that if it's allowed to be sold to us, it is okay to eat." Mr. Corbin-Mark responded that "the system is broken," and added that manufacturers had no "burden of proof." As an example, he stated that asthma attacks could be triggered by chemicals in the home. He acknowledged that it was a complicated and political issue.

## **2.17 Peggy Shepard, WE ACT for Environmental Justice**

Ms. Peggy Shepard, Executive Director of WE ACT for Environmental Justice in Harlem, New York, stated that she was a former chair of the NEJAC and had served on the NEJAC's Enforcement and Health and Research subcommittees. She explained that her comments were based on her experience as a NEJAC member and as an EPA grantee.

Ms. Shepard informed Council members that she wanted to discuss the disparate impact of pollution on the sustainability of her community. She referred to an Interagency Task Force on Environmental Justice comprised of 17 agencies, including EPA. She recommended that NEJAC request a copy of the results of a report produced by the task force. She also urged the Council to "revisit" the Executive Order. She expressed her opinion that the task force should be required to submit an annual report to the NEJAC, as well as to the President and the White House Council on Environmental Quality.

Ms. Shepard stated that, as a member of a CARE community, her work involved identifying and prioritizing risks and exposures. She reported that her community was preparing to apply for a second grant but noted that few funds were available. She indicated that, of the 235 groups that applied for a grant, EPA awarded grants to only nine. Ms. Shepard asserted the belief that "an agency's budget is a reflection of its values." She expressed her hope that NEJAC would review and consider the evaluations of the CARE program conducted in May 2009.

Ms. Shepard referred to the selection of the 10 Showcase Communities and commented that there had been "no transparency" in the selection process. She reported that, although communities were awarded, she had learned that they would not be given funds. She expressed concern that the program would not be effective if EPA did not get the funds to those groups that were in need of it.

Follow-up questions and comments from the NEJAC members focused on the following issues:

Ms. Yeampierre commented that a cost analysis was required. She said that, when the initial investment in federal programs (such as the CARE program) is not made, the costs for the federal government would be apparent upon examination of the damage caused in environmental justice communities.

Ms. Briggum expressed concern that the CARE program was not receiving proper attention and that necessary funds were not being allocated for it to work. She stated that the NEJAC should honor the request made earlier by Ms. Shepard, and that it should recommend and ensure that communities receive the funds they need.

Mr. Wilson referred to universities conducting research in environmental justice communities and using most of the available funds. He asked whether Ms. Shepard had explored resources to supplement the grants from federal government agencies that go to university research and whether there was a 50/50 split of the money between the universities and communities. Ms. Shepard responded that she knew of only one grant that required a 50/50 split. She suggested that the community resource groups ask to receive grant funds directly and then split the money from there. She said the "stimulus and challenge grants" were giving "very, very little (\$60,000 at most)" to community groups. She expressed her impression that agencies were conveying the message that "community partners are optional," and that there was a cap on funds. She said it appeared that community groups were getting less money as larger organizations were being awarded more. She added that, "unfortunately," more and more money was going to research institutions.

## **2.18 Ms. Diane Takvorian, Environmental Health Coalition, National City, California**

Ms. Diane Takvorian introduced herself as representing the Environmental Health Coalition in San Diego/Tijuana,

adding the Coalition had “been around for 30 years.” She stated that this organization was also part of the California Environmental Justice Alliance, which she said was made up of many different community-based environmental justice groups. She requested that NEJAC recommend that EPA make a “paradigm shift.”

Ms. Takvorian commented that the Agency needed to take a comprehensive, holistic approach to transform communities “from impacted to healthy.” She further commented that there was a “very high rate of childhood asthma” in her community, as well as water contamination, ships idling in ports, and other problems. She also expressed concern about lead and mold in “aging housing.”

Ms. Takvorian suggested that, instead of using a project- or problem-oriented approach when addressing issues, NEJAC should consider a different approach. She recommended that EPA assign a “team” to environmental justice communities with the goal of “making those communities healthy.” She also suggested that environmental justice communities be given priority when stimulus funds are awarded. She said that her community was a CARE grantee but that they needed *action*.

There were no follow-up questions or comments from the NEJAC.

## **2.19 Ms. Charlotte Keys, Jesus People Against Pollution**

Ms. Charlotte Keys, Director of Jesus People Against Pollution in Columbia, South Carolina, said she also worked with Southern Rural Health. She said she was requesting, on behalf of the citizens of Mississippi, that EPA Administrator Lisa Jackson revisit Mississippi “to discuss the many environmental problems that have still not been addressed since Hurricanes Katrina and Rita.” Ms. Keys explained that her organization was “working with” the Federal Emergency Management Agency on specific issues.

According to Ms. Keys, at the time of Administrator Jackson’s last visit, community members were not given sufficiently advanced notice of the meeting. She said that “we, the citizens of the other 78 counties of Mississippi would like to request that Ms. Jackson consider rescheduling this meeting.” She asserted that community members “felt it was very disrespectful” that the Congressional leadership did not provide information to the community “in time for them to attend this initial meeting.”

Follow-up questions and comments from the NEJAC members focused on the following issues:

Ms. Yeampierre stated that Ms. Keys had an easy request for EPA to fulfill. She added that the Council could request that Administrator Jackson revisit their community. Mr. Barlow echoed this assurance.

Mr. Kelley asked whether there had been another group that brought Administrator Jackson to Mississippi for the initial visit. Ms. Keys mentioned that Mr. Sherri Jones, Ms. Yvonne Powell, and a few others had worked on that particular meeting. She stated that they had planned the meeting and “kept it secret.” Ms. Keys added that someone called her “at the last minute” and told her about the meeting, but she was out of town on business and, therefore, unable to attend.

Mr. Wilson asked whether other faith groups had been involved with the environmental justice movement. Ms. Keys mentioned the National Black Church Summit which, she said, represented many different faiths. She commented, however, that she had seen very little success or action by faith-based groups.

## **2.20 Ms. Michele Roberts, Advocates for Environmental Human Rights**

Ms. Michele Roberts said she was representing Advocates for Environmental Human Rights in Washington D.C. She claimed that a “systems change” was needed. This, she asserted, would require a “change in the way they (EPA) do business.”

Ms. Roberts pointed to an instance where she was made aware of a spill in her area only when she received an e-mail from NEJAC’s Mr. Kelley. She reported that she was working with the community of Marksville, which faced dioxin issues. Ms. Roberts urged EPA to improve its communication with communities and to “apply the precautionary principle.” As an example, she mentioned the environmental justice community of Bayview-Hunters Point in San Francisco, California, which faced issues related to excavation projects “due to economic development.” Ms. Roberts

urged that EPA also address “the permitting issue” and sternly stated that “we need our health protected.”

Follow-up questions and comments from the NEJAC members focused on the following issues:

Ms. Yeampierre commented that a “system change” may require NEJAC, as a body, to change and have a different role. She encouraged Ms. Roberts to work with NEJAC members on this and to give them guidance on how they can be more impactful.

Mr. Kelley commented on the e-mail Ms. Roberts referenced regarding the oil spill. He said that, in that instance, EPA and other regulatory agencies, were not present. He stated that he was honored to be part of the NEJAC, adding that the closer the Council got to EPA, their “words will soon fall on the right ears.”

Mr. Captain, Sr., commented that he did this work, not for himself, but for his children and grandchildren. He agreed with Ms. Roberts that, “we all need to get back to the basics...to take care of the earth so it will start taking care of us again.”

Ms. Catron commented that the members of the NEJAC were all volunteers who were doing their best to represent communities.

Ms. Fisher agreed that “perhaps it *is* time for a ‘system change.’” She added that EPA needed to address issues that have repeatedly come up, such as land use.

## **2.21 Ms. Sharon Gauthe, Bayou Interfaith Shared Community Organizing (BISCO)**

Ms. Sharon Gauthe described her organization, Bayou Interfaith Shared Community Organizing (BISCO), as a faith-based organization involved in equity and inclusion. She added that it was a diverse organization with the goal of including everyone in the community – African-Americans, Native Americans, and Cajuns – in Louisiana and Texas. She described Native Americans and Cajuns along the coast as “the most affected by the issue of coastal land loss.” She noted that her community had not yet recovered from the effects of Hurricane Katrina, Hurricane Gustav, and others. She acknowledged that they had received donations from non-profits after the hurricanes but asked, “where was the local government?”

Continuing her comments, Ms. Gauthe stated that two of the parishes in her area were found to be the most contaminated in the state. She stated that the oil and gas lobby was very strong, and that they tended to make people feel “dispensable.” She said BISCO had spoken with Mr. Charles Lee two years ago to ask for EPA’s help in addressing these issues. She urged NEJAC to “have the courage to act on this.”

Ms. Fisher referred to one tribe in the Parish with an abandoned oil platform, where the stench was “so unbelievable.” She expressed concern about the health impacts there. Ms. Gauthe responded that the issue required the collaboration of all agencies, including EPA and the local Department of Environmental Health. She noted that, “right now, it is not happening.”

## **2.22 Mr. John Nguyen, Vietnamese American Young Leaders Association, New Orleans**

Mr. John Nguyen, Environmental Justice Coordinator, Vietnamese American Young Leaders Association of New Orleans, commented on behalf of his organization which, he explained, was a community-based group that “empowered and involved youth.” He added that he also worked with a consortium of community members. Mr. Nguyen described his neighborhood as having four ethnic groups: African-American, Vietnamese-American, Latino/Latina, and low-income Whites. He acknowledged Ms. Fisher for her efforts in his region, and said he was glad to have a local NEJAC member in New Orleans.

Mr. Nguyen stated that, since Hurricane Katrina, 23 illegal dump sites had shown up in their community. He stated that an estimated 220,000 cubic yards of material and waste had been dumped in their community. The dump sites, he said, were contaminating the air, water, and soil. Mr. Nguyen pointed out that children were playing on the dump sites. “Our dignity is literally being dumped on,” he stated. He also pointed out that fishing was “the livelihood of

many residents" and that contaminated fish was a problem. This, he said, was affecting people's livelihood and culture.

Mr. Nguyen expressed his goal of being able to tell his community that he had addressed the NEJAC. He reported that his organization was planning to conduct a summit on illegal dumping. The summit, he explained, would focus on the following six goals:

Measure the contamination that exists in their environment.

Clean it up.

Write environmental legislation and policy that will protect their lives.

Enforce those policies.

Serve on city planning committees which have an impact, to help determine their quality of life.

Keep public officials, especially the Mayor and the City Council, accountable to ensure their vision allows his committee's vision of an environmentally safe New Orleans.

He also expressed the need for a city disaster plan, business attraction plan, and a hazardous mitigation committee. He expressed his desire to see the Illegal Dumping Summit become a reality.

Follow-up questions and comments from the NEJAC members focused on the following issues:

Mr. Wilson expressed concern about polluted fish and asked whether Mr. Nguyen's organization had been able to identify the source of the pollution (for example, seepage, dumping, runoff from the landfills, drainage). Mr. Nguyen responded that the source was generally unknown. He expressed the challenge of distinguishing between contaminated and healthy fish. He shared, however, that while on a helicopter tour he saw two pipes "feeding into the river" closest to the community.

Mr. Marsh asked for Mr. Nguyen's recommendation to the NEJAC on what they should suggest to EPA. Mr. Nguyen recommended that EPA "train community members first and focus on enforcement." He stated that a lack of policy and enforcement allowed the dumping to happen. He also expressed concern that New Orleans East was "off the map" when the post-Katrina planning was taking place.

Ms. Fisher noted that much of the area that Mr. Nguyen described was zoned industrial and stated that it was a zoning issue. She acknowledged the challenge of enforcement, adding that staffing hours had been cut. She committed, however, to working with the local enforcement department, adding that they would "do the best that [they] could."

Mr. Kelley encouraged Mr. Nguyen to coordinate with the clergy in his Parish to develop a plan. He acknowledged the "appalling" lack of response in their area. Mr. Nguyen responded that since the Hurricane, the parish's office had been shut down. He said his organization was "trying to make a presentation to the City" in March 2010.

Ms. Yeampierre asked Mr. Nguyen to provide the Council with mapping data that his organization had prepared. She also suggested having a reception for young people at the next NEJAC meeting.

**Appendix A**  
**National Environmental Justice Advisory Council**  
**January 2010 Public Meeting**

**List of Attendees**

Last Name	First Name	Organization	City	St
Adams	Elizabeth	U.S. EPA Region 9	San Francisco	CA
Ahearn	Caroline	U.S. EPA Office of Environmental and Compliance Assurance	Washington	DC
Ali	Mustafa	U.S. EPA Office of Environmental Justice	Washington	DC
Almanza	Susana	PODER	Austin	TX
Altidor	Kedesch	U.S. EPA Region 4	Atlanta	GA
Altieri	Sonia	U.S. EPA Office of the Administrator	Washington	DC
Anderson	Rhonda	Sierra Club	Detroit	MI
Antalan	Jackie	Operation HomeCare, Inc.	York	AL
Arablouei	Ramtin	Health and Environmental Funders Network	Bethesda	MD
Armendariz	Al	U.S. EPA Region 6	Dallas	TX
Atagi	Tracy	U.S. EPA Office of Resource Conservation & Recovery	Washington	DC
Aubin	Kathleen	Louisiana Department of Health and Hospitals	Metairie	LA
Augurson	Shirley	U.S. EPA Region 6	Dallas	TX
Bandrowski	Michael	U.S. EPA Region 9	San Francisco	CA
Banister	Beverly	U.S. EPA Office of the Regional Administrator	Atlanta	GA
Barnes	Patrick	BFA Environmental	Orlando	FL
Barnett	Claire	Healthy Schools Network, Inc.	Albany	NY
Baron-Hall	Dothula	Rural Empowerment Association for Community Help (REACH)	Warsaw	NC
Beard	Sharon D.	National Institute of Environmental Health Sciences	Research Triangle Park	NC
Beers	Samantha	U.S. EPA Region 3	Philadelphia	PA
Bell	Aaron	U.S. EPA Office of Environmental Justice	Washington	DC
Beltre	Rosanna	U.S. EPA Office Of Environmental Justice	Washington	DC
Benjamin	Kent	U.S. EPA Office of Environmental Justice	Washington	DC
Bennet	Christine	Mossville Environmental Action Now	Westlake	LA
Bennet	Delma	Mossville Environmental Action Now	Westlake	LA
Bogan	Donald	Bisco	Thibodaux	LA
Bosch	John	Retired from U.S. EPA Air Program	Wake Forest	NC
Boudoin	Bonita	Bayou Interfaith Shared Community Organizing	Thibodaux	LA
Bracy	Michael	The EOP Group, Inc.	Washington	DC
Bravo	Jose	Just Transition Alliance	San Diego	CA
Braz	Amy	U.S. EPA Region 1	Boston	MA
Brenner	Robert	U.S. EPA Office of Environmental Protection	Washington	DC
Breville	Maggie	U.S. EPA Office of Research & Development	Washington	DC
Briggum	Sue	Waste Management, Inc.	Washington	DC
Brown	Jeanette L.	U.S. EPA Office of Small Business	Washington	DC
Brown	M. Kathryn	University of Cincinnati College of Medicine	Cincinnati	OH
Bryant	J.Kyle	Office of Superfund Public Affairs & Outreach	Atlanta	GA
Bullard	Robert	Environmental Justice Resources Center/Clark Atlanta University	Atlanta	GA
Buster	Pam	U.S. EPA	Washington	DC
Butz	Lauren	Mary Queen of Vietnam Community Development Corp.	New Orleans	LA
Captain,SR.	Peter	Tanana Chiefs Conference	Fairbanks	AK
Carey	Patricia		Washington	DC
Carraway	Candace	U.S. EPA Office of Air Quality Planning & Standards	Research Triangle Park	NC
Case	Heather	U.S. EPA Office of Environmental Justice	Washington	DC

## Appendix A

Last Name	First Name	Organization	City	St
Catron	Jolene M.	Wind River Alliance	Ft.Washakie	WY
Cedeno-Zambrano	Lorena	U.S. EPA Office of Environmental Information	Washington	DC
Childers	Andrew	BNA Daily Environmental Report	Arlington	VA
Chu	Edward	White House Council on Environmental Quality	Washington	DC
Collman	Gwen	National Institute of Environmental Health Sciences	Research Triangle Park	NC
Coopwood	Ted	U.S. EPA Office of Children's Health Protection	Washington	DC
Corbin	Cecil	Environmental Leadership	New York	NY
Corbin	Mark	Environmental Leadership	New York	NY
Cordero	Christine	Center for Environmental Health	Oakland	CA
Cospelich	Charles	Environmental Management Services,Inc.	Baton Rouge	LA
Coursen	David	U.S. EPA	Washington	DC
DeJean	Lois	Gert Town Revival Initiative	Nola	LA
DeLeon	Rafael	U.S. EPA Office of the Administrator	Washington	DC
DePass	Michelle	U.S. EPA Office of International Affairs	Washington	DC
DeRoussel	Larry	Lake Area Industry Alliance	Lake Charles	LA
Devlin	Mary	U.S. EPA		
Di Chiro	Giovanna	Nuestras Raices, Inc.	Holyoke	MA
Diamond	Jane	U.S. EPA Region 9	SanFrancisco	CA
Dotson				
Newman	Ogonnaya	West Harlem Environmental Action, Inc.	New York	NY
Early	William	U.S. EPA Region 3	Philadelphia	PA
Edwards	Jason M.	U.S. EPA Office of Research & Development	Washington	DC
Enderle	Emily	Earthjustice	Washington	DC
Epps-Price	Lena(Vicky)	U.S. EPA Office of Air Quality Planning & Standards	RTP	NC
Espinosa	Monica	U.S. EPA Office of Environmental Justice	Kansas City	KS
Evangelista	Pat	U.S. EPA	New York	NY
Fairchild	Susan	U.S. EPA Office of Air Quality Planning & Standards	Research Triangle Park	NC
Farrell	Caroline	Center on Race, Poverty & the Environment	Delano	CA
Favors	Sonja	Alabama Dept Of Environmental Mgmt.	Montgomery	AL
Ferguson	Cynthia M.	U.S. Department of Justice	Washington	DC
Fernandez	Jaime	Texas Comm.on Environmental Quality	Austin	TX
Fields	Leslie	Sierra Club	Washington	DC
Fields	Timothy	MDB, Inc.	Washington	DC
Filter	Gale	California U.S. EPA	Sacramento	CA
Fisher	Wynecta	Mayors Office of Environmental Affairs	New Orleans	LA
Formica	Michael	National Pork Producers Council (NPPC)	Washington	DC
Foti	Joseph	World Resources Institute	Washington	DC
Fraser-Rahim	Herbert	Lowcountry Alliance for Model Communities	North Charleston	SC
Fulton	Scott	U.S. EPA	Washington	DC
Gaddy	Kim	New Jersey Environmental Federation	Montclair	NJ
Galbraith	Michael	U.S. EPA Office of Resource Conservation & Recovery	Washington	DC
Gallo	Kimberly	Entergy Corporation	New Orleans	LA
Garbo	Avi Samuel	U.S. EPA	Washington	DC
Garcia	Lisa	U.S. EPA	Washington	DC
Gauna	Eileen	University Of New Mexico	Albuquerque	NM
Gauthé	David	Bayou Interfaith Shared Community Organizing	Thibodaux	LA
Gauthé	Sharon	Bayou Interfaith Shared Community Organizing	Thibodaux	LA
Gaydosh	Andrew Michael	U.S. EPA Region 8	Denver	CO
George	Pavlou	U.S. EPA	New York	NY
Giles	Cynthia	U.S. EPA Office of Environmental and Compliance Assurance	Washington	DC

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Last Name	First Name	Organization	City	St
Ginsburg	Eric	U.S. EPA Office of Air Quality Planning & Standards	Research Triangle Park	NC
Goins	Renee L.	U.S. EPA Office of Environmental Justice	Washington	DC
Gordon	Margaret	West Oakland Environmental Indicators Project	Oakland	CA
Grass	Running	U.S. EPA	Seattle	WA
Green	Gregory	U.S. EPA Office of Air Quality Planning & Standards	Research Triangle Park	NC
Griffith	Bryon	U.S. EPA Gulf of Mexico Program	Stennis Space Center	MS
Groner	Stephen	Fish Contamination Education Collaborative	Long Beach	CA
Grow	Richard	U.S. EPA Region 9	San Francisco	CA
Guitar	Cristine	U.S. EPA Office Of Environmental Justice	Washington	DC
Hague	Mark	U.S. EPA Region VII	Kansas City	KS
Hale	Jeannine	U.S. EPA Region 6	Dallas	TX
Hall	Devon	Rural Empowerment Association for Community Help (REACH)	Warsaw	NC
Hammond	Lisa M.	U.S. EPA Office of Environmental Justice	Washington	DC
Hancox	Michael	U.S. EPA Region 2	Charlottesville	VA
Harper	Jewell	U.S. EPA Liason	Atlanta	GA
Harris	Reginald	U.S. EPA Region 3	Philadelphia	PA
Harris	Rita	Sierra Club	Memphis	TN
Hasten	Albertha	Louisiana Environmental Justice Community Organization Coalition	White Castle	LA
Hatcher	Judy	Environmental Support Center	Washington	DC
Hawkins	Tonya	U.S. EPA Office of Solid Waste & Emergency Response	Washington	DC
Henneke	Jodena	Texas General Land Office	Austin	TX
Herrera	Helen	Waste Management	Kettleman City	CA
Hill	Franklin	U.S. EPA Region IV	Atlanta	GA
Holloway	Mike	U.S. EPA Office of Air & Radiation	Washington	DC
Hrybyk	Anna	Louisiana Bucket Brigade	New Orleans	LA
Hsieh	Shizuka	U.S. EPA Office of Solid Waste & Emergency Response	Washington	DC
Hutchinson	Elliott	Harris, DeVille and Associates, Inc.	Baton Rouge	LA
Jackson	Kimberly	Lipscomb University	Nashville	TN
Jantarasami	Lesley	U.S. EPA Office of Air & Radiation	Washington	DC
Jelenic	Thomas	Port of Long Beach	Long Beach	CA
Jenkins	Fred	U.S. EPA Office of Prevention, Pesticides & Toxic Substances	Washington	DC
Job	Ann	California EPA Dept. of Toxins	Carmichael	CA
Johnson	Shirley	Mossville Environmental Action Now	West Lake	LA
Jones	James	U.S. EPA Office of Prevention, Pesticides & Toxic Substances	Washington	DC
Kelley	Hilton	Community In-power & Development Assoc.	Port Arthur	TX
King	Marva E.	U.S. EPA CARE Program	Washington	DC
King	Toshia	U.S. EPA	Washington	DC
Kline	Gayle	ICF International	La Porte City	IA
Kushner	Adam	U.S. EPA	Washington	DC
Lang	Elvin D.	Alabamians United for Environmental Justice	Montgomery	AL
Larson	Denny	Global Community Monitor	El Cerrito	CA
Lee	Charles	U.S. EPA Office of Environmental Justice	Washington	DC
Lee	Joy	MDB, Inc./National Clearinghouse	Washington	DC
Lee	Suzette Tay	Apex Direct, Inc.	Daly City	CA
Levine	Caroline	U.S. EPA Office of the Administrator	Washington	DC
Lewis	Sheila L.	U.S. EPA Office of Environmental Justice	Washington	DC
Lockhart	Freda	U.S. EPA Region 4	Atlanta	GA
Logan	Angelo	East Yard Communities for Environmental Justice	Commerce	CA

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Last Name	First Name	Organization	City	St
Lorang	Phil	U.S. EPA Office of Air Quality Planning & Standards	Research Triangle Park	NC
Love	Debra	DHL Analytical Laboratory, Inc.	Birmingham	AL
Lynette	Jennifer	U.S. EPA	Washington	DC
Lythcott	Michael J.	E2, Inc.	Marlboro	NJ
MacGregor	Gay	U.S. EPA Office of Transportation & Air Quality	Ann Arbor	MI
Mallette	Wannetta	Lowcountry Alliance for Model Communities		
Manzanilla	Enrique	U.S. EPA Communities and Ecosystems Division	San Francisco	CA
Marquez	Jesse	Coalition For A Safe Environment	Wilmington	CA
Marsh	J. Langdon	Portland State University	Portland	OR
Martin	Karen L.	U.S. EPA Office of Solid Waste & Emergency Response	Washington	DC
Mason	Richard	Shintech, Inc.	Washington	DC
Mason	Suzy	Arc of Greater New Orleans, LA Green Corps	Metairie	LA
McCabe	Catherine	U.S. EPA Office of Environmental and Compliance Assurance	Washington	DC
McCarthy	Gina	U.S. EPA	Washington	DC
McConville	Drew	U.S. EPA	Washington	DC
McDade	Elizabeth	Coalition to Prevent Lead Poisoning		
McKelvey	Laura	U.S. EPA	Research Triangle Park	NC
Mewherter	Maryl	Bayou Interfaith Shared Community Organizing	Schriever	LA
Miller-Travis	Vernice	Maryland State Commission on Env'l Justice and Sustainable Communities	Bowie	MD
Minter	Marsha	U.S. EPA Office of Solid Waste and Emergency Response	Washington	DC
Mitchell	Harold	District No.31-Spartanburg County	Columbia	SC
Mitchell	Schenine	U.S. EPA CARE Program	New York	NY
Mohai	Paul	University of Michigan, School of Natural Resources	Ann Arbor	MI
Mooney	Charlotte	U.S. EPA Office of Solid Waste & Emergency Response	Washington	DC
Moran	Kerri	MDB, Inc.	Washington	DC
Moreno	Ignacia S.	U.S. Department of Justice	Washington	DC
Moses	Althea	U.S. EPA Region 7	Kansas City	KS
Mukerjee	Deepay	National Institute for Chemical Studies	Charleston	WV
Murphy	Mike	Tulane Environmental Law Clinic	New Orleans	LA
Murray	Sharon	U.S. EPA Region 9	San Francisco	CA
Ndoh	Tina	U.S. EPA Office of Air Quality Planning & Standards	Research Triangle Park	NC
Neal	Daria	Lawyers Committee		
Nguyen	John	Vietnamese American Young Leaders Association of New Orelans	New Orleans	LA
Nolan	Sheila	Central States Air Resource Agencies Assoc.	Oklahoma City	OK
Norris	Tom	U.S. EPA NEIC	Lakewood	CO
O'Bannon	Michael	The EOP Group, Inc.	Washington	DC
Ochoa	Patricia	Pacoima Beautiful	Pacoima	CA
Oneto	Christine	Apex Direct, Inc.	San Francisco	CA
Owens	Stephanie	U.S. EPA Office of Public Affairs	Washington	DC
Owens	Steven	U.S. EPA Office Of Prevention, Pesticides and Toxics Substances	Washington	DC
Pair	Quentin	U.S. Department of Justice	Washington	DC
Palaia	Kevin	ICF International	Lexington	MA
Palomares	Art	U.S. EPA Region 8	Denver	CO
Parker	David	U.S. EPA NEIC	Lakewood	CO
Parkin	Richard	U.S. EPA Region 10	Seattle	WA
Patterson	Jacqueline	NAACP	Baltimore	MD
Pershing	Janet	ICF International	Potomac	MD

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Last Name	First Name	Organization	City	St
Peurifoy	Cynthia	U.S. EPA	Atlanta	GA
Pierce	Karen	BVHP Community Advocates	San Francisco	CA
Pierce	Michelle	HP Community Advocates	Tempe	AZ
Ponder	Deborah	U.S. EPA Region 6	Dallas	TX
Prioleau	Tomeka	Louisiana Department of Environmental Quality	Baton Rouge	LA
Quiroa	Lily	Waste Management	Corona	CA
Reddout	Helen	Socially Responsible Agriculture Project	Outlook	WA
Remer	Whitford	Loyola College of Law	New Orleans	LA
Ridgway	John	Washington State Department of Ecology	Olympia	WA
Roberts	Michele	Advocates for Environmental Human Rights	Washington	DC
Robertson	LaKeshia	U.S. EPA	Stennis Space Center	MS
Robinson	Victoria	U.S. EPA Office of Environmental Justice	Washington	DC
Rodgers	Darrell	Agency for Toxic Substances & Disease Registry	Atlanta	GA
Rolfes	Anne	Louisiana Bucket Brigade	New Orleans	LA
Rolling	Catherine	Environmental Justice Program	Cleveland	OH
Rosas	Estela	Apex Direct, Inc.	Lake in the Hills	IL
Rosenthal	John A	National Small Town Alliance	Washington	DC
Ross	Bennett	Apex Direct, Inc.	Chicago	IL
Ross	Heather	Texas Center for Env. Quality	Beaumont	TX
Ross	Joi	Apex Direct, Inc.	Chicago	IL
Rousey	Toni	U.S. EPA Office of Air	Washington	DC
Roy	Denise	U.S. EPA Office of Solid Waste & Emergency Response	Washington	DC
Ruhl	Suzi	U.S. EPA Office of Environmental Justice	Washington	DC
Saint	Chris	U.S. EPA Office of Research & Development	Washington	DC
Salim	Anikah	U.S. EPA (fellow)	Washington	DC
Sanders	Deidre	Pacific Gas & Electric Company	San Francisco	CA
Sasseville	Sonya	U.S. EPA	Washington	DC
Schulman	Andrew	U.S. EPA Office of Environmental and Compliance Assurance	Washington	DC
Scott	Margie	Bayou Interfaith Shared Community Organizing	Thibodaux	LA
Shapiro	Michael	U.S. EPA	Washington	DC
Sheats	Nicky	Center for the Urban Environment	Trenton	NY
Shepard	Peggy	West Harlem Environmental Action, Inc.	New York	NY
Shepeard	Hilda`	Agency for Toxic Substances & Disease Registry	Atlanta	GA
Shepeard	Samuel	U.S. Army	Snellville	GA
Shields	Peter	ICF International	Fairfax	VA
Silva	Peter	U.S. EPA	Washington	DC
Simons	Arthur	Fundred.Org New Orleans		
Soderberg	Carl	USEPA -Region II Caribbean Environmental	San Juan	PR
Spencer	L'Tonya	U.S. EPA Region 4	Atlanta	GA
Stackhouse	Debbie	U.S. EPA	Research Triangle Park	NC
Starfield	Larry	U.S. EPA Region 6	Dallas	TX
Stewart-Briley	Collette	Louisiana Department of Health and Hospitals	Baton Rouge	LA
Stroud	Alexander		New Orleans	LA
Subra	Wilma	Louisiana Environmental Action Network/Subra Company	New Iberia	LA
Takvorian	Diane	Environmental Health Coalition	National City	CA
Tan	Chrisna	U.S. EPA Office of Environmental and Compliance Assurance	Washington	DC
Tatum	Gloria	MS Department of Environmental Quality	Jackson	MS
Tennessee	Matilda	Limitless Vistas, Inc.	New Orleans	LA
Terrell	Piyachat	U.S. EPA Office of Administration and Resources Management	Washington	DC

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Theriot	Angel	Bayou Interfaith Shared Community Organizing	Thibodaux	LA
Theriot	Diane	Bayou Interfaith Shared Community Organizing	Thibodaux	LA
Theriot	Perry	Louisiana Department of Environmental Quality	Baton Rouge	LA
Thompson	Kevin M	Shell Oil Company	Norco	LA
Tripathi	Arati	U.S. EPA Office of Environmental Justice	Washington	DC
Verchick	Robert	U.S. EPA	Washington	DC
Vince	Michael D.	Louisiana Department of Environmental Quality	Baton Rouge	LA
Vincent	Haki	M.E.A.N	Mossville	LA
Warnsley	Oliver	U.S. EPA Region 5	Chicago	IL
Warren	Charity	Apex Direct, Inc.	Chicago	IL
Watts	Alan	U.S. EPA		
	Richard		Research Triangle Park	
Wayland	(Chet)	U.S. EPA		NC
Wesley	Terry	U.S. EPA Region 2	New York	NY
White	Brandi	U.S. EPA Office of Research & Development	ResearchTriangle Park	NC
Whitney	Patricia	Bayou Interfaith Shared Community Organizing	Thibodaux	LA
Whittick	Janet	California Council for Environmental and Economic Balance	San Francisco	CA
Wiles	Amanda	Operation Paydirt :New Orleans		
Williams	Ema'n	Section of Environmental Epidemiology	New Orleans	LA
Wilson	Erika	U.S. EPA Office of Air & Radiation	Washington	DC
Wilson	Omega R.	West End Revitalization Association	Mebane	NC
Wilson	Sacoby	University of South Carolina	Columbia	SC
Wilson	Wilbert	U.S. EPA	Washington	DC
Wise	David	Shintech, Inc.	Addis	LA
Wright	Beverly	Deep South Center for Environmental Justice	New Orleans	LA
Wright Jr.	Russell	U.S. EPA Office of Policy and Management	Atlanta	GA
Yeampierre	Elizabeth	UPROSE, Inc.	Brooklyn	NY