

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

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In the matter of the:
FIFTEENTH MEETING OF THE
NATIONAL ENVIRONMENTAL JUSTICE
ADVISORY COUNCIL

VOLUME IV
Friday, May 26, 2000
Omni Hotel at CNN Center
Atlanta, Georgia

The Fifteenth Meeting of the NATIONAL
ENVIRONMENTAL JUSTICE ADVISORY COUNCIL convened,
pursuant to notice, at 8:00 A.m. on Friday, May 26, 2000.

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APPEARANCES

NEJAC Advisory Council Members:

- MR. HAYWOOD TURRENTINE, Chairperson
MR. CHARLES LEE, DFO
MS. ROSE MARIE AUGUSTINE
MR. LUKE W. COLE
MR. FERNANDO CUEVAS, SR.
MR. ARNOLDO GARCIA
MR. MICHEL GELOBTER
MR. TOM GOLDTOOTH
MS. JENNIFER HILL-KELLY
MS. ANNABELLE JARAMILLO
MS. VERNICE MILLER-TRAVIS
MR. HAROLD MITCHELL
MR. CARLOS M. PADIN
MS. MARINELLE PAYTON
MS. ROSA HILDA RAMOS
MS. PEGGY SHEPARD
MS. JANE STAHL
MR. GERALD TORRES
MR. ROBERT VARNEY
MS. JANA L. WALKER
MR. DAMON P. WHITEHEAD
MR. TSEMING YANG
MS. PAT HILL WOOD

Also Present:

- MS. ANN GOODE
MR. BARRY E. HILL
MR. ALAN HECHT
MR. WILLIAM MUSZYNSKI
MS. MARLA HENDRICSON
MS. MARVA KING

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PROCEEDINGS

1
2 (9:00 a.m.)
3 MR. LEE: Do we have quorum? Haywood asked me to call this
4 meeting to order this morning and I want to welcome everyone to the
5 last day of the Fifteenth Meeting of the National Environmental
6 Justice Advisory Council.
7 Good morning. Let me start again. Haywood asked me to
8 convene the meeting this morning and I want to welcome everyone to
9 the last day of the Fifteenth Meeting of the National Environmental
10 Justice Advisory Council. I want to thank everyone for their hard
11 work over the last few days. This has turned out to be an extremely
12 productive meeting and we look to see a lot of very important
13 products that will be coming out of the discussions over the last few
14 days.
15 This morning we're going to spend some time going over a
16 number of items that are of particular interest to the NEJAC. What
17 we have done was to address the question -- and I know that
18 sometimes it is hard for the members of the NEJAC and the public to
19 make a connection between the work that you've done and the
20 advice and counsel that to be forwarded and products.
21 Certainly, the whole purpose of this is to integrate environmental
22 justice in all of the activities and policies of EPA. There have been

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1 some very significant products and outgrowth of your work, and so
2 we really want to highlight some of that and so this is what the
3 meeting this morning is going to cover.

4 In addition, there are certain other items that you know are of
5 particular interest that have been put on the agenda. The first thing
6 on your agenda is a briefing by the Office of General Counsel on a
7 legal memorandum addressing the legal authorities for considering
8 environmental justice under EPA statutes.

9 We had invited Jim Nelson and Tony Guadagno from the Office
10 of General Counsel and as I understand it, the plane was cancelled
11 and therefore, they're not able to be here.

12 PARTICIPANT: A likely story.

13 (Laughter.)

14 MR. LEE: You can call up the airlines. I want to say that this is
15 a very important thing. If you would recall, this is an issue that was
16 the subject of the meeting that we had in December of 1999 in terms
17 of what factors should be considered under EPA permitting statutes.
18 And part of the -- one of the recommendations that was made by this
19 Council was the clarification of legal authorities.

20 I'm going to ask Barry to give a little bit of background around
21 this and perhaps just open it up for a few questions.

22 OFFICE OF GENERAL COUNSEL - LEGAL AUTHORITIES

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PRESENTATION BY MR. BARRY HILL

1 MR. HILL: As Charles said, Jim Nelson's flight was cancelled. I
2 talked with him this morning and he was trying to go between Dulles
3 Airport and National Airport trying to get a flight, but because of the
4 holidays, he was not able to find an alternative flight. So, he sends
5 his apologies to the NEJAC. We were trying to think of a way to see
6 if we could have a telephone hook-up but we just could not do it
7 within the last 10 minutes.

8 So, at any rate, essentially what they are doing is that they are
9 completing their work on the legal memorandum that's looking at the
10 legal authorities related to the Water Program, OSWER, and the Air
11 Program. They are finalizing that document and it should be
12 available within a fairly short period of time, within the next, hopefully,
13 week or two weeks.

14 Essentially one of the things that we were talking about, and as
15 Charles said, it was related to the last meeting, was the issue
16 regarding the regulations and what factors could be considered. That
17 memorandum is closely related to that particular issue.

18 So, at any rate, that's all I can say that we should be getting that
19 memorandum within the next one to two weeks.

20 MR. LEE: The one thing I want to say related to this and why
21 this is so important is, of course, the fact that it's always been the
22

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1 position of the Office of Environmental Justice that the issues of
2 environmental justice are not just an outgrowth of an executive order
3 but, in fact, are implicit and embedded within the statutes, the full
4 implementation of the statutes of the Agency. I think this is an
5 important milestone in making sure that that gets realized.

6 So, I don't know if there's any questions that any of the
7 members of the Council may have regarding this. We can open it up
8 for a few questions.

9 PARTICIPANT: (Inaudible.)

10 MR. LEE: The legal memorandums. The Office of General
11 Counsel legal memorandums.

12 MS. MILLER-TRAVIS: I have a question.

13 MR. LEE: Go ahead, Vernice.

14 MS. MILLER-TRAVIS: So, maybe -- I'm sorry, Mr. Chair.
15 Maybe I wasn't paying attention, but --

16 MR. LEE: You probably weren't.

17 MS. MILLER-TRAVIS: Are you saying that because Mr. Nelson
18 can't be here that no one can present the memorandum, or are you
19 saying that the memorandum is incomplete and that's why he's not
20 here?

21 MR. LEE: They were going to present on the work thus far
22 regarding the legal memorandum.

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1 MS. MILLER-TRAVIS: Right.

2 MR. LEE: The fact that he's not here is a -- it was nothing by
3 design now. Like Barry said, it will be complete in a few weeks.

4 MS. MILLER-TRAVIS: Okay. I guess my confusion is, even if
5 it's incomplete, there's nobody in the Office of General Counsel who
6 could have come and talked to us and given us a status report on
7 where it is?

8 MR. LEE: That's what Jim Nelson was planning to do.

9 MS. MILLER-TRAVIS: But you're missing my question. My
10 question is there's no one else in the Office of General Counsel who
11 could have been here to do that?

12 MR. HILL: Well, Vernice, Jim Nelson is the Associate General
13 Counsel. He's the one that leads that particular section of the
14 General Counsel's Office as far as putting this whole memorandum
15 together. He was the appropriate person, you know, to come down
16 and to talk about that memorandum. Unfortunately, the flight was
17 cancelled this morning.

18 MS. MILLER-TRAVIS: Okay. I understand that. There's
19 nothing that he could do about that. My question -- and I think it's
20 pretty simple -- is there no one else who is here presently from the
21 Office of General Counsel that can -- that's question number one.

22 MR. HILL: There's no one else here who can talk about that

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1 particular memorandum.

2 MS. MILLER-TRAVIS: Okay, with authority about what's in that

3 memorandum.

4 MR. HILL: Right.

5 MS. MILLER-TRAVIS: Okay. So --

6 MR. LEE: Is that Pat?

7 MS. MILLER-TRAVIS: Yes, that's Pat.

8 MR. LEE: Are you finished, Verrnice?

9 MS. MILLER-TRAVIS: Yes.

10 MR. LEE: You know, we are just as disappointed about this in

11 terms of -- because we thought this was a very important

12 development and we wanted to make sure that the Council was

13 aware that this kind of work is going on.

14 Pat.

15 MS. WOOD: I have a suggestion. Since we're here all day and

16 since we could go ahead with the next items on the agenda --

17 MR. LEE: Right.

18 MS. WOOD: -- I would think this hotel ought to be able to hook

19 up some sort of a phone connection and we at least could have a

20 teleconference with him sometime today to at least get some sort of

21 an idea of the status of this.

22 MR. HILL: We were trying, as I said, Pat, to have Jim present

1 what he was going to say here this morning but we were not able to

2 do that.

3 MS. WOOD: I understand that. That's why I was suggesting

4 that -- I realize he's somewhere between Dulles and National, but

5 there are -- I think I know the schedule to get here to Atlanta,

6 assuming he doesn't want to try another plane, because they go

7 every hour -- that he could get back to the office and either he or

8 someone else in the office could get on the phone and at least give

9 the Council an update on where they are.

10 MR. HILL: Well, all I can -- we will look into it.

11 MR. LEE: Okay, great. As was addressed at -- we should

12 move on to the next item on the agenda. You have been asking

13 about the progress related to the development of the Title VI

14 Guidance and we have here Ann Goode, the Director of the Office of

15 Civil Rights. She is going to give an update about the progress on

16 the Title VI Guidance. Ann?

17 TITLE VI GUIDANCE UPDATE

18 PRESENTATION BY MS. ANN GOODE

19 MS. GOODE: Charles, thank you and I'm delighted to be back

20 before you again this morning. If things are still as they were

21 yesterday afternoon, I'm going to return to the office this afternoon to

22 sign out the Federal Register notice for the Title VI Guidance.

1 We are just closing on some administrative information that

2 needs to be embedded in that document. We will then be sending it to

3 the Federal Register for the physical processing on Tuesday because

4 of the long weekend and it should be seven to ten work days after

5 that that the Register notice is actually public.

6 I'd like to talk a little bit about the process to date relative to the

7 development of the Guidance and then specifically about some

8 outreach things that are already in process and will be occurring and

9 will include you at the earliest opportunity in terms of giving you a

10 heads-up on the contents of the Guidance.

11 In the last year and a half we've received over 115 sets of

12 written comments concerning the Guidance when the Interim

13 Guidance was put out in February of 1998. In March of '98 we

14 convened the Federal Advisory Committee. Many of you who are in

15 the room today were part of that body.

16 I can assure you that for those of you who participated in that

17 process, you will see the fruits of your participation evidenced in the

18 Guidance documents that are going to be released.

19 We had a number of stakeholder meetings across the whole

20 spectrum of stakeholder interest for the last year and a half. Those

21 have been ongoing, and they have included numerous meetings with

22 every stakeholder group.

1 In September of last year we convened a small group of

2 stakeholders to take a look at the policy options against the major

3 issues of concern relative to the Guidance. We solicited comments

4 from individuals in that mixed stakeholder group about those potential

5 policy options. In October of last year we crafted the first draft of the

6 Guidance and we've gone through probably eight or nine iterations of

7 the document since then.

8 We've had a robust internal EPA stakeholder process in the

9 development of the Guidance and it's been at the highest levels of

10 the agency. We had five two-hour plus meetings with the AAs and

11 the RAs beginning in May of last year. We had a meeting in May,

12 June, August, and several meetings, culminating in a meeting last

13 Monday with Administrator Browner.

14 The meeting with Administrator Browner was designed to be a

15 one-hour meeting. We spent almost three hours with her. She gave

16 us an unequivocal green light to go ahead. She said this is

17 important. We recognize that we're going to take hits of various sorts

18 for what it is that we're doing, but go forth.

19 We have had tremendous support within the Agency from all

20 entities, the regions and the media offices, for the development of the

21 Guidance and the chief policymakers have been very active in its

22 review and that review has been very affirmative, very positive, and

1 very supportive.

2 In addition to that, we have worked with the Department of
3 Justice, both the Civil Rights Division and the Environment Division,
4 every step of this process. We have met with Bill Lann Lee who
5 heads the Civil Rights Division in the Department of Justice on four
6 or five occasions, as we have with Lois Schiffer, who heads the
7 Environment Division. We had a closing meeting with those
8 individuals in April of this year.

9 I think that all stakeholder groups will see that we have listened
10 to their concerns. I cannot promise that everyone's concerns have
11 been addressed fully to their satisfaction. There are some issues, for
12 instance, like the issue of deference, which was very important to the
13 states, that is not a policy matter. It is a legal matter. We cannot
14 grant deference and, therefore, there may be some disappointment
15 at the end point, while there is, I think, understanding that there are
16 limitations to what we can do.

17 We have planned for a robust outreach process as part of the
18 release of the Guidance. When it is published in the Federal
19 Register notice there will be a 60-day comment period. Our
20 Guidance will also be available on the OCR Web site. We will have a
21 mailbox available such that commenters can submit their comments
22 via the Internet back to us.

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1 We will be also posting the Guidance on the Internet as soon as
2 we finish the first series of courtesy meetings that will begin the first
3 part of next week. The first priority for the courtesy meetings will be
4 the Congress. Carol Browner has already made courtesy calls to the
5 Hill. They include calls to Congressman Clyburn, among others, to
6 give them a heads-up that the document is coming. They will be
7 working closely with them and with their staffs in terms of receiving
8 input comments and answering any questions or concerns.

9 As part of the first tier of priority early-on briefings will be the
10 NEJAC. My hope had been that we would be able to do that today
11 but that is simply not physically possible and I cannot discuss the
12 specifics of the Guidance until the document is finally signed.

13 We will be setting up various conference calls, both with the
14 general NEJAC, the Enforcement Subcommittee. And, Haywood, I'm
15 amenable to any other variations of that that might be helpful in
16 giving you early heads-up, and that is, before it is posted anywhere.
17 But with my being able to provide you with details about the actual
18 content to give you a heads-up so when it is generally publicly
19 available you've got a little bit of a head start in terms of the actual
20 content.

21 I'll also be working as part of that first tier set of briefings with
22 the Environmental Council of the States. They are also going to

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1 arrange, at a later point, for a meeting with all of the associations in
2 the Hall of States. They'll host that for us to share information about
3 the Guidance.

4 If we are able to put it on the Web site prior to the Federal
5 Register publication, we will do so once we have finished that first tier
6 of courtesy briefings. If it is posted before the Register notice comes
7 out, that does not count against the 60-day clock for the Federal
8 Register notice.

9 We will be doing a hard-copy mailing to 2,000 to 3,000 folks that
10 OEJ has on their mailing list. There are many in the EJ community
11 who do not have access to Internet. Among those, we are sending
12 hard copies and notifications to will be all complainants who have
13 historically filed complaints or currently have complaints with us.

14 We will have five public listening sessions to answer questions
15 and receive any input. This will be recorded as part of the public
16 comment process. There are also numerous meetings that are
17 currently being scheduled with all stakeholder groups to provide an
18 opportunity for one-on-one dialogue during that 60-day period.

19 I will attend as many of those personally as possible and am
20 committed to doing back-to-back meetings in that 60-day period to
21 ensure the fact that there is an opportunity for dialogue in some
22 instances in smaller group settings.

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1 I'd like to talk just a little bit about what's different about this
2 current Guidance. On its face, there is a dramatic difference just
3 physically. The initial interim guidance document was a 13-page
4 document. The documents that you will have before you when this is
5 published are approximately 100 pages. We are not subscribing to
6 the more is better school, but rather are attempting to be responsive
7 to the many concerns we received about the inadequacy of the
8 explanation of processes, definitions, among other things, in the
9 initial guidance.

10 There will be several parts to the documents that will appear in
11 the Federal Register notice. Only two of those parts will be for
12 comment. There will be a preamble and there will be a summary
13 response to the many comments that we have received both in
14 writing and through meetings over the course of the last two years.
15 Those comments or response to comments will include a lengthy
16 explanation of the legal basis for what it is we're doing and our
17 authority to do so under Title VI.

18 There will then be two documents that will be for comment. The
19 first document is the document for EPA use; that is, the internal
20 guidance document: How will EPA process Title VI cases?

21 In the internal document, you will see, first of all, better
22 organization. There is a table of contents to help the reader more

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1 easily, more quickly locate relevant bits of information. You will find
2 greater clarity throughout the document. That clarity extends to
3 definitions. We were roundly criticized initially for depending on key
4 terms that we had not defined.

5 Both the internal and the external Guidance documents share a
6 glossary where the definitions are clearly spelled out. When the
7 document is up on the Web site, the definition terms will be
8 underlined, enabling the reader to toggle from the term in the text to
9 the definition in the glossary.

10 As part of the greater clarity issue, we have attempted to make
11 all of the documents user-friendly. That user-friendliness extends not
12 only to format and organization, but also the use of plain English.
13 We want anyone picking up either of these documents to be able to
14 understand them on their face without being technical experts and
15 without having to suffer from jargon overload.

16 We will have process explanations that were absent in the initial
17 Guidance. In the initial Guidance, there was an assumption that
18 there was something adverse and we went on to talk about disparity
19 analysis. In this document, you will see a step-wise process for how
20 we make an adversity determination.

21 Having said that, what I think it provides folks is the opportunity
22 to focus in on what very specific areas may be of concern relative to

1 that process. It is clear how we will get to an endpoint.

2 Having said that, though, you are not going to find hard edges.
3 For instance, if the radius is three miles, the answer is yes, and if it's
4 four miles, the answer is no. Or if it's ten to the minus whatever, it's
5 a problem, and ten to the minus something else is not a problem.
6 We provide a framework for making a determination, but not
7 absolutes relative to how you get there.

8 The specifics of every case will be absolutely critical both in
9 terms of the allegations being made and the fact situation that is
10 determined as a result of the investigation as to what the adversity
11 determination will be.

12 We have looked very hard and worked with scientific others
13 about how we might put as many edges on the process as possible,
14 but we understand at this point in time to make hard lines would
15 create problems and we think a tremendous unfairness given the
16 level of experience that we have in this area. We think, however, the
17 framework is in itself clear.

18 Those are probably basically the highlights in terms of what is
19 different overall, generically about the internal document.

20 The external document is focused on recipients of EPA financial
21 assistance. It provides them with recommended approaches and
22 activities that they might undertake to ensure the greater likelihood of

1 not having Title VI complaints. The readers of this document will
2 recognize a number of things that should be very familiar. The
3 contribution made by the Title VI Federal Advisory Committee I think
4 will be very much evident.

5 There are existing public participation models that are
6 referenced in that document, such as ASTM, Brownfields public
7 participation, and the NEJAC public participation model. The
8 document is clear in outlining what we mean by robust and
9 appropriate up-front public participation, while acknowledging that
10 there are other sources that have gone into this area in great and we
11 think effective detail.

12 It suggests approaches and activities that the recipient may
13 undertake. However, we want to make absolutely clear that the
14 bottom line in this process in terms of whether or not there might be a
15 Title VI finding is not the cadillac program that embodies all the
16 points outlined in the external Guidance.

17 The bottom line in making a determination as to whether or not
18 there is a Title VI violation is outcome. What do the facts add up to?
19 The Guidance to recipients suggests that if you undertake these
20 kinds of activities, we think that there is the greater likelihood that you
21 will not have a legitimate concern. And again, I think we're going to
22 see a lot of things -- you will see a lot of things in that document that

1 are good common sense that have proven to be useful and proven to
2 have worked in other contexts.

3 The 60-day comment period, after that, we will do an analysis of
4 the comments, finalize the Guidance, and it's our hope to get the
5 Guidance signed out before the end of this Administration. The
6 timeframe that we're involved in right now is a pretty tight one in that
7 regard. The internal process in working with the Department of
8 Justice proved to be a longer process than we initially anticipated. It
9 has, however, been a rich and productive process.

10 We think that we do have a solid offering to make to the public
11 for comment. We will still legitimately be in a dialogue mode during
12 the 60-day period, and we commit to legitimately being responsive to
13 and looking carefully at comments that are received as a result of the
14 public process.

15 With that, Charles, I would turn it back to you.

16 MR. LEE: Thank you, Ann. Questions for Ann? Damon?

17 MR. WHITEHEAD: Good morning, Ann. I have a number of
18 concerns, and I've written them down so I would try to be coherent.

19 MR. LEE: Can you speak into the microphone.

20 MR. WHITEHEAD: The first one would be I'd like to discuss --
21 we've heard comments about burden shifting and I've actually
22 thought about this for at least a second or two and I tend to agree

1 that under the current platform, the way the whole Title VI process
2 that the EPA has designed does appear to me to shift the burden
3 from the recipient of the federal funds to the individual complainants.

4 My meaning on that particularly is that -- my understanding is
5 that the way it looks in the prior -- and I'm looking at the prior
6 Guidance as well as my understanding, you know, from meetings
7 with you as well as the Department of Justice what the new Guidance
8 is going to entail -- is that your authority -- you believe that the
9 authority is triggered by the individual complainant.

10 I don't believe that; meaning that you can look at prior -- your
11 authority is to the recipient of the money. You have independent
12 review when you hand out federal funds to look at a program.

13 The prime example is, you know, the Chester litigation. Once
14 that litigation was determined moot, I'm unaware that EPA took any
15 review of Pennsylvania's Department of Environmental Quality. The
16 same thing would go with Louisiana and other states, meaning that I
17 don't think the Office of -- Civil Rights Office of EPA needs to have an
18 individual complainant before it reviews different programs.

19 MS. GOODE: Uh-huh.

20 MR. WHITEHEAD: I would like to see the Agency take on that
21 responsibility and do more of it. I'm not sure, but maybe we could
22 have some information received about how many independent

1 reviews the Agency has taken a look at programmatically, rather than
2 waiting for an individual complainant, which, as we saw in Select
3 Steel, was not, you know, the best decision. I won't rake you over
4 the coals about that anymore.

5 The other I guess comment I have is that it appears to me -- and
6 Mr. Cole has spoken about it as well as I -- that EPA has relied for
7 the last seven and a half years on putting out a Guidance that
8 everyone knows, even with the new product that's going to come out,
9 is not going to satisfy probably anybody. Let's be honest about that.

10 It's not going to give everyone, or pretty much anyone, what
11 they're looking for. And I understand it's a process, and you try your
12 best to do that. But the bottom line is that EPA, you don't need this
13 Guidance to enforce the law. You didn't use it in Select Steel
14 obviously, which you, like I said, once I repeat it to Mr. McCabe, is
15 that, you know, that decision was done without a Guidance and
16 before other processes had been done.

17 So I would like to see in the remaining months -- not that this
18 guidance is not important, but I would hate to leave this -- I would
19 hate for this Administration to leave on record only one precedent
20 decision, that being Select Steel, which you know, as Mr. Cole has
21 said, was decided wrong on the law and wrong on the facts.

22 I think the remaining months could be used not only in putting

1 out this Guidance, but deciding some of these cases, the 48 cases
2 I'm aware of that have, you know, been on the books for at least six,
3 seven years. Your time may be spent wisely doing a dual track,
4 deciding some cases and getting some precedent down that will help
5 the new administration, if Title VI and EPA are still around -- you
6 know, at least give some relief to the complaints that have been filed
7 so far.

8 So while I applaud you for finally getting the Guidance out -- you
9 know, I think it's fine and I certainly will comment and want to be in
10 on these meetings -- I think the time is just simply too short right now
11 to spend more process time working through the final details -- and,
12 you know, the comment period is important and responding to
13 comments, those are all legal obligations -- but I would like to see
14 more effort spent on actually resolving some of these complaints with
15 the efficiency that you did in Select Steel.

16 Thank you.

17 MS. GOODE: Damon, I would like to respond to what I think
18 are three major points that you made. One was a burden of proof,
19 program compliance review, and the backlog issue. I hope I've
20 captured that correctly.

21 On the issue of the burden of proof, you will find that the
22 Guidance is going to be very clear. There was clearly some

1 misunderstanding early on about who bears the burden of proof in
2 this process, and we make it very clear up front that it is EPA's
3 burden. It is not the complainants' burden and EPA has a
4 responsibility relative to reviewing essentially the tip that we've been
5 given by the complainant that our monies are being used
6 inappropriately. It is our responsibility to do whatever is necessary
7 given that tip, that complaint, that allegation, to assert whether or not
8 it is in fact correct. So that burden is not borne by the complainant.

9 We recognize that we will very often have, and have had,
10 legitimate -- currently have legitimate complaints in our inventory that
11 have not been filed by communities who have abundant technical
12 resources or expert assistance. They need only plead their case
13 consistent with the basic, pretty minimal threshold requirements that
14 are outlined in the regulation. It then becomes our responsibility to
15 do whatever is necessary in terms of the legwork to flesh that out.

16 But that, as a clear statement, is evident in the current Guidance
17 so it is not -- it should not be misunderstood by anyone in terms of
18 who bears that burden.

19 Roles and responsibilities, both for the complainant and for the
20 recipient, are also spelled out in this current Guidance to provide
21 clarity about what those are.

22 On the issue of compliance review, we speak to that in the

1 current Guidance. You are absolutely, absolutely right. There may
2 be instances where a complaint is in fact rejected, but the number of
3 complaints that we continue to receive for a given area, a given state,
4 suggests that there is something perhaps significantly awry with
5 regard to the program. The current Guidance will speak clearly to
6 our authority to do compliance reviews. And you're right in that
7 regard that that is another avenue that we can pursue.

8 I mean, obviously, we haven't demonstrated capacity to deal
9 with the current complaints, let alone go into the compliance review
10 mode, but it is an area that we have discussed and an area that we
11 will have to work on in terms of developing a means of getting at that
12 and perhaps a means of getting at that through existing complaints.

13 The backlog issue is a very real one. There is no disguising
14 that. I recognize it as a high priority. The foundation things that we
15 have done the last two years have been critical to our ability to move
16 forward. Additionally, as a practical matter, relative to the Guidance,
17 I again, for the year 2001, have appropriations language similar to
18 that that we received in '99 and 2000 hinging on our ability to finalize
19 the Guidance. That becomes important operationally as well as
20 providing the kind of framework that will better enable us to begin to
21 get at the backlog.

22 The backlog issue, however, does not rest on having the

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1 Guidance. It rests fundamentally on having adequate resources in
2 addition to having an understanding about how one may pursue this.

3 I have had discussions at the highest level in the agency within
4 the last few days about getting blood out of a rock. I simply have
5 tried to be creative in leveraging resources. Regions and media
6 offices have given generously. The do not substitute, however, for
7 having all that I need to be able to address the backlog.

8 The agency is looking at how they can assist in making a
9 difference in that area. But in the meantime, I acknowledge this as a
10 serious problem area and we're committed to doing better with it.

11 MR. WHITEHEAD: Just one follow-up. I guess my question,
12 being more point blank, is does your office plan to decide any cases
13 before the end of the year in the same manner, like I said, that is
14 efficiently decided as the Select Steel case?

15 This point is important simply for the fact that Select Steel out
16 there is a precedent that people are pointing to and I would like to
17 see the agency within the Guidance and without the Guidance -- I
18 understand that writers that you were talking about, but there were
19 complaints that were filed prior to that that can be resolved with or
20 without the Guidance.

21 So, my point simply is, does your office plan before the end of
22 the year, before the end of this administration, to resolve any of the

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1 complaints this year?

2 MS. GOODE: We have two investigations that are near
3 completion. If I can garner the rest of the resources I need to bring
4 them to closure, the answer is yes.

5 MR. LEE: Luke, I think you were next.

6 MR. COLE: Hi. Good morning, Ann. I think Ann has the very
7 good fortune this morning of having appeared before our
8 subcommittee yesterday and so, I've largely vented. So, I just have
9 a couple of points, two that I made yesterday but that I want to make
10 again here in the full session. The first is on process, the second is
11 on substance, and then the third is a broader question in terms of
12 agency strategy.

13 On process, in our Enforcement Subcommittee yesterday you
14 outlined a number of listening sessions that you were going to be
15 undertaking around the country on this Guidance.

16 I and several other members of the Enforcement Subcommittee
17 expressed our strong displeasure with the fact that the first listening
18 sessions were occurring as soon as June 12th in Oakland, California
19 because it's unclear when this document is actually going to hit the
20 streets and it's unclear when you were thinking of inviting people or
21 even letting people know about these listening sessions. Right now,
22 June 12th is a little over two weeks away.

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1 My concern is that many of these communities have been
2 waiting for many years, seven and eight years to get their complaints
3 resolved, many of them have been waiting for years to have a
4 Guidance put out and now, suddenly, you are saying well we've got
5 to have this listening session in the next ten days; otherwise,
6 nothing's happening.

7 Now, as a result of our colloquy yesterday, you agreed to have
8 another listening session in Southern California, ideally in Los
9 Angeles, in late July. But I fear that the other listening sessions that
10 are frontloaded in mid-June are going to run into the same process
11 problem.

12 I'm wondering why you need to have all these meetings at the
13 front end of the 60-day period rather than at the back end after
14 community groups have had a chance to read through the document,
15 digest it, work with their technical advisors, and then come to you
16 with an informed commentary on it, rather than just their initial
17 reactions.

18 My concern is that this looks like pro forma participation, but
19 won't actually be meaningful involvement or participation.

20 MS. GOODE: The two front-end sessions, one the 12th of June
21 and the other possibly in D.C. on the 14th -- I'll know this afternoon if
22 that's closed. I thought in my discussion with you yesterday, I agreed

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1 on a way to address the June 12th West Coast one for the third week
2 in July to do an additional session.

3 The D.C. doing an additional session is also possible. The
4 others will have at least three weeks to have looked at the document
5 before the session, and I think that's reasonable.

6 I said to you yesterday that there is a pragmatic issue right now
7 in my needing to get this on the street. I'm losing daylight in terms of
8 being able to finalize this process in this Administration, and there
9 have been many hold-ups that in the final analysis, have proven to be
10 useful in terms of getting buy-in in further refinement of the
11 document, but I'm nervous about that.

12 I also have a practical problem in terms of July. Part of that
13 extends to other program commitments that I have made where I
14 have 200 people coming in town for a week for the affirmative
15 employment part of my responsibility for an annual training that I'm
16 committed for, and other dates that are already committed.

17 So, I have agreed that I will do additionally the California
18 meeting, and if it is the sense of the group that the D.C. meeting, that
19 there needs to be an additional meeting, that can also be arranged
20 for later in June, giving people three to four weeks in terms of input.

21 The reality is also that in terms of the 60-day period, I'm
22 committed to doing back-to-back-to-back meetings, as many as I can

1 do personally, that include dialogue across the table. But there is a
2 finite number of those that I can do and in order to make them
3 happen, the entire 60 days has to be as booked as possible.

4 So, I appreciate your concern. I hope I've cured the concern
5 with regard to the West Coast. I'm willing to do another session in
6 D.C. after the 14th if, in fact, that's the sense that it would be useful
7 to do that.

8 MR. COLE: I'll defer that question to my colleagues in D.C., but
9 I appreciate your adding the second session in California, in Los
10 Angeles.

11 Substantively, the Guidance is nothing without actual deciding
12 cases. As Mr. Whitehead has pointed out, you know, the only
13 decision we have out of the Clinton Administration is a bad one and
14 it's disturbing for me to hear you say that there are only two other
15 possible decisions that might happen this year.

16 There are currently 47 backlogged cases. There are 21 cases
17 which have been accepted in which the plaintiffs -- the complainants
18 have shown on the face of their papers that their might be a violation,
19 and there are 26 that are in the hopper that are being investigated for
20 acceptance or rejection.

21 The fact that there are 47 cases out there and more coming in
22 almost on a monthly basis and you're saying that it is possible that if

1 you have enough resources, you might resolve two -- might, not will,
2 might resolve two -- that's of enormous concern to me because I
3 would like to buy Mike McCabe's line yesterday that the Clinton
4 Administration is the best thing you're ever going to get, unless it's
5 the Gore Administration, but you know, no matter who the next
6 administration is, if we get the same thing out of them that we got out
7 of you guys, civil rights in this country are going to be set back
8 another seven or eight years, and that's just unacceptable.

9 I don't know how you can crank up the process and get more of
10 these cases resolved, and particularly looking at the very strong ones
11 from a complainant's perspective so that there's some countervailing
12 precedent out there. You don't need to respond to that. I just wanted
13 to make that point.

14 My third point is a question. The Guidance covers permitting.

15 MS. GOODE: Uh-huh.

16 MR. COLE: There are obviously a number of other things that
17 agencies do with EPA money, from training to enforcement to
18 rulemaking, to you know, all kinds of different things, and there have
19 been Title VI complaints which implicate those other areas, several of
20 which I've filed, and I'm wondering when, if at all, on the horizon
21 there's going to be some type of Guidance for handling those types
22 of complaints which I see now are probably going to go to the end of

1 the line behind the 47 that are already in that you have some
2 guidance to deal with them.

3 At the rate we're deciding cases, we are going to be in the year
4 2287 before we resolve the backlog of cases that there are right now.
5 Now, I've -- you know, I would love to tell my clients Title VI is a
6 viable option, but under this administration and under your leadership
7 I have to tell them there is no civil rights enforcement by the Clinton
8 Administration.

9 MS. GOODE: I think we had a pretty clear discussion yesterday
10 and I have acknowledged that we do not have sufficient resources to
11 address the cases that are before us. I'm really sorry that my
12 predecessors didn't get an opportunity to come up here, having left
13 me with a six-year backlog when I walked in here in January of '98.

14 I will continue to attempt to address the resource issue. I'm
15 painfully aware of that. When I put in six and seven day weeks and I
16 have staff who work 12-14 hour days on a regular basis, we are
17 painfully aware of the inadequacy of the staffing to address the
18 concerns we have.

19 The issues have been incredibly complex and I would offer just
20 one example. We have been working for almost four months on the
21 accept/reject process for one case where we have still not gotten to
22 an endpoint that involves three other federal agencies. All the things

1 that we need to have had in place as feds, not simply EPA, to make
2 that process go more smoothly don't exist. Not only that, we are
3 having to try to reconstruct a coordination process to ensure the fact
4 that we don't end up shooting ourselves in the head as feds in terms
5 of how we're dealing with a case.

6 The issues have been incredibly complex. The coordination and
7 dialogue issues have been time consuming and we've had people
8 devoted to again, attempting -- and in this instance, we're trying to
9 get ahead of the curve before one of our federal brothers ends up
10 creating some problems for us that may be problems for the long
11 term with regard to adjudication of these cases.

12 So, the issues are complex. It is very clear to everyone we are
13 minus the case law, minus the experience, and in the instance of
14 what I inherited, minus staff, minus foundation pieces, minus
15 everything that was needed. We have made progress with regard to
16 the foundation pieces. We have to figure out how to address the
17 backlog. There is no argument.

18 There is no argument there, that there has been no civil rights
19 enforcement, yes, there has been -- and been processing of cases.
20 But I think the fair enforcement starts with ensuring the fact that you
21 have clarity and transparency with the touchstones that you're going
22 to use to do that enforcement.

1 It's kind of damned if you do, damned if you don't. The process
2 for developing guidance clearly takes time -- it's taken enormous staff
3 time to do that. We clearly need guidance in other areas and
4 enforcement. I mean, there's a whole list of areas. Even the
5 compliance review process; you know, what will be our protocols in
6 doing compliance reviews? We certainly have the authority to do
7 that.

8 We have to develop some guidance to do that. I think what we
9 have before us will serve as a useful touchstone, but it will not
10 address all the nuances and concerns for those various areas. This
11 has clearly been an area of focus because three-quarters of the
12 complaints received historically have been permitting complaints, and
13 hence, the focus on permitting.

14 But we certainly need guidance in those other areas. We will be
15 looking at how we will develop them. We will have to do some trade-
16 offs in terms of -- even with additional resources -- what we pursue
17 first. But again, there is no disagreement, no disagreement on that,
18 that these guidances are needed and important.

19 MR. LEE: Tseming?

20 MR. YANG: I'm Tseming Yang. Some of my questions have
21 already been addressed by both Mr. Cole and Mr. Whitehead. But
22 not to belabor the point, I just wanted to also point out that we are in

1 the end of May now, and the 60-day comment period is going to run
2 out at the end of July, beginning of August. And then I don't know
3 how much time it will take to incorporate the additional comments
4 that certainly will flow in and that you are, as I understand, you are
5 taking in the spirit of communication and dialogue here.

6 The elections are November 5 and the next administration will
7 turn over early January, which leaves really just a few months. You
8 know, I think you've already addressed it, but I just wanted to point
9 out there really are just a very few months left over to accomplish
10 anything or to have some concrete results, outcomes for this
11 administration.

12 The other question I had is, what else is the Office of Civil
13 Rights and EPA doing in terms of -- or planning to do in terms of
14 active investigation of compliance with civil rights laws generally,
15 other than Title VI, other than permitting itself? With all of the
16 energies of EPA going into Title VI, I think there remains a lot of other
17 areas that need to be addressed.

18 I think a lot of the issues and concerns that have been raised by
19 the community groups are not necessarily addressable through the
20 Title VI process, the permitting process.

21 MS. GOODE: My office has responsibility for not only the
22 external compliance of Title VI, the Title VII Employment

1 Discrimination Program, and also the agency's Affirmative
2 Employment Program. In that regard we have been making strides in
3 the last two years in improving our ability to provide guidance support
4 and oversight for the agency's affirmative employment and
5 discrimination complaints process.

6 I have a 200-case backlog in Title VII, which we are working to
7 address. I have been working this last two years to put the
8 foundation pieces that were absent with regard to that program, and
9 we are working to develop a really robust entire program that has the
10 front end kinds of processes that include guidance, education, and
11 training, as well as the back end processes of ensuring accountability
12 with regard to the Agency's responsibilities in this area.

13 We initiated an alternative dispute resolution pilot process as
14 part of one means to encourage informal resolution in the Title VII
15 arena this year and are working to assess the results of that process.

16 The Affirmative Employment Program is being retooled to look
17 at more than simply the numbers of folks. We have done a very
18 good job since the beginning of this Administration in improving not
19 only representation of women and people of color within the agency,
20 but we have made significant strides in improving their numbers in
21 the policy and senior rank levels of the agency.

22 We're working to put in place more detailed accountability

1 processes, training, and support mechanisms to address the other
2 concerns that are largely kind of the quality of life concerns for folks
3 who once they become part of the EPA family.

4 MR. YANG: I'm sorry, Charles, can I just follow up? I
5 apologize. I think I may have been a little bit unclear.

6 What I meant in part -- was my question was directed at part of
7 what I think Mr. Cole had gotten at, that there are a lot of issues
8 outside of the permitting areas, I guess, really within Title VI as well --
9 within federally assisted programs by states and local governments,
10 and other areas that will not be resolved through the Title VI
11 Guidance that's really only focused on permitting.

12 In addition, really the question of how much EPA is doing to
13 actively investigate, actually to go out and investigate issues of
14 compliance as opposed to simply sitting back in an adjudicated
15 fashion and having people bring violations or complaints about
16 violations to EPA?

17 MS. GOODE: To my knowledge, at least before my tenure -- I
18 know there hasn't been in the last two years -- there have been no
19 compliance reviews in the Title VI area. There were no staff focused
20 at all -- zero staff focused -- on Title VI until 1994 when four or five
21 people were placed in the Office of Civil Rights.

22 At this point in time, there is no guidance that has been

1 developed relative to compliance reviews in this arena. I am sure
2 that there is much to be learned from our enforcement folks in EPA
3 about how that might be done. At this point in time, we have not
4 begun working on that

5 MR. LEE: Thank you, Ann. We're running about 25 minutes
6 late so we do need to move on.

7 Did you have a question, Vernice. Okay, quick.

8 MS. MILLER-TRAVIS: Ann, two questions. One --

9 MR. LEE: No comment questions.

10 MS. MILLER-TRAVIS: Ann, two questions. One is in relation to
11 what Tseming said, is it possible that you could work on a timeframe
12 of getting the Guidance finalized before or up to the November
13 elections? Because any document that the Agency puts out after
14 that is going to be viewed entirely as a political document. Of course,
15 it's already much so looked at that way, but is there any possibility? I
16 know you're working on a tight frame, but can that be part of your
17 timeframe?

18 MS. GOODE: I want to close this as quickly as possible. I'm
19 going to use contract support to matrix comments. I'm going to bring
20 back comments real time as we come back from these events, as I
21 meet with people on a daily basis, so that we begin processing that.
22 So everything that we can do to get a sense of the lay of the land

1 before the end of the 60-day comment period and shortly thereafter,
2 we will do.

3 I will run it as quickly as possible within the Agency. Again, the
4 senior management of the Agency is sensitive to the fact that, you
5 know, we need to close on this. So I'd love to do it and we'll work
6 toward that end. I mean, the worse scenario is getting a signature
7 before January.

8 MS. MILLER-TRAVIS: Exactly. And my final question is:
9 Given what you now have in the Guidance, would you render the
10 same decision in the Select Steel case given what you now have
11 garnered and put forward in the Guidance?

12 MS. GOODE: Yes.

13 MS. MILLER-TRAVIS: Thank you.

14 MR. LEE: Great. Okay. Well, thank you, Ann. We do need to
15 move on and --

16 MS. WOOD: Charles?

17 MR. LEE: Yes?

18 MS. WOOD: Excuse me, I just had a very quick question for
19 Ann, if you don't mind.

20 Something you had said in your discussion about what was
21 going to be in the Federal Register, you made a point of saying that
22 there would be two portions for comment and you had first of all

1 made reference to the preamble and also to the discussion about the
2 legal authority.

3 Were you implying by that that the preamble and the discussion
4 about the legal authority are not subject to comment?

5 MS. GOODE: Right. The preamble and the legal authority --
6 the legal authority piece is embedded in the summary response to
7 comments. So, those two pieces are intended as background.

8 The preamble sort of summarizes what you have before you,
9 the process that we went through. And then the response to
10 comments, the summary response, are the kind of Qs and As, the
11 questions that we've heard over the last two years and our response
12 to those questions. So, those pieces are not for comment.

13 The two documents that are for comment are the external and
14 the internal.

15 MS. WOOD: Okay. And you specifically say those are not for
16 comment, that portion of it? The reason I'm asking the question is it
17 seems to me that's somewhat unusual because usually, when
18 something is in the Federal Register for comment, the entire
19 document is in there for comment and that's why I thought perhaps I
20 misunderstood you. But I guess I didn't, that you're really splitting
21 what people can file comment on.

22 People quite often want to comment on the way something is

1 described in the preamble. I mean, I'm just --

2 MS. GOODE: Yes, okay. This is my first Federal Register
3 notice.

4 MS. WOOD: Okay. Fine.

5 MS. GOODE: I'm not quite sure, but it's kind of hard for me to
6 understand how a summary response to comments would be open
7 for comment as opposed to it being responsive.

8 MS. WOOD: Well, I know in the past, actually, we've
9 occasionally filed comments when we felt that they misunderstood
10 what our comments said.

11 I mean, I'm not imagining that I might need to file comments on
12 your comments --

13 MS. GOODE: Right.

14 MS. WOOD: --but I'm just suggesting it's an unusual approach
15 for the Federal Register and knowing that you want to move this
16 through fairly quickly.

17 But I don't want to take up time. I just wanted to clarify that is
18 what you said.

19 MS. GOODE: When I go back this afternoon, I will ask our
20 technical folks in terms of Federal Register process about that.

21 MR. LEE: Can I ask that we give Ann a round of applause?
22 (Applause.)

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1 MR. LEE: Thank you, Ann. The next item on the agenda has to
2 do with the follow-up on the Border Roundtable.

3 In August of 1999, the International Subcommittee, under the
4 leadership of Arnoldo Garcia and the Office of International Activities,
5 EPA's Region 6 and Region 9 held a border roundtable in San Diego.

6 I think this has been a very significant event that involved many,
7 many people. Since then, there's been a substantial commitment on
8 the part of different EPA offices and I think significant progress.
9 We're really fortunate that Alan Hecht, who is the Principal Deputy
10 Assistant Administrator for Office of International Activities, is here to
11 give us a progress report.

12 Before I turn it over to Alan, I want to say how we in OEJ are
13 personally really gratified at the kind of commitment that Alan has
14 given to these issues since the Border Roundtable. I think he's
15 devoted a substantial amount of his time and a great deal of
16 ingenuity to addressing the kind of issues that were raised at that
17 roundtable.

18 Alan?

BORDER ROUNDTABLE FOLLOW-UP
PRESENTATION BY MR. ALAN HECHT

21 MR. HECHT: Thank you very much and good morning. Thank
22 you, Charles, for asking me to join you here this morning.

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1 Before I talk a little bit about the Border Roundtable -- and the
2 border in this case being the U.S.-Mexico border -- I just want to let
3 this group know and the committee know how significant this meeting
4 of the environmental justice community has been.

5 We've been very fortunate that for the last two weeks we've had
6 a delegation with us from South Africa. The idea to bring a group
7 from South Africa, who are themselves beginning to become involved
8 in environmental justice activities came from a number of people, two
9 of whom are associated with the Subcommittee on South Africa of
10 our International Subcommittee.

11 More than a year ago, the idea of bringing this group as a study
12 tour to the United States, culminating in their presence at this
13 meeting was proposed and a lot of people in Washington, and
14 Atlanta, and elsewhere, the regions, were instrumental in making it
15 happen.

16 That group has visited particular cities in the southeast in the
17 last two weeks. They've had the opportunity to meet with officials in
18 Atlanta here this week. They participated in the International
19 Subcommittee meeting yesterday. And perhaps the most fortuitous
20 of circumstances this morning, they culminate their visit by listening
21 to the President of South Africa give his major policy speech which is
22 ongoing right now at Ebenezer Baptist Church here in Atlanta.

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1 So I just want the committee and members of the audience to
2 realize how significant this meeting has been. Every opportunity I've
3 had to talk with our visitors has shown me how impressed they are,
4 how much they're learning about the process, about the kinds of
5 issues, about how to bring community-level issues up through a
6 political social system in a country with a new democracy. I think, as
7 a credit to the EJ Committee and everyone associated with it, this
8 visit has really been a major opportunity to advance EJ ideals on an
9 international basis.

10 I wish I could be with them this morning, but instead, since
11 Charles and Barry asked me to come here, I'm happy to just say a
12 few words about the roundtable that we have had on the U.S.-Mexico
13 border, some of the actions we have taken and more -- I think more
14 importantly, the issues that we face just in the next year.

15 First, just as a comment about context, if you're not familiar with
16 the fact that EPA, along with several other agencies has a border
17 program which we call Border XXI. It is now at the end of its five-
18 year life and with new administrations both in Mexico beginning after
19 the election on July 2nd, and in Washington after November, we will
20 be in the period of developing the next phase of this program.

21 This is an extremely important program for border communities
22 from San Diego to Brownsville. Along the border we have two

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1 problems. We have a legacy problem, a problem of neglect towards
2 the environment, towards urban development, towards the natural
3 resources, that has really been going on for decades. Every effort
4 that we have made, beginning with the intensity of activity during the
5 NAFTA, has been to address public health, community development,
6 industry development along this border region, 100 miles each side
7 of the U.S.-Mexico border.

8 We have a very difficult legacy that we are trying to address. An
9 enormous amount of resources are needed to do it. But besides the
10 legacy, we have a problem with the future in which the border
11 communities are the fastest growing population communities in the
12 United States and Mexico, and with a projection population to double
13 by 2020.

14 They are one of the fastest growing regions for industrial
15 development on the Mexican side with so-called maquiladora plants,
16 assembly plants being added rapidly every year, increased rapidly
17 every year. This doubling of population, this increase in the urban
18 development with no urban planning, and the projected diminishing
19 resource base, particularly water, make this region a potential region
20 for serious conflict between the United States and Mexico and a
21 serious symbol to everyone who lives on the border of what free
22 trade, or NAFTA, or increased trade, might or might not do.

1 The Agency has been committed to working with the Mexican
2 Government for many years and as I say, we're now in the most
3 crucial period because with new administrations coming, a new
4 border plan to be created, what will be the elements of that new
5 border plan become a very important opportunity for everyone in this
6 room to play a role in defining that new program.

7 Now, a year ago this subcommittee asked to have a roundtable
8 on the border, meaning to get together with all the community
9 groups, our offices in Washington, and the two regions that are on
10 the border, Region 9 in San Francisco and Region 6 in Dallas.

11 That roundtable was convened in about August of last year and
12 resulted in more than a hundred -- more than a hundred --
13 recommendations, some of which are recommendations to deal at
14 the international level between the U.S. and Mexico, and the majority
15 of which are domestic; that is, particular sites or particular issues, or
16 particular circumstances on the U.S. side of the border which are not
17 being adequately addressed or should be addressed.

18 Now, I'm not going to go through a hundred recommendations. I
19 will only say that as a consequence of that meeting, several things
20 have happened. First, both regions have taken a heightened
21 attention to the specific community level activities and community
22 problems that were identified at that meeting. Both regions have

1 produced an action plan and those plans have resulted in many
2 cases with specific actions being done to address the needs that
3 were addressed, that were identified.

4 The Chair of our International Subcommittee is here and he's in
5 a better position to give you an assessment of how the committee
6 feels in terms of just the responsiveness of the two regions and our
7 offices to these activities. Those plans and that commitment and that
8 level of effort has increased, and I hope it is a first step as a
9 demonstration towards actually addressing the kinds of issues that
10 have been identified.

11 Now, the second point, among the many issues and priorities
12 that were identified, there's one or two that become symbolic of the
13 relationship between the United States and Mexico and the
14 relationship between the environmental justice communities on both
15 sides of the border and state and federal authorities.

16 That symbolic example is the case of abandoned sites in
17 Mexico, close to the border, which were operated by U.S. industries
18 or U.S. companies which left behind a legacy of contaminated sites
19 and which today those sites remain unaddressed. Those sites
20 become hazardous to the communities surrounding them and they're
21 a symbol of the failure of government, the failure of society to
22 address an obvious injustice.

1 We are pursuing every legal means available to us to bring
2 those sites to being addressed. But because of the attention
3 generated by the roundtable, and because of the important
4 symbolism that this represents for many people, this has stimulated
5 us to think more broadly about how to address a site abandoned in
6 Mexico without -- in parallel to a legal course of action. What else
7 can we do?

8 We have come up with some other ideas, particularly to
9 recognize that many of these sites are in the middle of urban
10 environments. They are commercially viable. They can be restored.
11 They can become an important part of the growth of the community.
12 And we have turned to many industries in the United States which
13 deal in brownfields development, have met with them and said could
14 you develop such a site if the circumstances were right?

15 As it turns out, there is very strong interest in the private sector
16 in the United States to be commercially viable in Mexico in urban
17 development and in Brownfield restoration and we have signed an
18 agreement or policy statement with Mexico after a lot of dialogue that
19 basically says we will work together to address and eliminate barriers
20 that will allow the private sector to work in Mexico to address these
21 sites. We have made certain that in this policy statement that we
22 ensure that the first step towards any development is community

1 involvement to identify what issues the communities need to have
2 addressed before anything is done to address these sites.

3 I mention this only as a credit to the roundtable as having
4 stimulated some really innovated ideas about how to address
5 something that has long been a problem and has -- listened to just
6 this previous discussion that poor Ann was subjected to, anything
7 that has to go through the courts, particularly if you're dealing in
8 Mexico courts and U.S. courts and extradition is involved, you can
9 imagine how long a process that could take.

10 The third point about the roundtable and the meeting yesterday
11 is the future. We're going to develop a new border plan. We're going
12 to involve the states, tribal communities, and local communities in
13 helping us define what that border plan should be.

14 The roundtable asked for the creation of some formal structure
15 by which the EJ communities can have a role to play in that new
16 plan. We think that thats doable. In addition to specific structures,
17 there are a lot of existing structures, a lot of existing advisory
18 committees whereby the communities represented around this table
19 in the United States could play a larger role.

20 I told the roundtable a year ago that we would pursue both
21 directions, using available mechanisms now and in the context of the
22 new border plan, create mechanisms that are needed.

1 I'm happy to say that a sister agency, a sister advisory
2 committee, that exists is called the Good Neighbor Environment
3 Board and was established by Congress and the President to
4 specifically advise them on the border, had some new membership
5 openings, and largely through the efforts of us and EPA and with the
6 support of Carol Browner, we nominated a member of our
7 subcommittee, the International Subcommittee, and he has been
8 appointed to that Good Neighbor Environment Board just creating
9 another opportunity for the communities to have a voice in planning.

10 But we will work with the subcommittee and we will work with
11 others as we shape and outline and plan a new border plan.

12 In conclusion, Mr. Chairman, I think the roundtable was an
13 important milestone for us. It has helped focus on many of the
14 specific concerns of the border. It has added to our support base, I
15 hope, a constituency that will help us win resources and win support
16 to address the border communities.

17 If you take the border states, the border counties, with the
18 exception of San Diego, from Metamars over to San Diego, with the
19 exception of San Diego, you take all those counties on the border,
20 the U.S. side only, and you add them all up and you make them a
21 state -- call it the 51st state -- you have the poorest state in the
22 Union, the least educated state in the Union, the one with the least

1 economic growth, and the highest population increase.

2 So, there's clearly a problem that we all share in addressing the
3 border and I'd like to think of it as a cooperation between the
4 subcommittee and elements of society and us to find the common
5 ways to address this problem.

6 Thank you, sir.

7 MR. LEE: Thank you, Alan. Arnddo, did you want to say a few
8 words?

9 MR. GARCIA: Sure. Good morning, everyone. I really want to
10 thank Alan for the report he has given this morning.

11 We had a very intense and very fruitful discussion in the
12 subcommittee meeting yesterday. Of course, we have a lot of
13 questions and there's still a lot of issues to make movement on from
14 EPA and from the community and so forth, and I think that it's very
15 hopeful the report, for example, that he gave on one of the sites, one
16 of the very contaminated sites, Metales y sus Derivados in Tijuana,
17 that there is some motion on it. There is still a long way to go, but it
18 gives us good prospects.

19 Because it addresses some of the top recommendations of the
20 roundtable, one was the urgent cases of toxic sites. There are three
21 in particular: one in Tijuana. I always forget the other state in
22 Chihuahua, is that right, Caldados Prestos? Then the one in

1 Tamalipa by the Matamoros/Brownsville area, an assessment of the
2 Gatos Negros site.

3 So there is some very, very, very intense work that has to be
4 done on those sites, very urgent cases. The other ones are the
5 broad policy issues that environmental justice poses for the border
6 itself, the development of the border under the North American Free
7 Trade Agreement, and also the future of the border.

8 The third also top recommendation was around the formation of
9 a Border Environmental Justice Commission that would play a role
10 with EPA on doing oversight and monitoring of the implementation of
11 the region's and EPA's border environmental justice plans and their
12 further development.

13 The issue of the legacy is very important because the border
14 region, just like Al just described it, is no different than the
15 communities in Louisiana, the communities in Richmond, California,
16 the communities in the Yakima Valley up in the Northwest and so
17 forth. It's the same dynamic.

18 I'd like to describe it -- I'm from the border area and when I left
19 Brownsville as a migrant famer, where I lived and worked, the
20 schools I went to, looked no different than the places I lived and
21 worked and went to school in the Rio Grande Valley. So, you carry
22 the border with you anywhere you go in terms of contamination and

1 so forth.

2 I think EPA is faced with the very, very important challenge of
3 how it addresses that legacy of the border and also the future. On
4 the one hand, from coming out of the roundtable, there's already
5 structures in place that EPA is working through that did not include
6 environmental justice to begin with, so that's part of the demands of
7 the roundtable, that they have to be included in there.

8 But at the same time there has to be a voice and a space given
9 to the communities themselves so that they can express their view
10 on their future and analysis and so forth of the border. That's where
11 the importance of the Border Commission comes out.

12 Now, for me, for example, one of the main issues of the
13 communities of race has been the impact of NAFTA, the North
14 American Free Trade Agreement. For us, NAFTA is the grandson of
15 1848 -- or excuse me, the great grandson of 1848 when Mexico --
16 when two-thirds of the Mexican territory was annexed after a war by
17 the United States. It's the great grandson of the Bracero Program
18 where Mexican workers were imported to work in the fields in the
19 agriculture industries and some of the war industries beginning in the
20 1940s, and it's the grandson of the 1964 Border Industrial Program.

21 So the thing about what the legacy is is very, very important
22 about the next steps that get taken on the border in design. So,

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1 there's two things that EPA is faced with. One is how in the process
2 it's going to design the new plan, how environmental justice gets
3 incorporated, but at the same time, respecting the work that the
4 communities themselves bring to these issues and also their own
5 alternative view of the border development because of the high
6 stakes that are involved and the high stakes that are placed on it.

7 I really, really appreciate the efforts that have been done by
8 Region 6 and Region 9. They're at different places with their
9 environmental justice work plans and in consulting with the
10 communities also, but the next steps are going to be very critical in
11 the next period because of the elections and so forth that are coming
12 up.

13 I'm very hopeful that we will make -- that in the next 12 months
14 or so we're going to make some very important turning points in the
15 development of the environmental justice strategies for EPA in the
16 border regions and also how and why the role and the voice of the
17 communities has to be there in different forms and shapes, so I really
18 am thankful for that.

19 MR. LEE: Thank you, Arnoldo. Tom, you wanted a question?

20 MR. GOLDTOOTH: Yes. When the International
21 Subcommittee was planning this roundtable meeting -- I'd just like to
22 mention a couple of things -- that there was a request that the

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1 Indigenous People's Subcommittee would be involved with that,
2 which we were. I participated in that roundtable meeting and there
3 were a number of indigenous peoples from -- more from the U.S. side
4 and a few from the Mexico side.

5 One of the things that I wanted to say was that there were some
6 commitments that were made there from some of the EPA staff folks
7 and I believe that was from Region 9, is that one of the requests that
8 came from the Fort Mojave Tribe as well as the consortium of the five
9 Tribes that reside along the Columbia River which flows into Mexico
10 is the Colorado River Native Nations Alliance, which comprises
11 Colorado River Indian tribes, CRIT, Quechan, Cocopah, Chemeweivi,
12 and Fort Mojave.

13 They have requested, as a border justice issue, that EPA would
14 arrange a meeting with the governor of California concerning the
15 potential water contamination from the proposed Ward Valley low-
16 level radioactive waste dump that's 22 miles -- that was being sited
17 22 miles from Fort Mohave.

18 I don't know what follow-up there is on that, maybe if you're
19 aware of that or someone from Region 9, there was a commitment
20 made by the Agency that they would help to address that issue.

21 The other is the concern that as a border justice office and the
22 respective Region 6 and Region 9 offices are involving the federally

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1 recognized tribes that reside -- that have territories along the border,
2 that there needs to be outreach or some way that the Tribes on the
3 Mexico side are also identified and allowed to participate in this
4 border justice action planning that's going to be taking place.

5 Our Indigenous Environmental Network is going to be having
6 our 11th annual Protecting Mother Earth Conference along this
7 border at Brownsville in June, June 14th through the 17th, and we're
8 going to be looking at these issues.

9 We're seeing that there's a large, large population of people that
10 are being forced to migrate from those areas which are traditional
11 lands of Mexico and Central America -- that are being relocated
12 because of privatization under NAFTA. They're starting to migrate
13 into these border justice towns and into the farm worker areas. So,
14 it's something that's going to be on our radar screen as well, to see
15 how within the border justice planning activities the issues of not only
16 the indigenous peoples but all populations that reside along this
17 border and are being addressed.

18 Also, the need -- as you outreach with the federally recognized
19 tribes, one of the things I heard strongly at the roundtable meeting
20 was the need for EPA to reach out and to include the tribal citizens
21 as the tribal public to participate in your activities with the federally
22 recognized tribal governments, which we strongly support and must

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1 encourage that you continue that government-to-government
2 relationship, but at the same time allow the right for tribal public of
3 those federally recognized tribes to participate. I think that was a
4 strong message at the roundtable.

5 Thank you.

6 MR. HECHT: I'd just like to make two comments. The first, I
7 know Region 9 has been very diligent in listing and identifying every
8 recommendation that was made and trying to follow up. And I'll just
9 remind them, because I don't have an answer, as to whether they
10 have been successful in arranging a meeting with the governor or
11 how they are pursuing that. But that's one of the recommendations.

12 Second, as you know, the definition of tribal is different on both
13 sides of the border, but it is always our commitment as we deal with
14 the Mexican Government to encourage public participation at all
15 levels in our work, and we'll continue to do that.

16 Just finally I think, because I haven't mentioned it, I want
17 everyone to know that as part of our activity this year, we signed an
18 agreement between the federal agencies, the 10 states, the border
19 states of Mexico-U.S., and the tribal representatives, which we call
20 the Ten State Agreement, to make certain that in the coordination
21 and development of a new border plan and in our implementation that
22 all parties have an opportunity to participate and are represented.

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1 In case anyone was not aware of that, I think that was an
2 important building block to the future. That's a bit institutionalized
3 and we'll have to make a little more effort to get down to the local
4 communities on tribal lands and make sure that all people have the
5 opportunity to be represented as we plan the next stage.

6 MR. LEE: Rose Marie, you had the last question.

7 MS. AUGUSTINE: Thank you, Mr. Chair.

8 I don't know if anybody has spoken about this issue before
9 regarding the border, but we have a very serious environmental
10 justice and human rights issue of abuses in the border area of
11 Arizona and that is of vigilante groups forming within the borders of
12 Douglas, where ranchers have put out a call to anyone that has a
13 motor home or is traveling through Arizona on vacation or whatever
14 to come to Arizona to help with the patrolling of the border.

15 I believe there has already been one person that's been shot.
16 That was the week that I came down here. Groups are starting to
17 form in protest against this on both sides of the issue. It is going to
18 turn into an international incident if something isn't done.

19 We're talking about human rights violations where the migrants
20 are rounded up like animals. The call has been put out "it's open
21 season on Mexicans" and it's got to be stopped.

22 The answer is militarization of the borders, which is not the

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1 answer. Somebody has got to stop this. It is an environmental
2 justice issue. It is a human rights violation issue. The people, the
3 migrants that are coming across need to be protected before it does
4 become an international issue. And let me tell you, it's very
5 explosive.

6 MR. HECHT: Well, let me thank you for raising that. It's
7 unfortunately one of the most painful issues right now on the U.S.-
8 Mexico binational agenda.

9 The background is that because INS has been so aggressive in
10 many parts of the border in stopping illegal immigration -- I think if
11 you know, let's say in the El Paso/Juarez area, you can drive along
12 the border there and you're never out of sight of the border patrol.
13 So, illegal immigrants have to find or want to find another way, and
14 by the hundreds they are crossing in very rural areas. Unfortunately,
15 a lot of it is in the Arizona area.

16 The difficulty is they are on rural land and private land. They're
17 "trespassing" on private land and the ranchers in Arizona are
18 exercising what they believe to be their right to protect their lands.

19 To my knowledge, it is a very dangerous situation because it
20 could become violent. It has not yet reached that point. We have --
21 this is beyond EPA's expertise, but -- I mean, EPA's authority -- but
22 just last week at the U.S.-Mexico binational meeting which is cabinet

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1 to cabinet, I happened to be in the room as the EPA representative
2 while Janet Reno and Doris Meisner who is head of the INS, and our
3 Ambassador to Mexico, Mr. David Dale, all raised this issue as one
4 that needed to be addressed. The Foreign Minister of Mexico,
5 Ambassador Green, raised it in public forum.

6 So, all of the authorities are very alert and sensitive to what
7 could be a very serious issue. The problem is they're acting --
8 ranchers in this region are acting in what they believe to be their
9 rights. I think we have to in the Federal Government and through
10 INS and through other agencies, communicate to the state and ask
11 for a better means to address these kinds of problems than to leave it
12 in the hands of people who think they're acting in their own best
13 interest but who have the potential to cause a serious accident which
14 would then have enormous international implications.

15 MS. AUGUSTINE: I don't think anybody realizes the
16 seriousness of the thousands, thousands of people a month that
17 come across the border, risking their lives, how many people die in
18 the desert trying to escape the poverty and the situation in Mexico.
19 Children, men, and women drown in flash floods. Some skeletons
20 are being found in the desert, don't even know who they are.

21 People are trying to escape from the oppression, the hunger,
22 because they are starving to death in Mexico, and the oppression of

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1 the maquiladoras and what is happening there.
2 This needs to be looked at very, very seriously. These people
3 do not want to come across the border. They just want to come and
4 make a little bit of money and go back. They would rather stay in
5 Mexico, but the conditions that exist in Mexico are forcing them to
6 come to the United States. And here in the United States, they're
7 being met with private citizens shooting them in the back or rounding
8 them up like cattle.

9 MR. LEE: Thank you, Rose Marie.
10 Why don't we give a round of applause to Alan.
11 (Applause.)

12 MR. LEE: The next presentation, just like the concerns that the
13 NEJAC has raised around the U.S.-Mexico border, another area that
14 this Council has long focused some attention and concern about is
15 Puerto Rico.

16 There has been, I think, substantial commitment on the part of
17 EPA's Region 2 in many different ways towards this area of concern
18 and we have here the Deputy Regional Administrator, Bill Muszynski,
19 who is going to give us an update regarding the Caribbean Field
20 Office and the new NEJAC Puerto Rico Subcommittee.

21 Bill.

22 CARIBBEAN FIELD OFFICE UPDATE AND

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1 PUERTO RICO SUBCOMMITTEE CREATION
2 PRESENTATION BY MR. WILLIAM MUSZYNSKI

3 MR. MUSZYNSKI: Thank you. Good morning. On behalf of
4 Jean Fox, the Region 2 Administrator, and myself I'd like to thank
5 you for the opportunity to update you on some of our efforts in Puerto
6 Rico to improve and protect the environment and to work together
7 with the citizens and local communities.

8 For those of you who aren't aware, Region 2 includes the
9 Commonwealth of Puerto Rico, the U.S. Virgin Islands, the states of
10 New York and New Jersey, and seven federally recognized tribes.
11 We are a diverse region, diverse in our citizens, our environment and
12 our regional office staffing.

13 First, I am very pleased to officially announce that a new NEJAC
14 subcommittee for Puerto Rico has been approved by Administrator
15 Carol Browner, and I'd like to thank the NEJAC for their support in
16 the establishment of this subcommittee. This is something that the
17 region and the citizens of Puerto Rico have wanted to do and have
18 been working on for a while. In particular, I'd like to thank Rosa Hilda
19 Ramos, Barry Hill, and Charles Lee for their efforts in this regard.

20 Puerto Rico has unique geopolitical, cultural, language,
21 socioeconomic, and environmental concerns that require unique and
22 creative approaches. The island is densely populated with

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1 approximately 3.6 million residents. The residents of Puerto Rico
2 and the local government agencies have had difficulties working
3 together to address the environment and environmental justice
4 issues affecting communities in Puerto Rico.

5 It's Region 2's goal that through this new subcommittee the
6 stakeholders from Puerto Rico will have increased representation
7 and meaningful involvement in the environmental decisionmaking
8 that impacts their communities, their lives, and their health.

9 We believe that the new subcommittee will further enable EPA
10 to incorporate the President's Executive Order into the basic fabric of
11 the region's day-to-day operations. Equally important, it will create
12 the vehicle for a more collaborative effort, bringing together
13 government, industry, academia, and residents in Puerto Rico to
14 identify and resolve environmental concerns and environmental
15 justice issues. It will also serve as well to inform, advise, and seek in
16 some cases the assistance of the NEJAC.

17 The new subcommittee will consist of 12 members with
18 representation that mirrors that of the larger NEJAC membership
19 categories, including academia, grassroots and community-based
20 representatives, government, and industry.

21 I'd like to thank Dr. Carbs Padin, Dean of the Metropolitan
22 University in San Juan, Puerto Rico for agreeing to become the first

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1 chair of this new subcommittee. Thank you.

2 (Applause.)

3 MR. MUSZYNSKI: The other members include Iris Cuadrado
4 Gomez, Special Assistant to the Mayor of Humacao on
5 environmental affairs, Rosa Corrada, the Governor's Advisor on
6 Infrastructure, Natural Resources, and Environmental Quality; Eris
7 Galan, Vice President of COTICAM; Efrain Emmanuelli Rivera,
8 President of the Comité Pro-Rescata del Ambiente de Guayannilla;
9 Rosa Hilda Ramos, President of the United Communities Against
10 Pollution; José Cruz Rivera, President of the Committee Opposed to
11 the Establishment of the Añasco Regional Landfill; Michael Sendry
12 (phonetic), Vice President for the Environmental Affairs for Bacardi
13 Corporation; Rafael Robert, Regional Director for Public Affairs and
14 Government Relations for Merck, Sharp, and Dohme; Jennifer Mayo,
15 Counsel for Puerto Rico's Environmental Quality Board of Directors;
16 and Juan Carlos Gomez, President of the Environmental Committee
17 for Puerto Rico Chamber of Commerce.

18 We also expect to add an additional member bringing the
19 subcommittee membership to 12. Teresita Rodriguez of our Region
20 2's Caribbean Environmental Protection Division in Puerto Rico will
21 be the Designated Federal Official for the subcommittee.

22 The region is very pleased to see the establishment of this new

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1 subcommittee as it fits within the overall plan for an expanded and
2 more effective EPA presence in Puerto Rico.

3 Through Jean Fox's leadership, we have embarked on a
4 continuous expansion of our on-site presence in Puerto Rico and the
5 Virgin Islands. While we have always had an office in Puerto Rico,
6 our principal environmental programs were being delivered out of our
7 offices primarily in New York City and Edison, New Jersey.

8 When Jean became regional administrator, it became clear from
9 her discussions with the citizens in Puerto Rico and the Virgin
10 Islands, as well as the regional staff, that the programs could better
11 be implemented by a staff who are closer to the environmental
12 problems and concerns.

13 When we decided on our plan to reorganize our regional office
14 in 1995, we decided that it was necessary to accelerate the
15 expansion of our on-site presence in the Caribbean, not just in terms
16 of increased staff, but also in terms of increased local program
17 responsibilities.

18 I'm pleased to announce and report on the following
19 developments. We have changed EPA's Caribbean field office to the
20 Caribbean Environmental Protection Division, elevating its status
21 from that of an office to a full division equal to the other program
22 divisions within our region.

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1 (Applause.)

2 MR. MUSZYNSKI: We have in this time in Jean's presence we
3 have more than doubled the staffing in this divisional office from
4 approximately 20 in 1995 to 47. When I first started with the region, I
5 believe there were two people in the Caribbean field office.

6 Our plans are to build the staff to 60 people and we have
7 already, when I was down there last week, indicated to the division
8 that there will be at least four or five more positions this summer that
9 will be put into the division.

10 Most importantly, we've increased the level of program
11 management and the implementation of the responsibilities in this
12 division. They include the more direct oversight of local
13 environmental agencies and delivery of the enforcement programs.
14 We have now I think it's four and a half attorneys present in the
15 office, where we had none before.

16 With respect to the Virgin Islands, we've established a new EPA
17 office in the Virgin Islands which reports to Carl Sutterburg, the
18 Director of our Caribbean Division, and we plan to expand this staff in
19 that office as well.

20 I'd like to also point out a few of the other steps that we've taken
21 to improve how we will work with the communities of Puerto Rico.
22 Jean has been particularly active in meeting with the citizens and

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1 community groups during her trips to Puerto Rico and the Virgin
2 Islands to listen to their concerns and to try to address their issues.

3 We have also developed a Region 2 translation policy. This
4 policy has resulted in a greater number of documents that EPA
5 produces being translated into Spanish, such as draft policies and
6 Superfund documents issued for public comment.

7 EPA sponsored public meetings in Puerto Rico are now
8 translated simultaneously to allow all members of the public the
9 opportunity to fully participate. Ultimately, our goal is to achieve
10 greater environmental protection and increased opportunities for
11 community involvement through these changes.

12 Again, on behalf of Jean Fox and myself, I would like to close by
13 saying that we are looking forward to continue working with the
14 NEJAC and now with the members of the new subcommittee. I know
15 this is a positive step forward in the work that we are all doing
16 together to protect the environment and public health in Puerto Rico.

17 (Applause.)

18 MS. LEE: We really wanted the NEJAC to hear this report, not
19 just the establishment of the subcommittee, but this establishment of
20 the subcommittee represents a long-term substantial commitment on
21 the part of Region 2 to issues in Puerto Rico and we too want to
22 welcome Carlos Padin as a new member of the NEJAC and we look

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1 forward to working and supporting that subcommittee's efforts.

2 I know that Rosa Hilda wanted to say something.

3 MS. RAMOS: I would like him to go first.

4 MR. LEE: Carlos.

5 DR. PADIN: Thank you very much to Region 2 for all the efforts
6 they are doing in Puerto Rico. We are looking forward to work
7 closely with the NEJAC and also with EPA to stimulate public
8 participation in Puerto Rico and to look for to solve some of the
9 problems that our communities have with local agencies and the
10 federal agencies.

11 I know that this is going to be a very important program in
12 Puerto Rico and we hope that this will open the channels of
13 communication between government, private sector, academia, and
14 all the sectors in the communities to solve the problems of
15 environmental issues in Puerto Rico.

16 Thank you very much for the opportunity that you give me to
17 chair this subcommittee in Puerto Rico.

18 MS. RAMOS: This is a very special occasion for me and I really
19 want to thank, first of all, to God, who has made this a reality to have
20 an extension of NEJAC in our community. I really want to thank
21 Region 2, especially Jean Fox who has been a champion on
22 environmental justice in Puerto Rico. I want to thank Mr. William

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1 Muszynski who has always, always shown great respect for our
2 community. He worked under direction of Mr. William Riley in
3 creating the Cataño initiative and we really appreciate that.

4 We also want to thank the Caribbean field office people who
5 have worked with us and with all the people in Region 2 who have
6 increased the presence of EPA in Puerto Rico, tightening the
7 relationship between communities and Region 2.

8 We want to thank Melva Hayden who has worked on this too,
9 and we want to thank all of the NEJAC members who have
10 supported us in this long-standing struggle to have a presence, a real
11 presence in Puerto Rico. Thank you so much.

12 (Applause.)

13 MR. LEE: On that note, I guess there's not much anybody else
14 can say. Bill, did you want to --

15 MR. MUSZYNSKI: No, I think we had an excellent working
16 relationship. I remember when I first met Rosa Hilda when she met
17 Bill Riley and asked him to bring some help into Cataño and then Bill
18 Riley talked to the regional administrator who then talked to me and I
19 enjoyed the presence in her home and meeting with the individual
20 community members.

21 I think we've done some good work in particular the power case
22 in Puerto Rico where I think we did some groundbreaking with the

1 communities by bringing them together to talk to us as we were
2 negotiating a settlement that was approximately \$6-1/2 million in civil
3 penalties, but also more importantly, \$4-1/2 million in supplemental
4 environmental projects.

5 The community has worked with us to develop some of their
6 needs. After all, it is the communities that get the offense of polluters
7 and so to get some benefit. We're working to get an air expert with
8 them and to try to protect a larger piece of the wetlands area in
9 Cataño. I think that was good work.

10 We've always had some areas that we will have rough edges
11 and we will continue to work together to work them out. I think there
12 is a lot of important work to do down there.

13 We certainly see the formulation of the subcommittee bringing
14 the other entities -- and I remember when Barry first met with us in
15 New York, he said you know, you need to bring these other people to
16 the table because they have so much to offer. We have worked with
17 the pharmaceutical industry, for instance, to assist communities that
18 don't have access to the Praso (phonetic) water to train and educate
19 people who are working on smaller very -- calling them community
20 water supplies is only an EPA regulatory definition of one. In some
21 cases, there are not even 20 people that are hooked up. So, we
22 worked with the pharmaceutical industry to bring some assistance.

1 I hope that by having this type of council that we can get other
2 industries in Puerto Rico to step up to the table and provide much
3 needed assistance to us in addressing some of the problems down
4 there. So this is really an exciting opportunity for all of us, I think.

5 MR. LEE: Great. Thank you, Bill. I guess can we just give Bill
6 a round of applause.

7 (Applause.)

8 MR. LEE: Like I said, I was surprised that Vernice wasn't going
9 to say anything but I do want to say that those of us who have
10 worked with Region 2 over the years know how long this issue has
11 been on the table and how important this set of developments is.

12 Like Bill said, at one point the Caribbean field office was just two
13 persons and in terms of what has happened and this is -- I think we
14 really wanted to show the relationship between the kind of issues that
15 are brought up by the community and by this Council and how that's
16 translated into things that can make long-term systemic kind of
17 changes and progress.

18 So, Bill, thank you so much.

19 The next item on the agenda is a report. Recently, President
20 Clinton signed an Executive Order on Asian Americans and Pacific
21 Islanders. In your agenda, David O'Connor, who is the Deputy
22 Assistant Administrator for the EPA's Office of Administration and

1 Resources Management was supposed to be here. He too has been
2 unable to come because of the -- his airplane flights were cancelled.

3 So, in his place, Marla Hendricson, who is the member of the
4 White House initiative on -- the EPA Coordinating Committee and a
5 member of the White House initiative on Asian Americans and Pacific
6 Islanders, will give a short report

7 I think one of the reasons we wanted to highlight this is because
8 this Council needs to look at issues of all people and one area that
9 we've yet to truly focus on in a systematic way are issues of Asian
10 Americans and Pacific Islanders.

11 So, I want to turn it over to Marla Hendricson. Thank you.

12 ASIAN AMERICAN AND PACIFIC ISLANDER
13 EXECUTIVE ORDER 13125

14 PRESENTATION BY MS. MARLA HENDRICSON

15 MS. HENDRICSON: Good morning, everyone. First, I'd like to
16 extend the apologies of Mr. Dave O'Connor. He couldn't be here
17 today, as Charles mentioned. He was actually subbing for the EPA's
18 interagency work group member, Romulo Diaz, who is the federal
19 official representing EPA for this White House initiative. I sit on the
20 Coordinating Committee, which is the working arm of that initiative.

21 I wanted to thank everyone, and especially NEJAC and Mr.
22 Charles Lee, for giving us this opportunity to speak about this very

1 special initiative. Maybe one of the benefits of being the last speaker
2 before lunch -- or at least I assume I am the last speaker -- is
3 perhaps that this will have fresh memories in your minds, especially
4 for the commissioners, before you roll up your sleeves and you know,
5 get right down to business this afternoon.

6 So I wanted to etch one last topic in your mind about an
7 emerging population that is slowly but surely gaining political, and
8 economic, and community consciousness.

9 First, I'd like to start by telling you a little about a recent
10 experience we had when we spoke to a community in Seattle, an
11 Asian-Pacific Islander community in Seattle, two weeks ago. We
12 spoke to a person from the Refugee Service Center-- he was one of
13 the attendees -- and he recounted his experience leaving Southeast
14 Asia about 20 years ago. He said he was so relieved to leave the
15 turmoil of his country because of the Vietnam War and he saw, as he
16 was flying on the plane, he saw the land getting smaller and smaller
17 and he got more and more relieved.

18 His final destination was Seattle, but before he got there, he had
19 to make a stop in Hawaii. That was his port of entry. As he passed
20 through immigration, the officer stamped SEA on his passport. When
21 he saw this, he panicked and ran to the bathroom and he hid there
22 for an hour. He had mixed emotions. He didn't know how to feel.

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1 He was angry about the U.S. He was confused. He did not want to
2 go back to the sea and he was really confused why the U.S. was
3 sending him back.

4 Finally, he got the nerve to go back to the officer, who then
5 explained to him that SEA is the airport code for Seattle. So he
6 wasn't going back to the sea.

7 But this man's experience is one of many thousands of
8 experiences by Southeast Asians, the Vietnamese, the Mong,
9 Laotians, Cambodians, Thais, who are now here involuntarily as
10 refugees. In fact, the State Department and the Department of
11 Justice consider about 40,000 -- they estimate 40,000 people
12 considered unremovable.

13 There are now large populations of Southeast Asians around
14 the country. They are spread out around the country because of the
15 U.S.'s refugee relocation program. There is a very large population
16 in Minneapolis, St. Paul -- there are over 100,000 if them, enough for
17 Governor Jesse Ventura to establish a Commission on Asian Pacific
18 Islander representing about 40 ethnicities and sub-populations. The
19 city of Lowell, Massachusetts is over one-third Cambodian. That's
20 about 40,000.

21 In January 2000, Los Angeles established the first ever official
22 Thai Town in the U.S. because 75 percent of all local businesses in

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1 that community are Thai-owned. Poverty rates of Asian Pacific
2 Islanders are higher than the national average. Southeast Asians
3 and Pacific Islanders have high dropout rates.

4 The Census 2000 is the first time the government has actually
5 collected nationwide Asian-American and Pacific Islander data. It's
6 actually printed now in 14 languages. The previous census listed
7 AAPIs in the "other" category so this contributed to a large void in
8 data gathering throughout the Federal Government.

9 We have quite a few challenges, some of which are the fact that
10 75 percent, is what they're estimating, 75 percent of all Asians and
11 Pacific Islanders in this country right now are foreign born, including
12 myself. Fifty percent do not speak English well.

13 Currently, the census estimates that there are 6.1 percent
14 AAPIs in this country. It's quite small compared to the other minority
15 populations. There are about 12 million, but they say that the Asian
16 Pacific Islander population is now the fastest growing minority group.
17 It won't eclipse the other groups, but it is now the fastest.

18 One in four persons in San Francisco are Asian or Pacific
19 Islanders. Seattle is already 12 percent. New York and New Jersey
20 is between 9 and 12 percent. And they say that by the year 2050,
21 about 1 in 10 in the entire country will be of Asian and Pacific
22 Islander descent.

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1 We are finding that the lack of involvement of Asians and Pacific
2 Islanders is not because they are not adversely affected by
3 environmental and health issues among other things, but because
4 they lack awareness of environmental health issues and they lack a
5 political voice.

6 Some of the problems we're facing right now are just a lack of
7 community and public participation and advocacy. A lack of
8 awareness of environmental health issues, we sort of glimpsed some
9 of them in the past two or three days, including fish consumption and
10 some worker health issues. They mentioned an issue about
11 Chinatown which is an environmental justice issue.

12 There is a challenge because of the limited English proficiency
13 of a large group of people. There is an issue of just the fact that
14 there are multiple cultures and multiple languages. It's a very big
15 challenge for public service and outreach throughout the Federal
16 Government and just the fact that there's no data. The Federal
17 Government, among other places, just has not been collecting any
18 data.

19 Now, in your packets you should have received some
20 information on the White House initiative and that included some
21 background information, a list of our current activities, EPA's current
22 activities in support of the executive order, a fact sheet of the known

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1 issues, a snapshot of the current activities relating to AAPIs and
2 some language and demographic information.

3 What I hope to do now is at least give everyone a brief synopsis
4 of what's going on and why this is so significant, why this executive
5 order is so significant.

6 First, I'd like to say that this White House initiative was born out
7 of Executive Order 13125 which is here to improve the quality of life
8 of Asians and Pacific Islanders in this country through increased
9 participation in federal programs. It is the most significant and
10 comprehensive executive order on this minority group.

11 It's significant especially because the last and only other
12 executive order on Asians and Pacific Islanders was the internment
13 of the Japanese during World War II. So it's a long time coming, but
14 it's definitely a very important and very special initiative for the Asian
15 Pacific Islander community.

16 It's comprehensive because it involves the whole gamut of
17 federal services from social services, health, transportation, civil
18 rights, commerce, even environment. It's headed by the Department
19 of Human Health.

20 One of the other concerns is that because of the lack of data,
21 we're starting from, in most cases, from zero. So, zero is a good
22 place to start. Even if you don't have data, at least you know that

1 you -- you recognize that you need to start getting this information.

2 The goals of the executive order are to increase participation in
3 federal programs where the AAPI community is underserved, to
4 collect and maintain statistical data on AAPI populations and sub-
5 populations, to increase public sector, private sector, and community
6 involvement in the health and well-being of the Asians and Pacific
7 Islanders and to foster research and data collection on the health of
8 the entire community.

9 How the initiative works is that it established not only an office
10 to deal with the initiative, but it established two distinct bodies, a
11 private and a public sector. The public sector is really the heads of
12 the federal agencies coming together in an interagency working
13 group. It's the deputy secretaries of each federal agency.

14 The other distinct body is the Presidential Advisory Commission
15 which is composed of 15 Asian and Pacific Islander leaders from
16 businesses and community groups. They're supposed to be
17 representing the communities and for those community members
18 here right now who have Asian Pacific Islander issues, it's important
19 for you to approach your commission members and tell them what
20 your issues are because they can also come to us with specific
21 issues that we need to address.

22 We have certain challenges, including the timeframe. We have

1 two deliverables going on right now. One is a federal inventory of all
2 the Asian and Pacific Islander activities within EPA and the other
3 thing is, based on that, to come up with a fiscal year 2001
4 implementation plan on the kinds of things that the agency would like
5 to do in the future to address the needs of this particular population.

6 Those two things will be compiled with all the other federal
7 agencies deliverables to come up with a state of Asian-
8 American/Pacific Islander America. This report will be sent to
9 President Clinton later this year.

10 The other challenge is the question of long-term support. There
11 is right now building congressional support for this initiative, even if
12 it's a White House initiative, because Congress sees the need,
13 especially the Asian Pacific Islander members, see the need for this
14 initiative to come to fruition, or to even start from each federal
15 agency.

16 Within EPA we are building support by creating an infrastructure
17 in grants and contracts and other activities built into EPA programs to
18 increase awareness and a sensitivity to the needs of this community.

19 The regions are also very, very supportive. We are doing five
20 town hall meetings, or community meetings, as part of this initiative.
21 Instead of just coming up to them after you create an implementation
22 plan and saying, "Here, what do you think about this?" we would like

1 to get them involved from the get-go, which means we are going to
2 five cities. We just finished Seattle. We are currently headed for
3 Chicago, Houston, San Francisco/Oakland, and New York.

4 I would like to invite everyone to participate in that if you can.

5 We are hoping to get some input from the community to help us
6 build a more robust implementation plan rather than just, you know,
7 canvass everything we have within the agency and then, as an
8 afterthought, go out to the community and just get comments later.
9 We feel that it's very important to get their comments now, to start
10 the dialogue now.

11 Some of the suggestions that EPA can do, and NEJAC can do
12 as well, are, just for example, an overall increased attention to AAPI
13 issues. We heard just a sputtering of this in the last three days. I
14 can pretty much count the Asians or Pacific Islanders -- I don't think
15 there are any Pacific Islanders here at all -- but I can count the
16 number of Asians I saw throughout the whole session with one hand.

17 So I think there needs to be more attention to AAPI issues and
18 more representation, more cooperation between communities,
19 academia and government to conduct research on environmental and
20 health issues.

21 There is a good example of the fish consumption study in
22 Seattle that focused on a variety of fish caught, prepared and

1 consumed by ten Asian and Pacific Islander ethnicities in local
2 waters. That was just a start, but it's a good start. We can actually
3 see -- there's tangible studies out there that some communities have
4 concerns about environment and health.

5 Similarly, we need to conduct a needs assessment of the
6 environmental and health impacts of Asians and Pacific Islanders.
7 There's a lot of data that still needs to be gathered to even see
8 exactly where we're going with this.

9 We need to understand also the underlying socioeconomic and
10 cultural dynamics of this population a little bit better.

11 There needs to be more representation and advisory bodies,
12 peer reviews, and other stakeholder participation. I heard from one
13 of the sessions that there's an interest in compiling some Asian
14 Pacific organizations, and I agree with that; it would be great to
15 compile a network of Asian Pacific Islander professional associations
16 and organizations from which to draw participation.

17 So it's not just involvement in a committee, but just overall
18 participation by the community, just getting input from the community.

19 It's also good to get more outreach -- to do more outreach in
20 Asian Pacific Islander communities. Right now within EPA there are
21 very few translations done to reach out to these communities. I know
22 of one in dry cleaning because about 40 percent of all dry cleaners

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1 are Korean. And there's some translations for indoor air, radon,
2 asthma. I think there's some in facilities siting, but not very much.

3 And, you know, just more financial assistance for community
4 groups and academic collaborations to look at Asian Pacific Islander
5 issues.

6 Again, I'd like to also invite NEJAC to participate in the
7 community meetings happening in the next month. Those are in the
8 four cities I mentioned. We are hoping to go to low income Asian
9 Pacific Islander areas.

10 Most of the time people think of Asians as a model minority, you
11 know, with graduates from Harvard and MIT, but a startling number
12 of Asians and Pacific Islanders are not that way. They are the low
13 income migrant workers, low skilled workers, who end up in garment
14 factories, meat packing facilities, and other areas, and there might be
15 health concerns, worker health issues with that

16 We would also appreciate any other recommendations that
17 NEJAC can think of.

18 MR. LEE: Thank you, Marla. This is an area that we all need to
19 better educate ourselves around. We thank you for that presentation.

20 We are now at about 11:40. I know some of you wanted to
21 make a comment or a question. Why don't we go ahead and do that,
22 and then we can prepare to break for lunch.

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1 MR. YANG: Thanks, Charles. As you can tell, I was really
2 burning to make some comments here.

3 Ms. Hendricson, I really appreciate your actually coming here
4 and focusing some attention on AAPI issues.

5 In many respects, you know, I'd urge you and also, really, EPA
6 to continue to do outreach to a lot of the community organizations,
7 because, as I think you pointed out, it's really a community that's
8 been underserved.

9 I think there have been some really important reasons why that
10 has been the case. In part because of the very fractured
11 communities that exist within the AAPI context. I mean, a think a lot
12 of the community organizations that we've seen come here have at
13 least been able to take the step of community organizing. Well, that
14 hasn't even been accomplished in the AAPI community in many
15 respects, you know, for reasons that a large portion of AAPIs are
16 illegal immigrants, they're refugees, as contrasted with some AAPIs
17 that have been here for many, many generations.

18 And also just tremendously varying levels of socioeconomic
19 status, as well as a diversity of ethnic groups within the AAPI
20 communities, ranging from Southeast Asian Cambodians,
21 Vietnamese, to South-asian Indians, Pakistani, and, of course, the
22 East Asian Chinese, Japanese and Koreans.

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1 Just as an example -- I will make this as quick as I can -- but I
2 did want to point out and reemphasize some of the things that you
3 made, Ms. Hendricson, and that is that there are I think a number of
4 key issues that really ought to be considered both by EPA as well as
5 by the Commission in the implementation of the EO.

6 That is that language barriers really are a key issue to greater
7 involvement and delivery of services to AAPI communities in part
8 because of this tremendous diversity of AAPI communities both in
9 terms of the awareness of benefits, of government services, and
10 plainly just within the context of EPA, the warnings and simply
11 awareness of what the dangers of some of these toxic and
12 hazardous chemicals are. If you can't read the warning labels, you
13 won't be able to take precautions to protect yourself against these
14 hazards.

15 Another important issue I think -- and it will be taken up by the
16 NEJAC in a couple of sessions is the issue of toxic fish consumption.
17 Again, I'm glad to see that we will be raising these issues, but
18 certainly a lot of the immigrant communities, refugee communities,
19 and low income communities do rely very substantially on substance
20 fishing to supplement their diet.

21 One final important issue, I think, that is worth thinking about
22 more carefully within the NEJAC and also the EPA context, is that of

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1 occupational health issues.

2 I'm a member of the International Subcommittee and yesterday
3 we had a wonderful discussion about pesticides and farm worker
4 safety. Unfortunately, it's only one of the few key areas where there
5 is a direct link between the dangers that workers are exposed to
6 because of environment dangers and the mandates and obligations
7 of EPA in terms of protecting workers.

8 But there are a number of other areas such as that, including I
9 think what one community organizer raised a couple of nights ago in
10 the public comment session. That is, of minority workers being
11 targeted in regard to job duties, handling toxic and hazardous
12 chemicals.

13 It's amazing to me to see these kinds of issues arise over and
14 over again in large part because many minority workers either are not
15 aware or because of these language barriers cannot understand what
16 kinds of dangers exist with regard to these chemicals and waste.

17 With regard to the AAPI community it's an especially great
18 problem in the high-tech computer industry in Silicon Valley where
19 many Southeast Asians are employed in these factories handling
20 dangerous chemicals and not being aware of what the dangers are,
21 as well as the home manufacture of circuit boards and handling
22 hazardous chemicals on a routine basis in a family setting where

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1 children are close by, eating facilities, all those kinds of issues, as
2 well as traditional -- well, other environment issues such as indoor air
3 pollution when you talk about our garment workers.

4 But I think that this is a really important opportunity not only to
5 focus on Asian Pacific American exposure to risk in the work place,
6 but also to draw some closer connections to occupational safety
7 issues, health issues, that run across some other minority groups as
8 well, as we've seen with the issues that one of the community
9 organizers raised.

10 So I really applaud you coming here, as well as the
11 Commission, and focusing on these issues. But I think the important
12 task that remains ahead is to think about how to connect for this, for
13 the task of this body, to the duties and sort of the jurisdiction and
14 what are the programs of EPA for these types of health issues, and
15 to extend these issues to the work of other minority groups as well.

16 Thank you.

17 MR. LEE: Thank you. You know, it is our hope that with this
18 presentation that we can become -- we can integrate concerns of
19 Asian Pacific Islanders into the issues that the NEJAC deals with,
20 and we see many opportunities for doing that.

21 When we look to other issues, as we are looking at focused
22 issue discussions, particularly, say, around fish consumption, this is

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1 an area we want to really focus around. So, you know, there's some
2 really important opportunities and important intersections.

3 We thank you for coming here.

4 I want to do a time check. It's 11:45. I think we do really need
5 to move on because we have a lot of issues to process for this
6 afternoon.

7 Haywood made the suggestion that we work through lunch, if
8 that's okay with everyone, meaning that we will ask the members to
9 go and get their lunches and come right back, and then we can
10 resume work. Say, take about 15 minutes to do that.

11 Now, before we do that, I want to end this session by asking
12 Barry to inform you about what we think is a pretty important
13 development from the Office of Environmental Justice in terms of a
14 new program that we've developed over the last -- I guess six months
15 -- around internships.

16 Barry.

17 MS. MILLER-TRAVIS: Charles, before you do that, could you
18 just -- before Marla goes, could you just talk to us about what the
19 ongoing relationship is going to be between the NEJAC and the
20 White House Initiative on Asian Americans and Pacific Islanders?
21 Because we've just had a presentation but we don't have any
22 mechanism for ongoing collaboration.

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1 MR. LEE: I don't know if we can fully answer that question yet.
2 We're still trying to figure out how to best do the coordination.

3 This is an issue -- this is something that's come to us recently.
4 We're trying to figure out, on the first instance in terms of just on the
5 staff level -- Marla is going to come and do a presentation -- we're
6 trying to arrange a number of briefings with the Environmental Justice
7 Office and the Environmental Justice Regional Coordinators around
8 this particular initiative.

9 There are a number of immediate tasks in terms of inventory
10 that we need to figure out how to best input into. That has real time
11 limitations.

12 And then there's also these town hall meetings that are being
13 planned and being implemented.

14 So those are some of the initial ways that I think there's some
15 real intersections. Probably a discussion within the Protocol
16 Committee will be good to follow-up on this so that we can look at
17 overall the work of the different subcommittees.

18 Marla, do you want to say something?

19 MS. HENDRICSON: Yes, just briefly. Thank you very much for
20 prompting that.

21 Yes, I can see two or three things going on. First is commenting
22 on the inventory and implementation plan once we get that off the

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1 ground in mid-July. The other thing is maybe collaborating on that
2 Asian-American Pacific Islander kind of directory of professional
3 associations which you can use and we can use. And participating in
4 the community meetings that are happening around the country in
5 the next month, and everyone is invited to those.

6 MS. MILLER-TRAVIS: Thank you.

7 MR. HILL: Well, let me just talk about this program.

8 As I travel around the country with Charles and Bob Knox and
9 others, we have had meetings with countless community groups.
10 One of the things that they talk is the lack of resources to try to do
11 this work, to try to share this information with other members of the
12 community.

13 We just tried to think of ways in which we could be of
14 assistance. We have the Small Grants Program, of course. But is
15 there anything else that we could possibly do?

16 So what we came up with is an Office of Environmental Justice
17 Community Intern Program. This is a way that the Office of
18 Environmental Justice will pay for students to work with community
19 groups and to be of any assistance that they can in trying to address
20 the vital environmental problems, environmental justice problems,
21 that the communities face.

22 I just wanted to name the 15 organizations, grassroots

1 organizations, that received these awards for this summer. We hope
2 to continue this program perhaps, you know, all year around, but we
3 have to see how it works and how we can be effective because it
4 also has to be a learning experience for the students.

5 The awardees for the summer of 2000 are:

6 ONE/CHANE out of Hartford, Connecticut;

7 Comite Timon de Calidad Ambiental in Manati, Puerto Rico;

8 Jesus People Against Pollution, Columbus, (sic) Mississippi;

9 Southern Organizing Committee for Economic and Social
10 Justice in Atlanta, Georgia;

11 Harambee House/Citizens for Environmental Justice in
12 Savannah, Georgia;

13 Indigenous Environmental Network in Bemidji, Minnesota;

14 People Organized in Defense of Earth and her Resources,
15 Austin, Texas;

16 Citizens Against Contamination, Mossville, Louisiana;

17 Front Range Earth Force, Denver, Colorado and Colorado's

18 People's Environmental and Economic Network in Denver, Colorado;

19 Environmental Defense in Boulder, Colorado;

20 Native Action, Northern Cheyenne Indian Reservation in Lame
21 Deer, Montana;

22 International Institute for Indigenous Resource Management,

1 Denver, Colorado;

2 Red Rock Foundation, Carefree, Arizona; and finally,

3 RESources for Sustainable Communities in Bellingham,
4 Washington.

5 Again, we hope that this program can continue and we want to
6 receive applications from as many community groups as possible.

7 And if the NEJAC members can make others aware of this particular
8 program, it would be extremely helpful because, remember, it's the
9 communities that benefit from this kind of effort.

10 Thank you.

11 MR. LEE: I guess we should give a round of applause to all the
12 recipients, right?

13 (Applause.)

14 MR. LEE: The person that really runs the NEJAC, Marva King,
15 actually told us that there are certain things that we have to consider
16 during our lunch break, and so she wants to really talk.

17 MS. KING: Those of you who are leaving today, later today,
18 you have to check out of the hotel by 12:00 noon. So before you get
19 your lunch, I need you to go back to your room, pack up, and check
20 out. Okay?

21 You can bring your bags in here, if you want. Or the coat check
22 people at the hotel will keep them for you. All right? Could you do

1 that before you get your lunch?

2 MR. LEE: Now, that may mean a change in terms of the
3 amount of time we're allocating for, you know, going and getting
4 lunch. So maybe we can make it a half an hour.

5 MR. TURRENTINE: Yes, to check out, get lunch and bring it
6 back.

7 MR. LEE: Okay. So we should reconvene at 12:20. Thank
8 you, everyone.

AFTERNOON SESSION

MR. TURRENTINE: I note that we do have a quorum so the session is now back in session.

I'm going to deviate somewhat from the agenda. It's been brought to my attention that some members of the Council might have to leave early, and so we're going to put the business part of the meeting up front and take care of those items requiring action by the Council. After we've done that, we can go back to the discussions and the report-out of the various subcommittee.

So what I'm going to ask you to do is, rather than give your subcommittee report-out at this time, that we will simply focus on the resolutions that require action by the Council while we still have a quorum.

BUSINESS REQUIRING EXECUTIVE COUNCIL ACTION

MR. TURRENTINE: If you will refer to your booklet, you will note that there are a number of resolutions in your packet. So the Chair would entertain discussions and motions on the resolutions as they appear in the booklet. We're now open for discussion. If those individuals putting that resolution forward would care to make that motion or provide that discussion, we will now do so.

Arnoldo.

MR. GARCIA: Thank you, Mr. Chairman. In our subcommittee

we haven't handed out -- we were going to do it verbally -- you know, our subcommittee approved to form two work groups and we wanted to bring that before the Council for approval.

The first group -- and I'd like to ask Fernando to help me describe it. I'll just introduce it and Fernando can describe it further.

The first, we're asking for the Council's approval to form a work group on farm worker issues. In this group we would include Latinos and non-Latinos and we wanted to invite our brothers and sisters from the various communities that some of them have come forward, like from Richton, Mississippi and so forth, to look at an inclusive way at the farm worker issues and pesticides and health, and so forth, leading up to the development of a roundtable on farm worker issues. That's the first request.

In our report-out, when we get to that, we will have more details. But we were going to do it as part of our report-out. I wanted to put this on the table.

The second one is a work group on the border environmental justice issues that would work on the discussions and formulating where the regions and the OIA -- the issues that were raised at the border roundtable in particular.

So those are our two requests before the Council, to form those two work groups.

MR. LEE: I'm sorry. The specific request is regarding two work groups --

MR. GARCIA: Yes.

MR. LEE: -- that are going to be established under the International Subcommittee?

MR. GARCIA: Right.

MR. LEE: But one is pertaining to -- pertaining to what issues now?

MR. CUEVAS: One of them would be on behalf of a work group on farm worker issues --

MR. LEE: Right.

MR. CUEVAS: -- farm worker problems. I can go into more detail but basically it would be better if I go in it in the report-out.

MR. LEE: Sure.

MR. CUEVAS: We thought we'd do the report first and then our recommendations, but it's working backwards right now.

MR. LEE: Right.

MR. CUEVAS: But if you want me to, I can describe the whole reason and everything.

MR. LEE: No, no, no. I just wanted to --

MR. CUEVAS: But it's a very vital work group that's needed. I think it will also be very helpful with what Rosa was trying to

introduce earlier -- or did introduce, and she did an excellent job of it -- of all the workers that are also getting harassed, killed and brutally attacked as they're crossing over the border.

I mean, we're talking about human beings, period. They're human beings that are crossing the border, they are human beings that are working out in the fields and getting attacked and brutally abused.

MR. LEE: And the second one was what?

MR. TURRENTINE: And the second one?

MR. GARCIA: The second one is to -- basically it's to form a work group that would include members of the NEJAC and the public and community groups to do the follow-up work on the Border Environmental Justice Roundtable.

MR. LEE: Okay. I mean, the process would be if the Council thinks that those -- would agree to them, then you can establish them.

MR. GARCIA: Right.

MR. LEE: The question that I would have for you is that, of course, you've got to make sure that you have -- in terms of the capacity of your sponsoring office and the subcommittee to really -- you know --

MR. GARCIA: Right.

1 MR. LEE: -- to carry through on them. You know, I mean, that's
2 a determination that we will leave for you to make. So --

3 MR. GARCIA: We would give much more detailed in our-- not
4 just in the report-out, but in the documentation that will be provided in
5 terms of the criteria --

6 MR. LEE: Right.

7 MR. GARCIA: -- you know, the resumes of the individuals, and
8 so forth. It would strictly comply with the criteria and make that -- not
9 just make it available, make sure the Council would receive it in due
10 time, in the appropriate time.

11 MR. LEE: Okay. So let's just put it up for a vote.

12 MR. GARCIA: Okay, thank you.

13 MR. TURRENTINE: Will you make that motion.

14 MR. GARCIA: Yes. I'd like to move that the NEJAC approve
15 two work groups, one on farm worker issues and one work group on
16 Border Environmental Justice Roundtable follow-up issues.

17 MR. CUEVAS: And I, Fernando Cuevas, would second that.

18 MR. TURRENTINE: Okay. It has been moved and properly
19 seconded that the Council recommend the formation of two work
20 groups. Are there any further discussions on the motion that's on the
21 floor?

22 (No audible response.)

1 MR. TURRENTINE: Hearing none, are you ready for the vote?
2 (No audible response.)

3 MR. TURRENTINE: All in favor, let it be known by the usual
4 sign.

5 (Chorus of ayes.)

6 MR. TURRENTINE: Those opposed?

7 (No audible response.)

8 MR. TURRENTINE: Seeing none, the ayes have it, and so
9 ordered.

10 MR. GARCIA: Thank you.

11 MR. LEE: I mean, on the farm worker issue, I think we would be
12 very supportive of the idea. You know, we raised the issue, too, for
13 the International Subcommittee to follow up -- as a particular area of
14 follow-up.

15 I had discussed with Alan Hecht earlier in terms of other areas
16 of support in the EPA, other offices that may also give support. So
17 we're going to explore that too. Okay?

18 MR. GARCIA: Okay. Thank you.

19 MR. TURRENTINE: Are there other resolutions for which we
20 need to have discussion and take action? Annabelle and then Tom.

21 MS. JARAMILLO: Mr. Chair, the Air and Water Subcommittee
22 has a resolution we'd like to put on the floor. It has been distributed

1 to everybody. It's one that came out of committee yesterday.

2 Basically what it does -- it's in response to an immediate need --
3 the NEJAC, as a major stakeholder, needs to influence this piece. If
4 we need some explanations, I'd like to have Damon give that
5 explanation -- that's a proposed resolution on mercury emissions.

6 MR. WHITEHEAD: The proposed motion is a motion to approve
7 the recommendation that the NEJAC support a recommendation to
8 the Administrator to recommend that the determination to regulate
9 mercury from coal-fired electric power plants -- this determination is
10 needed by the Administrator pursuant to the 1990 Clean Air Act
11 amendments.

12 We had a presentation yesterday by EPA as well as several
13 community groups due to lobbying -- and I'll say it straight out -- due
14 to lobbying when the amendments were formulated -- coal-fired
15 electric power plants were -- special provisions were provided that
16 the Administrator could not regulate them until they did a study which
17 is being completed by the National Academy of sciences, as well
18 after that to make an official determination prior to formulate any
19 regulation.

20 Right now coal-fired electric generating plants are a larger
21 source of mercury emissions in the environment and it's largely
22 unregulated, and the mercury from these plants primarily affect

1 people of color and indigenous populations due to the fact that most
2 of the mercury that comes out of these power plants ends up falling
3 out into our nation's rivers and streams where fish -- they
4 contaminate fish, and the populations that eat a disproportionate
5 amount of fish are indigenous people and people of color.

6 Right now the coal-powered electric generating plants are
7 lobbying the administration hard on this issue and I think it's
8 necessary for the NEJAC to take an immediate action that the
9 Administrator must make a determination by December of this year,
10 as we've also heard from Tom Goldtooth that the report is going to be
11 out within two months and it's way overdue -- and this report is also
12 very important.

13 There is also a recommendation in here that the National
14 Academy of Sciences include an impact analysis of mercury's impact
15 on people of color and indigenous population.

16 Therefore, I urge the full NEJAC to approve this forthwith.
17 Thank you.

18 MR. TURRENTINE: Pat.

19 MS. WOOD: My understanding is that that report is scheduled
20 to be out in the next two months.

21 MR. WHITEHEAD: That is correct.

22 MS. WOOD: And I will say that I have some reservation about

1 this resolution in that we in essence are asking the agency to take
2 action before that report is out.

3 MR. WHITEHEAD: We raised that yesterday and I believe this
4 is more of a support issue and the EPA representatives assured us
5 that this would not hold up that report from being issued. Like I said,
6 due to statutory mandates, that report has to be issued within a
7 couple of months and the Administrator has to make a determination.
8 Therefore, this resolution, while as far as the National Academy of
9 Sciences may be more symbolic than not, will not hold up the report.

10 MS. WOOD: I think it's partly because there are those statutory
11 requirements that I have some concern with the way this is written. It
12 seems to me, especially since I have very strong feelings about the
13 need for the agency to have the correct data on whatever the subject
14 is before it moves forward, and especially since there's a statutory
15 requirement that they have to go ahead and do this report, and the
16 fact that the Academy report is due out in two months, I'd like to
17 suggest that perhaps the Council might consider something in the
18 way of a friendly amendment to modify the first bullet under
19 "resolved"; that instead of making a positive determination without
20 regard to the -- that there be some reference to it that after
21 completion and review of the National Academy of Sciences report
22 the Administrator make a determination.

1 It seems to me in essence using the words "positive
2 determination" we disregard whatever results might come out. I think
3 we all expect -- we think we know what we're going to see, but I
4 would suggest that it's not appropriate for the Council to
5 predetermine what the National Academy of Sciences is going to
6 recommend.

7 MR. WHITEHEAD: Without consulting with Council members,
8 at this present moment I would have an objection to that from the
9 amendment only from the standpoint that there is enough information
10 regarding mercury and its detriment to the environment as well as the
11 need for the regulation of coal-fired electric plants and due to the
12 already significant delay that the coal-fired electric plants have
13 already enjoyed due to their lobbying on the 1990 amendments.

14 I understand what you're saying but I think there's enough -- this
15 doesn't say what type of regulation would the Administrator take, it
16 would only say that there would be a possible determination that
17 regulation is needed.

18 Therefore, unless other Council members and other members of
19 the committee -- and, Annabelle, please jump in and save me -- I
20 would not be inclined to support your friendly amendment

21 MR. TURRENTINE: Are there other discussions on this
22 particular issue?

1 I see cards up but I don't know whether you want to report on
2 something else or you want to comment on this particular issue.
3 Tom.

4 MR. GOLDTOOTH: I support -- I support this resolution mainly
5 because in our outreach and contact with many of our Tribes in the
6 Great Lakes as well as emerging issues of Tribes in the southwest.

7 For example, the Navajo Nation has two coal-fired power plants
8 within its traditional territories which are right next door to their
9 reservation. They're concerned about new data that says that there's
10 high levels of mercury in their environment, there's some emerging
11 evidence of this mercury concentrating in livestock.

12 In the southwest there are numerous mercury advisories, not
13 only in the Great Lakes itself but inland lakes, that affect treaty rights
14 of Tribes, that take away the human right of our tribal people,
15 especially in the Great Lakes, to live in a safe and healthy
16 environment.

17 I cannot over-stress the importance of a resolution like this that
18 really reflects the principles of environmental justice to where
19 mercury continues to be emitted into our air, settles into our water,
20 into our food web. This is a serious issue and it's become a life and
21 death issue for our tribal people in the Great Lakes.

22 So these three points that are seeking in the resolution here I

1 think are appropriate for this body to approve under the principles of
2 environmental justice and for what we're doing here. dioxin.

3 MR. TURRENTINE: Damon.

4 MR. WHITEHEAD: One final point that I think I failed to
5 mention. Coal-fired plants built prior to 1980 have enjoyed
6 grandfathering, meaning that when the amendments were passed
7 they were originally set to be phased out. Well, nevertheless, you
8 know, ten years, eleven years later, that phase-out hasn't occurred,
9 meaning that a number of plants that are not even close to having the
10 requirement of modern day plants that are built on a new source
11 review in Title V are just simply not in compliance and are being --
12 you know, they are still under the grandfather of being phased out
13 and have not been done.

14 So I just don't -- I think this is very important. I think that it's
15 long overdue. And, quite frankly, if it wasn't for, you know, significant
16 lobbying by the coal-fired electrical plants, this requirement that the
17 Administrator makes to do this wouldn't even have been in the 1990
18 amendments. Therefore, it was only another phase of delay.

19 I think the time has come for delay to end and the time for the
20 Administrator to regulate this highly-polluted industry now. Thank
21 you.

22 MR. TURRENTINE: Luke.

1 MR. COLE: Mr. Chair, I call the question.
 2 MS. MILLER-TRAVIS: Second.
 3 MR. TURRENTINE: The motion for the NEJAC to accept this
 4 resolution and forward it to the Administrator has been moved. It has
 5 been seconded. The question has been called. Are you ready for
 6 the vote?
 7 (No audible response.)
 8 MR. TURRENTINE: All in favor, let it be known by the usual
 9 sign of aye.
 10 (Chorus of ayes.)
 11 MR. TURRENTINE: Opposed have the same rights.
 12 (One nay response.)
 13 MR. TURRENTINE: Let the record note that there was one nay
 14 vote -- two?
 15 MS. WOOD: No, I would like to abstain.
 16 MS. MILLER-TRAVIS: Are you going to abstain?
 17 MS. WOOD: I'd like to abstain.
 18 MR. TURRENTINE: And one abstention. One no and one
 19 abstention.
 20 In the opinion of the Chair, the majority vote is yes, that this
 21 resolution will go forward.
 22 Was there another comment?

1 MR. WHITEHEAD: No.
 2 MS. STAHL: I would just like to note my distress at having a
 3 question called after one comment and one response when there are
 4 potentially other views to be heard.
 5 I think we do ourselves a disservice. I think we demonstrate
 6 some amount of disrespect to each other for each other's opinions
 7 and areas of expertise when behave in this fashion. I'd like that to be
 8 noted.
 9 MR. TURRENTINE: So noted.
 10 Tom, were you next for a resolution?
 11 MR. GOLDTOOTH: Yes. For clarification, Mr. Chair, the only
 12 items on our agenda at this point are action items.
 13 Our Indigenous Peoples Subcommittee met yesterday and by
 14 consensus put forward this resolution that's before you. It's a
 15 resolution titled persistent organic pollutants. It brings to your
 16 attention the issues concerning an international or global treaty-
 17 making effort involving all the countries of the world that are
 18 negotiating a treaty that is discussing the reduction and elimination of
 19 POPs which stands for persistent organic pollutants.
 20 On the fifth "whereas" it does list those chemicals. Most of
 21 these chemicals are banned in the United States. However, in the
 22 resolution we are asking that the United States support the

1 elimination -- the language "aim towards elimination of these
 2 persistent organic pollutants," which also includes the unintentional
 3 byproducts of dioxin.
 4 It brings attention to the special trust relationship that the United
 5 States and its federal agencies have to the human health and to the
 6 environment of American Indian and Alaskan Natives.
 7 It brings to -- this resolution also brings to your attention the
 8 public health dangers of these chemicals, including dioxin, upon not
 9 only investigation populations but all humans.
 10 It also brings to your attention that the food web, the wildlife, the
 11 fish, are also contaminated, that this is a serious matter, so serious
 12 that countries throughout the world are seeking a global treaty on the
 13 elimination of these persistent biocumulative toxics in the
 14 environment that are global.
 15 It brings to your attention that these chemicals volatize into the
 16 atmosphere, travel especially into the colder climates which makes
 17 our Alaska Native people disproportionately impacted because the
 18 higher concentrations are appearing above the 60th degree parallel.
 19 It also brings to your attention that the Secretary of State,
 20 Madeline Albright, had made a special commitment to recognize the
 21 special government-to-government relationship that this country has
 22 to its American Indian and Alaska Native peoples.

1 It also brings to your attention the concern that a number of
 2 Tribes have and tribal organizations have in that there was never any
 3 proper consultation with American Indian and Alaskan Tribes on this
 4 issue. Many of our Tribes are not aware of the dangers surrounding
 5 these dangerous poisons that are accumulating in the bodies of our
 6 women, our children and our elders.
 7 So this resolution brings to your attention also that the U.S.
 8 State Department in their negotiations depends on its lead federal
 9 agency to advise them on what is the policy surrounding this treaty
 10 concerning these chemicals, and that agency is the Environmental
 11 Protection Agency. That is, this agency is that entity that advises the
 12 State Department on what the position should be around this treaty.
 13 This resolution has three points to be resolved:
 14 That the NEJAC is advising the United States in the negotiation
 15 of the Global POPs Treaty to support treaty language that
 16 emphasizes reduction, pollution prevention, and a gradual phase-out
 17 of dioxin-producing materials and technologies, with an ultimate aim
 18 of the elimination of dioxin;
 19 That NEJAC also request that the U.S. support treaty language
 20 to rapidly phase out all remaining uses of PCBs, to destroy PCB
 21 stocks, to clean up soils and sediments contaminated by PCBs and
 22 other POPs by means that do not by themselves generate and/or

1 release POPs to the environment or create other health or safety
2 hazards;

3 That NEJAC further request that the United States POPs treaty
4 negotiation team consult with all American Indian and Alaska Native
5 tribes before and throughout the entire international negotiation
6 process on this important issue that affects the health, welfare,
7 environment and overall survival of Tribal nations in the U.S. and
8 indigenous peoples throughout the world.

9 The Indigenous Peoples Subcommittee is also aware that as we
10 put forth this resolution that this resolution is to be forwarded to the
11 Administrator of EPA, seeking her support for the position of this
12 resolution.

13 Thank you.

14 MR. TURRENTINE: Just a point of clarification. We have
15 passed at previous meetings resolutions other than emergency
16 resolutions coming before the Council would have to be distributed I
17 think 30 days in advance because NEJAC members indicated they
18 would like an opportunity to read and understand the resolutions prior
19 to being put in a position where they'd have to vote on it.

20 At the onset of this particular part of the business meeting I
21 attempted to convey that we were looking at the resolutions that were
22 in the book that we have in front of us, which would address

1 resolutions that had obviously been received 30 days in advance and
2 would require action on the part of this Council.

3 Now, I don't know -- and also, in an emergency -- I think the
4 mercury resolution was put forth as an emergency resolution and
5 that's why we received it

6 Tom, are you putting this forward as an emergency resolution

7 MR. GOLDTOOTH: Yes, we are.

8 MR. TURRENTINE: Okay, that's what I wanted to be clear on.

9 MR. GOLDTOOTH: Yes, we are.

10 MR. TURRENTINE: Okay. Is there any discussion on this
11 particular resolution?

12 MR. COLE: I move that we adopt the resolution.

13 MR. TURRENTINE: Well, hold on. I think there's a need for
14 discussion. Before I accept the motion, I would want to make sure
15 that we at least have the discussion so that we don't have to have it
16 and get into a quagmire like we've done in previous meetings.

17 So, Pat, did you have your --

18 MS. WOOD: Yes.

19 MR. TURRENTINE: -- and then Annabelle.

20 MS. WOOD: I'd like to make a comment. I have no quarrel with
21 trying to develop a resolution on POPS. I do have concern with
22 receiving this and quickly trying to read through it while it's being

1 briefly discussed because I was under the impression that we had 30
2 days notice unless it was an emergency.

3 I understand the timing on the mercury question -- while I don't
4 agree with the timing of it, I understand that one. Given the fact that
5 the POPs treaty negotiations have been going on for some time and
6 will continue for some time, I find it hard to see this one as an
7 emergency one.

8 Therefore -- obviously if the Council chooses to support it, so be
9 it. I will abstain from voting. Thank you.

10 MR. TURRENTINE: Annabelle.

11 MS. JARAMILLO: A clarification, Mr. Chair, on process. I do
12 believe that it is appropriate to have a motion and a second before
13 discussion and that way if there's a subsequent motion to end
14 discussion, then it can come quickly. But I don't think that a lack of
15 discussion precludes the making of the motion and the seconding.

16 MR. TURRENTINE: Thank you. Is there any -- Rosa Hilda?

17 MS. RAMOS: I really think that this resolution fits into an
18 emergency resolution, especially after visiting the communities in
19 Anniston in which you could see that the PCB problems in the
20 environment are really awful. The communities have the same
21 problems that the indigenous American citizens have.

22 So, this is beyond the needs of our brothers and sisters in the

1 indigenous community. This affects us and I think this is an
2 emergency situation, certainly.

3 MR. TURRENTINE: Tom.

4 MR. GOLDTOOTH: Well, in response, the next -- our network,
5 as well as some of the Tribes, have been attending what's called the
6 Intergovernmental Negotiating Committee meetings surrounding this
7 treaty.

8 The negotiating process is more than half-way. It just
9 completed its fourth committee meeting in Bohn, Germany two
10 months ago. The final negotiating committee meeting, the fifth, it's
11 what's called INC-5, is in South Africa in December of this year.

12 One of the most serious discussion items on this treaty at Bohn,
13 Germany was the language around elimination or reduction. The
14 U.S. State Department, as well as the EPA delegation which included
15 Bob Kellum from the air department, were back-peddling on strong
16 language on this issue.

17 Hearing the concerns from the community of Mossville who
18 carry this dioxin in their blood and hearing some of the issues
19 surrounding the leaked document from EPA called the Draft Dioxin
20 Reassessment Report that also further confirms the serious health
21 dangers of this dioxin, I consider it a state of emergency.

22 Every year that this report does not get released, a million

1 children are born with dioxin in their bodies. This report does say
2 that a great number of our population, over 90 percent of the
3 population in the U.S., have dioxin.

4 MR. TURRENTINE: The Chair will entertain a motion.

5 MR. COLE: I move that we approve the motion of the
6 Indigenous Peoples Subcommittee.

7 MR. WHITEHEAD: Second.

8 MR. TURRENTINE: It has been properly moved and properly
9 seconded that the resolution coming from the Indigenous Peoples
10 Subcommittee by way of emergency be adopted by this Council.

11 Are there any questions on the motion?

12 I'm sorry, who seconded the motion?

13 PARTICIPANT: Damon did.

14 MR. TURRENTINE: Damon, okay.

15 Any further discussion on this motion?

16 (No audible response.)

17 MR. TURRENTINE: Are you ready for the vote?

18 (No audible response.)

19 MR. COLE: I call the question.

20 MR. TURRENTINE: All in favor, let it be known by the usual
21 sign of aye.

22 (Chorus of ayes.)

1 MR. TURRENTINE: Those opposed?

2 (No audible response.)

3 MR. TURRENTINE: Abstentions? You abstain?

4 MS. WOOD: I would like to abstain.

5 MR. TURRENTINE: Let the record note that there is one
6 abstention.

7 The ayes have it and so ordered. All right.

8 Luke, are you up next?

9 MR. COLE: I hope so.

10 MR. TURRENTINE: Okay.

11 MR. COLE: I have four action items to bring before the
12 committee, two of which are in your book and which you've had for
13 the last two months. One of which, the CAFO resolution which has
14 been actually circulated for a round of comment and editing, and then
15 the revised version is in your books.

16 What I'd like to start out with is the multiple chemical sensitivity
17 resolution. Multiple chemical sensitivity is a condition which affects
18 thousands of people in which there has been some type of trigger
19 exposure to a chemical that then makes people extremely
20 susceptible to a variety of health symptoms from what the rest of us
21 would consider low-level exposures to chemicals. It's a debilitating
22 disease, a debilitating condition.

1 What we're asking for is for the EPA to come up with reasonable
2 accommodations for people with multiple chemical sensitivities and
3 work with other agencies -- I'll just read the "Therefore, be it
4 resolved":

5 NEJAC urges EPA to work with other agencies to establish
6 disease registries and MCS a reportable condition, provide funding
7 and programs to support increased understanding of MCS -- I'm
8 abridging these in the interest of time.

9 MR. TURRENTINE: Luke, hold on one moment.

10 Can we have order at the table? I mean, the sidebar
11 conversations really need to cease?

12 MR. COLE: Thank you, Mr. Chair.

13 To include MCS as a factor when setting standards and
14 establishing regulations, to examine existing laws to determine where
15 they need to be added to or revised to protect people with MCS, to
16 encourage states and other governments to take regulatory and other
17 action to protect people with MCS, and to assure that there's
18 accurate information on the levels of MCS in communities of color
19 and low income population and to establish a fragrance-free policy
20 for meetings of the NEJAC and other EPA meetings.

21 This has been in the packet for a long time. I don't know if there
22 are questions or discussion on this particular resolution but I'd be

1 happy to try and answer questions if people have them.

2 MR. TURRENTINE: Luke, is that a motion to accept?

3 MR. COLE: I'm sorry?

4 MR. TURRENTINE: Are you offering a motion to accept this
5 resolution?

6 MR. COLE: Can I make a motion on my own resolution?

7 MR. TURRENTINE: If not, I will.

8 MR. COLE: Sure. Okay, Damon moves and I'll second.

9 (Laughter.)

10 MR. TURRENTINE: Okay. Now, discussion on the motion.
11 Are there any comments or questions that people have on that?
12 Yes? And then Vernice.

13 MS. WOOD: I have a question, and that is in establishing
14 disease registers. My understanding is that there is really not
15 enough information yet in terms of having agreement on measurable
16 signs and symptoms to establish a disease register.

17 MR. COLE: My understanding is that multiple chemical
18 sensitivity is indeed being diagnosed in different places around the
19 country, so that there are diagnoses being made and as such they
20 could be reported and there could be a registry.

21 I think one of the things that would happen in the evolution of
22 that is kind of a better definition of the actual affliction. I think this is

1 kind of a way to push that to happen.

2 MS. WOOD: I assumed that was the objective. But my
3 understanding is that there has not been consensus -- people are
4 diagnosing it but there's not consensus among the medical
5 profession as to what it is or isn't, and they haven't reached
6 agreement on what are I guess measurable signs.

7 My understanding also is that there is a split amongst the
8 different medical associations as to whether they agree it is or it isn't.

9 I'm certainly supportive of the resolution in terms of trying to
10 understand more about it, but the idea of establishing a disease
11 registry seemed to be a little premature.

12 MR. COLE: I hear your concern. I don't know how to address it
13 other than to say I think it's an appropriate time for a registry to be
14 set up.

15 MS. PAYTON: May I just comment on that?

16 MR. TURRENTINE: Yes, sure.

17 MS. PAYTON: Okay, thank you. Thank you for giving me the
18 opportunity to comment on it.

19 Luke, let me just say that I applaud your subcommittee and also
20 appreciate having had the opportunity to work with members of the
21 Enforcement Subcommittee in preparation of this.

22 It's been a long time coming. In past years there has been as

1 you say, Pat, and still remains somewhat of a controversy regarding
2 such issues. However, recently, over the last year, and over the last
3 five years there's an awful lot of research being done on multiple
4 chemical sensitivity.

5 A few years ago a work group composed of various agencies --
6 they have been looking at this. There is now a consensus statement
7 as adopted in 1999 on the definition of the multiple chemical
8 sensitivity syndrome, along with a list of symptoms. There is data
9 being gathered.

10 There is a need for a disease registry, and people on this work
11 group are considering such a registry. I think that to pass such a
12 resolution, as Luke said, will enforce -- or, reinforce -- that to happen.

13 A lot of the things that are listed in the resolution are very
14 important, in particular during various meetings, national meetings,
15 perfumes, various colognes, in addition to smoking, have been
16 known to contribute to adverse respiratory symptoms and other
17 symptoms that are associated with multiple chemical sensitivity.

18 I just wanted to add that.

19 MR. TURRENTINE: Thank you.

20 MS. WOOD: I didn't catch it. What work group was that that
21 you were talking about?

22 MS. PAYTON: The work group on multiple chemical sensitivity.

1 I'll get your e-mail and I can send you information on that. Okay?

2 MS. WOOD: Thank you.

3 MS. PAYTON: There is a 1999 consensus statement that was
4 adopted.

5 MR. TURRENTINE: Annabelle, you're up. Will you comment
6 on this? Oh, that's Vernice. Vernice, are you up?

7 MS. MILLER-TRAVIS: No, I'm sorry.

8 MR. TURRENTINE: Okay. Someone else wants to comment
9 on this motion? Okay.

10 MR. GOLDTOOTH: I support the resolution. I'd like to suggest
11 a friendly amendment on the first item under "Therefore, be it
12 resolved," that in addition to minority communities and low income
13 communities, that we include Tribes in there.

14 MR. COLE: I accept that friendly amendment, Mr. Chair.

15 MR. TURRENTINE: Okay. Any further discussion?

16 (No audible response.)

17 MR. TURRENTINE: Call for the question.

18 MR. COLE: I call the question.

19 MR. TURRENTINE: All in favor, let it be known by the usual
20 sign of aye.

21 (Chorus of ayes.)

22 MR. TURRENTINE: Opposed?

1 (No audible response.)

2 MR. TURRENTINE: Abstentions?

3 (No audible response.)

4 MR. TURRENTINE: The ayes have it, and so ordered.

5 Luke, proceed.

6 MR. COLE: Thank you. The next resolution before you is the
7 resolution on concentrated animal feeding operations. We've heard
8 public testimony on this when we had our meetings in Durham, North
9 Carolina. I think it was a year and a half ago that we had extensive
10 public testimony on this and actually a lot of work was done in the
11 Enforcement Roundtable at that time around concentrated animal
12 feeding operations.

13 This resolution has been out to the Executive Council for a mail
14 ballot and there was enough good feedback and good suggestions
15 that the Enforcement Subcommittee took the resolution back and
16 revised it to respond to the very good additions about Varney and
17 Stahl, New Hampshire and several others by committee members
18 Jana Walker and others. So we brought it back in the form that you
19 had in your package.

20 Yesterday at the Air and Water Subcommittee they had a
21 presentation on CAFOs and thought that the enforcement piece,
22 ironically, of our Enforcement Subcommittee resolution could be

strengthened. They suggested several friendly amendments which the Enforcement Subcommittee accepted.

The new CAFO resolution is on your desks. It was distributed to you a couple of hours ago. The bold faced type are the additions by the Air and Water Subcommittee.

I want to make two important points -- well, three important points -- about this CAFO resolution.

The first important point is that this resolution is only the beginning of NEJAC's advise and recommendations to the EPA on this topic. We are planning on putting together a major report to the agency that will probably come before this Council in December on all aspects of the CAFO situation.

We'll be working closely with the Indigenous Peoples Subcommittee because there are a number of significant concerns about CAFOs on Indian land. We'll be working closely with the Air and Water Subcommittee because there are a number of significant concerns that they've raised and that they'll be bringing to the table. And we'll be working with as many people as we can to come up with this report

So that's my second point. There are areas in which this resolution does not go far enough, in my mind, but I hope that when we have the full report we'll come up with that.

The third point I want to make is that the report accompanying this, the explanatory report, is not a part of this document. We are not voting or approving that report. A number of people have pointed out potential inaccuracies in that report, and several people took issue with some of the policy recommendations in that report.

That report is not what we're voting on here. We're voting on this resolution. To the extent that we use part of the report that you've seen before as part of the next report, we will certainly be taking into account the corrections that people have suggested.

I guess I would move that --

MR. TURRENTINE: The Chair will entertain such motion.

MR. COLE: I move that we adopt the concentrated animal feeding operations resolution.

MS. MILLER-TRAVIS: Second.

MR. TURRENTINE: It's been properly moved and seconded. Annabelle?

MS. JARAMILLO: First of all, I really want to thank you, Luke, for incorporating the pieces that came from the Air and Water Subcommittee yesterday. In the inclusion of those there were a couple of things kind of left out and you and I have talked about this and feel that it probably could be dealt with in the upcoming report that you'll be putting together. But, for the record, I want to reassure

those people that suggested this, that that's coming.

One of them has to do with ensuring that we incorporate CAFOs into a GIS framework so that their locations can be identified and correlated with communities of color, Tribal communities and low income communities, and that there be some sort of outreach effort to communities to help EPA identify the location of some of those CAFOs. That has been a problem in this process, you know, identifying locations.

So, with that, we're comfortable with the inclusion of our recommendations.

MR. TURRENTINE: Jane, Rose Marie and then Pat.

MS. STAHL: I would just like to comment that while I could have seen my way clear to voting in favor of the prior resolution because I thought it was balanced, and while it incorporated language which would have directed EPA's actions and interactions with the states, I find unacceptable several of the new points in the resolution, not necessarily because of their intent but because of the specific language that's being used.

Had there been opportunity, I'm sure that we could have amended the language to make it appear that there was more interaction and opportunity to work together on these endeavors than there will be by calling the resolution at this point in time.

Again, when we speak in very negative terms about those who should be our partners -- and I will be blunt here; states are partners in environmental protection and environmental justice matters -- and when the language of our resolutions speak to aggressive crackdowns on states, whether or not -- you know, without discussions and descriptions as to what would warrant those -- when we talk about establishing state penalties or triggers for state penalties when it is in fact state programs that should be establishing those levels of penalties, then I simply can't support the language as it's drafted.

I hope that in the future there will be more time and opportunity for the development of language that really addresses the cooperative and partnership efforts that are supposed to be undertaken in these matters.

MR. TURRENTINE: Rose Marie.

MR. COLE: Can I just address that for a moment?

MR. TURRENTINE: Oh, sure. Sure.

MR. COLE: Jane, I completely share your concern, and one of the things that we did with the last piece of the resolution before this insertion, was we worked very closely with Bob Varney to address those concerns in the initial language. We also received a letter from the State of North Carolina in which it didn't endorse the resolution as

1 the previous wording, but it said that it supported the idea in general
2 and did not object to that resolution.

3 So, we have worked very hard to bring the states on board
4 behind this resolution. I'm wondering if there is a way that we could
5 work on the language in those particular things in the next -- I mean,
6 unfortunately I have to leave in about 15 minutes to catch a plane --
7 but to make that acceptable to you because I think you're absolutely
8 correct; the states are the key partners in the whole CAFO
9 enforcement scheme and I would much rather have you on board
10 than have you and the other states annoyed with this resolution.

11 MS. STAHL: Well, let me suggest then that, if it were
12 acceptable to everyone, that the new language be held off until we
13 have the opportunity for the larger report to be generated and more
14 partnerships to in fact be established. We can revisit at least the new
15 items of the resolution at a later date.

16 MR. COLE: If you mean the two ones that you spoke
17 particularly of, number 8 and number 12, if in taking those two out,
18 that will lead you to support this and we can have consensus on
19 supporting this document, I'm willing to do that and have those come
20 later.

21 MS. STAHL: I picked those two because they were the most
22 obviously egregious to me, but there are other items that I think also

1 need clarification. For example, just using -- mandating groundwater
2 monitoring, you know, as a simple statement for a non-very-simple
3 issue, is something that I would like flushed out-- well, flushed out,
4 pardon the pun.

5 (Laughter.)

6 MS. STAHL: You know, there are several items that I think
7 need expansion and work.

8 MR. COLE: Let me tell you my concern. My concern is that this
9 resolution has been kicking around the Executive Committee for
10 almost six months at this point, and we will be doing a full large
11 report, but I would like the NEJAC to go on record at this meeting
12 with a strong policy statement on CAFOs.

13 So I'm willing to strike those two points if that will address your
14 concerns, but I'm unwilling to scrap all of the new language because I
15 think it's a significant beneficial addition. So we may just have to
16 disagree here.

17 But I hope that you'll be actively involved with us as we develop
18 the CAFO report for the fall.

19 MR. TURRENTINE: Rose Marie.

20 MS. AUGUSTINE: I just wanted -- it's very simple. I just
21 wanted to point out that I think there's a typo on number 5.

22 MR. COLE: You're right. We'll correct that in the final version.

1 Thank you.

2 MR. TURRENTINE: Okay. Oh, Pat, did you have a comment?

3 MS. WOOD: My question, actually, was to ask what the state
4 view was on this document because I think we really should
5 acknowledge that -- well, when it comes to all the programs actually
6 -- the states are charged with responsibility in carrying out probably --
7 I think the number is something like 80 percent of enforcement -- and
8 particularly when it comes to CAFOs.

9 Well, not all states have been super-aggressive certainly, that's
10 for sure, but nonetheless the states are the ones that quite often
11 have negotiated and started programs moving whereas before there
12 were not programs at all.

13 I had concerns with the way this document was written in the
14 fact that there was no recognition of the state's role, and that was
15 with the first draft that was out. And with the revisions there actually
16 now are a series of statements here that are punitive towards the
17 states.

18 I would suggest -- I have a home in Delaware and am well
19 aware of the chicken problem. I have to tell you that it is only
20 because of the continued work from the folks in the State of
21 Delaware that they have been able to start to bring the poultry people
22 to the table even. It's not an easy task.

1 It seems to me that we should be doing what we can to
2 encourage and help the states and I'm afraid that the tone in this
3 document certainly sent a different sort of message.

4 I was most appreciative that Jane actually addressed the issue
5 before it got to me. You've answered my question.

6 MR. TURRENTINE: Call for the question.

7 MR. COLE: I call the question.

8 Pat, I hear your concerns. I agree with them and I hope that we
9 can resolve that in the ultimate report which I think will be a stronger
10 and broader policy statement than this.

11 MS. WOOD: I might add that if I had not been in another
12 committee meeting yesterday I would have liked to have sat in on the
13 CAFO subject because my early days at EPA many years ago
14 actually was working on some of these very same issues.

15 The good news is that people are starting to focus and bring
16 about some change. But we should be encouraging that change as
17 opposed to not recognizing where it's coming from.

18 MR. WHITEHEAD: Mr. Chair, a point of information.

19 MR. TURRENTINE: yes.

20 MR. WHITEHEAD: Did Luke accept or are do we withdraw the
21 number 10 and 12?

22 MR. TURRENTINE: Speak into the microphone.

1 MR. WHITEHEAD: I'm sorry. Just a point of information. Were
2 number 10 and 12 still included or did you withdraw the -- and accept
3 the friendly amendment?

4 MR. COLE: I would like -- in the spirit of good faith negotiation
5 with the states, I would like to withdraw numbers 8 and 12 from the
6 final resolution. I know that doesn't address all of your concerns and
7 I'll understand if you don't support this particular document, but in the
8 interest of our ongoing relationship with the states, I'd like to take out
9 number 8 and number 12.

10 MR. WHITEHEAD: Thank you. I didn't know if it was accepted
11 or withdrawn.

12 MR. TURRENTINE: All in favor of the motion, let it be known by
13 the usual sign.

14 (Chorus of ayes.)

15 MR. TURRENTINE: Opposed?

16 (Two negative responses.)

17 MR. TURRENTINE: Abstentions?

18 (No audible response.)

19 MR. TURRENTINE: In the opinion of the Chair, the ayes have it
20 and so ordered. Let the record note that there were two objections to
21 this resolution.

22 MR. COLE: Mr. Chair, our third piece is not really an action

1 item because it's only a letter from the NEJAC to the Administrator,
2 and my understanding is that we don't actually need an Executive
3 Council vote on that. I may not be correct on that

4 It's come to our attention that the EPA is implementing its Tier 2
5 clean fuels program without taking into account the advise that the
6 NEJAC has given it on several previous occasions about ways to do
7 that without having a disparate impact on the basis of race.

8 So, there's a letter to Carol Browner that was put on your table
9 this morning out of the Enforcement Subcommittee. It's just a letter
10 pointing out that there's a way to implement the clean fuels program
11 while also not having a disparate impact on the basis of race and not
12 implicating Title VI. It's a letter of advise.

13 I ask that it be sent under the name of you, Mr. Chair, to Carol
14 Browner. So, I move that we send this letter to Carol Browner.

15 That was passed out of our subcommittee unanimously by all
16 stakeholder groups.

17 MR. TURRENTINE: Luke, you're correct in terms of the routing
18 of this. I think it would be appropriate, however, for the Council to act
19 on a unanimous recommendation from the Enforcement
20 Subcommittee, and that is, the content of the letter would be that
21 which the Council would be acting on and voting to approve at this
22 point. So --

1 MR. COLE: I move that it's approved.

2 MR. CUEVAS: Second.

3 MR. TURRENTINE: Okay. It's been properly moved and
4 properly seconded that the letter directed to the Administrator be
5 accepted by the Council and that I be instructed to forward it to the
6 Administrator.

7 Discussion on the motion? Jane.

8 MS. STAHL: I'd just like to ask for some clarification as to in
9 what way the implementation doesn't address our advise, and if this
10 goes back to some of the trading issues that we had previously
11 discussed.

12 MR. COLE: It does not go back to trading issues. Basically we
13 have pointed out to the Office of Air on several different occasions in
14 our briefings with them and in actual letters to them that there are
15 ways to undertake the retrofitting process of these refineries, the
16 retrofits that the refineries are undertaking to produce cleaner fuels,
17 which currently are predicted to increase the emissions at those
18 particular refineries -- there are ways to undertake that retrofitting
19 process that we've managed to achieve in California that reduce
20 those emissions.

21 Right now the agency is not requiring any reduction in
22 emissions, and, in fact, is allowing the increase in emissions, which

1 has the greatly beneficial effect of cleaning the fuels so that cars
2 driving around are emitting much less and the air across the nation is
3 getting cleaned up, but the air in the refinery communities, which we
4 know are not distributed evenly across the demographic categories --
5 they're most often found in many states in communities of color -- the
6 emissions are increasing in those refinery communities.

7 So, once again, people of color are being asked to sacrifice for
8 the national good, where there are simple, technologically and
9 economically feasible options for reducing fugitive emissions and
10 other emissions at those refineries.

11 This is not a trading issue at all. This is capturing fugitive
12 emissions issue.

13 MS. WOOD: And have we discussed with the agency this --
14 other than having submitted comments in the past, have we
15 discussed with the agency their decisions, determinations and
16 reasons for those determinations or allowances -- allowing, you
17 know, increased emissions without the technological advances?

18 MR. COLE: Yes. Their justification is that on a county by
19 county level the air will improve. So that in any particular county the
20 air is going to get cleaned up through this process.

21 Our concern is that particularly in states like California, that
22 does not address the toxic hot spots problem because we have

1 counties in California -- San Bernadino County is bigger than
2 Connecticut and Massachusetts put together -- and so, saying that
3 the air in the county is being improved while you have these localized
4 hot spots, that's okay for the Office of Air in their minds, but that's not
5 okay for us on the NEJAC.

6 They have made the decision that it's better to have cleaner air
7 for everybody at the expense of these particular communities. And
8 we are pointing out that you don't have to make that tradeoff.

9 MR. TURRENTINE: Damon.

10 MR. WHITEHEAD: I was only going to point out that we also
11 had a presentation before the Air and Water Subcommittee about this
12 very issue as well and EPA did acknowledge the points that Luke
13 was talking about regarding the tradeoffs between county as well as
14 individual hot spots. So we're in full support. We have reviewed and
15 are in full support of this letter as well.

16 MR. TURRENTINE: Rosa.

17 MS. RAMOS: There has been also discussion of the agency
18 with the industry, the oil refining industry, trying to have a program in
19 which voluntarily the refineries would engage in these type of
20 activities to reduce the pollution.

21 I need to make you aware of the terrible effects that this will
22 have in communities like ours who are very close to refineries. In

1 many other communities in the United States, especially in the south
2 and Louisiana, Texas, along the border, wherever there is a refinery
3 -- the fuels will be cleaner, but, you know, the impurities removed
4 from the fuel will concentrate on those refineries and there is no
5 countermeasure contemplated up to this time to prevent any further
6 harmful effects to the communities that live close to those refineries.

7 So this is an environmental justice issue and this must be
8 addressed properly.

9 MR. TURRENTINE: Call for the question.

10 MR. COLE: I call the question.

11 MR. TURRENTINE: All in favor of the motion, let it be known by
12 the usual sign.

13 (Chorus of ayes.)

14 MR. TURRENTINE: Those opposed?

15 (No audible response.)

16 MR. TURRENTINE: In the opinion of the Chair, the ayes have
17 it, and so ordered.

18 Luke, do you have another?

19 MR. COLE: Mr. Chair, the final action item that we have does
20 not come out of the Enforcement Subcommittee but comes out of
21 conversations we had during the public comment on Tuesday night, I
22 believe, about federal facilities.

1 If you take the revised CAFO resolution and turn it over --the
2 contractors have been very diligent in saving paper and have actually
3 copied our resolution on to the back of the CAFO resolution.

4 This is a proposed resolution that simply states -- it's two
5 sentences long. It simply states, "Whereas, the National
6 Environmental Justice Advisory Council has repeatedly heard public
7 testimony over the past seven years about environmental justice
8 issues associated with federal facilities, be it therefore resolved that
9 the NEJAC establishes a Federal Facilities Working Group to
10 research, investigate, and provide recommendations to the NEJAC
11 on environmental justice issues related to federal facilities.

12 I propose this as a resolution following the guidance found in our
13 packet on how to establish work groups. I know that the Director of
14 the Office of Environmental Justice is trying to move us away from
15 the resolution process, but I can only follow the instructions given to
16 me in the packet to prepare for this meeting on how to set up a work
17 group.

18 I propose that we set up a work group of the whole NEJAC.
19 This was Rose Augustine's idea. She generously let me present it
20 today. We have nominated Rita Harris of our subcommittee to be the
21 Enforcement representative on such a work group.

22 MR. TURRENTINE: You're going too far now.

1 The Chair will entertain a motion --

2 MS. MILLER-TRAVIS: Mr. Chair.

3 MR. TURRENTINE: Yes?

4 MS. MILLER-TRAVIS: There is also a resolution from the
5 Health and Research Subcommittee on federal facilities.

6 MR. TURRENTINE: I'm sorry.

7 MS. MILLER-TRAVIS: There's also a resolution for
8 consideration today from the Health and Research Subcommittee on
9 federal facilities, and I'm wondering if the two things can be linked
10 because in this resolution they also talk about the creation of a work
11 group on federal facilities, but it's a work group of the Health and
12 Research Subcommittee, and in fact, the Waste and Facility Siting
13 Subcommittee was also going to recommendation this as an action.
14 So, we seem to have some convergence of opinion here.

15 MR. TURRENTINE: What I think would be appropriate is to get
16 this motion passed and then -- not deal with the process today.
17 That's what I meant, Luke, when I said you'd gone too far when you
18 talk about who you wanted to appoint to it. We can deal with the
19 process in protocol conference calls and staff and man this thing.
20 But we can also go to that resolution.

21 See, I don't want us to get bogged down because we have two
22 or three different resolutions from different subcommittees.

1 MS. MILLER-TRAVIS: But you don't have two or three different
2 resolutions. You have two resolutions about the exact same subject.
3 I'm just saying, combine the resolutions and let's just pass one
4 resolution and get on with it.

5 MR. COLE: Mr. Chair, I think Dr. Payton can explain the
6 difference in the resolutions. Our resolution, the one that I have
7 before you, is to establish a work group. Their resolution is to do
8 several other things, and it mentions in passing that they have
9 decided to form a work group. They're not conflicting; they're
10 complementary. Their "resolutions" don't mention a work group at all.

11 I would just like to thank the Council for their patience on this. I
12 have to run to catch an airplane, but I hope that this passes, and I
13 leave my proxy vote to pass this resolution. Thank you.

14 MS. MILLER-TRAVIS: But can't we combine the resolutions,
15 Luke?

16 MR. COLE: Their resolution is about ten other things.

17 MS. MILLER-TRAVIS: Yes, but why would we have two
18 different resolutions about the same subject? Why not a resolution
19 that calls for the creation of a work group across the body and that
20 goes on to talk about all these other items? Why do we need two
21 resolutions on the same subject?

22 PARTICIPANT: Have a safe flight, Luke.

1 MR. TURRENTINE: Now, what we're going to do is we're going
2 to act on the motion that's on the floor. It's going to be voted up or
3 it's going to be voted down. And then we will move on.

4 Discussion on the motion?

5 MS. STAHL: Pardon my lack of understanding of the Robert's
6 Rules of Order, or whatever it is. Is it possible to table the resolution
7 that was raised so that we can discuss the item that Vernice raised,
8 or the question that Vernice raises in the context of another
9 resolution that has been drafted? I think that there is a possibility
10 here --

11 MR. TURRENTINE: Is there a motion to table this motion, the
12 resolution before the --

13 MS. STAHL: Yes, I would move to table this resolution.

14 MS. MILLER-TRAVIS: I second it.

15 MR. TURRENTINE: Question on the motion?

16 MR. WHITEHEAD: Can we have discussion?

17 MR. TURRENTINE: Yes.

18 MR. WHITEHEAD: I guess my question is --

19 MR. TURRENTINE: Your discussion is on the tabling of the
20 resolution?

21 MR. WHITEHEAD: Yes.

22 MR. TURRENTINE: Okay.

1 MR. WHITEHEAD: Maybe it's a point of information then. I
2 believe there was actually previously a motion by Luke, who has left,
3 on the passage of, which you stated that were going to vote up and
4 down. So, I guess my question is, can we accept another motion
5 while that motion is on the floor?

6 I'm not trying to confuse it; I'm not trying to get into an
7 argument. Really, I'm not. I think this is a much simpler issue --

8 MS. MILLER-TRAVIS: It's a process question.

9 MR. WHITEHEAD: -- that is getting way out of -- blown out of
10 proportion.

11 PARTICIPANT: No, it's appropriate.

12 MR. WHITEHEAD: So I only throw that out, not trying to
13 belabor this process any longer at all. Really, I don't because I think
14 this issue, I think everybody supports it. It's just, as you were saying,
15 how are we going to get it done. And so I would look to your
16 guidance at this point on that, sir, respectfully.

17 MR. TURRENTINE: Annabelle. Congresswoman.

18 (Laughter.)

19 MS. JARAMILLO: I don't want to serve in that club.

20 (Laughter.)

21 MS. JARAMILLO: The motion on the floor was the substantive
22 motion on the resolution, and it was seconded. It is appropriate to

1 submit a motion to table that particular motion for discussion at a
2 later time and a vote taken.

3 There is no debate on a motion to table. We either vote it up or
4 down. If it's laid on the table, then we can bring it back from the table
5 in several forms: the original motion or a substitute motion which
6 would incorporate the language out of two other resolutions. But that's
7 kind of the process.

8 So the appropriate thing at this point in time is to vote on the
9 tabling motion, and that's an up or down vote.

10 MR. TURRENTINE: All in favor of the motion, let it be known by
11 the usual sign.

12 (Chorus of ayes.)

13 MR. TURRENTINE: Those opposed?

14 (Chorus of nays.)

15 MR. TURRENTINE: We have to have a hand count. Staff. Will
16 the staff start the count.

17 All in favor of tabling the motion, let me see your -- a show of
18 hands.

19 (Show of hands.)

20 MR. TURRENTINE: Is it ten or 11? I see some hands moving
21 both ways.

22 (Pause.)

1 MR. TURRENTINE: Having seen ten hands voting for tabling
 2 this motion, the motion will be tabled.
 3 MS. JARAMILLO: Mr. Chair.
 4 MR. TURRENTINE: Yes?
 5 MS. JARAMILLO: Keep in mind that a motion will have to be
 6 made to bring it back from the table or a substitute motion will have
 7 to be brought back to the table -- I mean, lifting it from the table.
 8 MR. TURRENTINE: Okay. In other words, picking it up.
 9 MS. AUGUSTINE: Mr. Chair.
 10 MR. TURRENTINE: Yes, Rose.
 11 MS. AUGUSTINE: When do we make a motion to bring it back
 12 to the table?
 13 (Laughter.)
 14 MS. AUGUSTINE: Now?
 15 PARTICIPANT: That's a good point.
 16 MR. TURRENTINE: The question is when do you make a
 17 motion to bring it back. At whatever time you want to make that
 18 motion to bring it back.
 19 MS. AUGUSTINE: Okay.
 20 MR. TURRENTINE: I mean, it's an appropriate question.
 21 PARTICIPANT: Yes, it is.
 22 MR. TURRENTINE: Jane.

1 MS. STAHL: Can we do this a little bit less formally before we
 2 get into the next round so that we can kind of organize our thoughts
 3 here?
 4 MR. TURRENTINE: I'm sorry, I didn't hear you.
 5 MS. STAHL: I'd like to discuss this a little less formally to give
 6 us an opportunity to organize our thoughts because I think we can
 7 accomplish all that we want to do if we just understand what's out
 8 here.
 9 MR. LEE: And I agree --
 10 MS. STAHL: Is that okay with you?
 11 MR. LEE: I agree with Ms. Stahl's recommendation. As I
 12 understand it, the Health and Research Subcommittee resolution
 13 includes other things and encompasses this particular action.
 14 So I would recommend that you discuss the Health and
 15 Research Subcommittee's recommended resolution and then
 16 consider a mechanism for incorporating this other resolution.
 17 MS. STAHL: Yes.
 18 MR. WHITEHEAD: I agree.
 19 MS. MILLER-TRAVIS: Yes, that's it.
 20 MR. TURRENTINE: Marinelle.
 21 MS. PAYTON: Thank you. Is it necessary for me to read the
 22 resolution first, or --

1 MR. TURRENTINE: I don't know, but it's necessary for you to
 2 talk into the microphone.
 3 (Laughter.)
 4 MS. PAYTON: Oh. Should I read the resolution or just get right
 5 to the discussion?
 6 (No audible response.)
 7 MS. PAYTON: Okay, I'll read it.
 8 MS. MILLER-TRAVIS: You don't have to read it.
 9 MS. PAYTON: Oh, okay. I'm just going to discuss the -- I think
 10 it's important to talk about the reason for the overall resolution.
 11 As you recall, on Wednesday evening at the public comment
 12 period, regarding one of the discussions on -- or, I should say
 13 comments on federal facilities, after that discussion the public
 14 commenter, Dr. McClain -- Mildred McClain -- suggested that a
 15 federal facilities work group composed of NEJAC members or FACA
 16 be formulated.
 17 At the end of that discussion -- well, first of all, the chair
 18 suggested that the Health and Research Subcommittee consider that
 19 issue, and Charles Lee announced at the end of that session that the
 20 Health and Research Subcommittee chair had agreed to formulate a
 21 work group on federal facilities.
 22 The following morning during our meeting we voted on and

1 agreed, based on the responsibility that had been given to us to
 2 create a Health and Research Subcommittee work group on federal
 3 facilities.
 4 What we decided is -- I'll just read in the resolution -- okay? --
 5 that within that work group, the work group that is -- the Health and
 6 Research Subcommittee work group -- it would be composed of other
 7 NEJAC members, environmental justice communities, as well as staff
 8 from EPA agencies, ATSDR and EPA, as well as other federal
 9 agencies that had federal facility offices, to address issues on
 10 environmental justice arising from federal facilities.
 11 If you will please look at the last "whereas" statement that I'm
 12 reading, it says, "Whereas, on May 25, 2000," you will note that the
 13 last phrase states "although we created this work group, the Health
 14 and Research Subcommittee would support a broader NEJAC work
 15 group in lieu thereof."
 16 So, the resolution is written to formalize that the Health and
 17 Research Subcommittee accepted the responsibility that was given
 18 to us during the public comment period. We subsequently voted and
 19 created a work group within our subcommittee.
 20 However, realizing that the public commenter had previously
 21 stated that she or the community would not accept the Health and
 22 Research Subcommittee but since, again, we were assigned that

1 task, we thought we would create a Health and Research
2 Subcommittee and invite everyone else to join us, and at the same
3 time acknowledge that there could be a broader work group.

4 That broader work group recommendation was presented in the
5 form of a resolution here today that Luke presented to us.

6 In addition to that "whereas" statement, as you will see, we have
7 two "be it resolved" statements that we would like the next NEJAC
8 meeting to focus on federal facilities, including environmental
9 compliance and remediation.

10 And we also recommend that EPA consider preparation and
11 submission for signature by President Clinton an Executive Order
12 requiring that all federal agencies ensuring compliance with EPA or
13 state standards, whichever are stricter, regarding site remediation,
14 pollution control and abatement at all federal facilities, active or
15 inactive, and, further, authorize EPA to monitor and enforce federal
16 agencies compliance with all environmental laws and standards.

17 This comes from the suggestion of one of our subcommittee
18 members who is a state representative, Ms. Jane Stahl. I'm going to
19 ask her, if she will, please speak to that.

20 MS. STAHL: As I said in our subcommittee meeting, I think that
21 we're at a unique point in time here where in fact the environmental
22 council of the states and the NEJAC can form what many of probably

1 would consider an unholy alliance --

2 (Laughter.)

3 MS. STAHL: -- to address issues that are of concern, mutual
4 concern, to us all. To be able to do that a time when not only this --
5 that this administration needs to put its money where its mouth is and
6 put its stamp on what -- on really setting the future direction for
7 federal facilities.

8 The "whereases" in this resolution include a recognition of the
9 significant costs associated with cleanups and that therein lies the
10 reluctance for federal facilities to comply to the same extent as
11 private parties are made to comply, and also includes language from
12 the Environmental Council of the states -- which, for those of you
13 who are unaware, is the association of all of the commissioners from
14 all of the states that address this same issue and call on federal
15 agencies to live up to the same standards that we are requiring
16 others to address.

17 So I think that really we have a wonderful opportunity here to
18 join together to create the kind of partnership and recognition of
19 partnership on issues that are in all of our states and affect us all and
20 have a significant and specific issue with regard to environmental
21 justice communities.

22 My final comment would be that I think that we could amend this

1 resolution, if the Council so desired, to have a third item which would
2 be the previously tabled resolve for a full NEJAC environment or
3 work group on federal facilities so that we can achieve both goals
4 with the full support of the Council.

5 MR. TURRENTINE: Rose and then Damon.

6 MS. AUGUSTINE: I fully support what Jane had to say and I
7 would like to bring it back on the table.

8 MR. WHITEHEAD: Second, if that's a motion.

9 MR. TURRENTINE: The previously tabled motion, it has been
10 moved to bring it back on the table. Is that your motion?

11 MS. AUGUSTINE: Yes.

12 MR. TURRENTINE: As an amendment to this --

13 PARTICIPANT: No.

14 MS. AUGUSTINE: Right. As Jane stated. Incorporate --

15 MR. TURRENTINE: Damon, you second that?

16 MR. WHITEHEAD: I did second it. Are we going to have
17 discussion on it or can we have a point of information about this?

18 MR. TURRENTINE: Yes.

19 MS. JARAMILLO: Actually, I want to discuss it.

20 MR. TURRENTINE: Discussion.

21 MS. JARAMILLO: Okay.

22 MR. TURRENTINE: Damon, are you yielding to Annabelle?

1 MR. WHITEHEAD: If I can come back after her, yes.

2 MR. TURRENTINE: Okay.

3 MS. JARAMILLO: I guess I would oppose bringing a motion
4 back off the table and incorporating it into this motion because I think
5 the original motion, as it was intended, was to make it a working
6 group of the entire NEJAC. If we bring it into the resolution on the
7 Health and Research Subcommittee, then it becomes a working
8 group of that subcommittee.

9 PARTICIPANT: No.

10 PARTICIPANT: It doesn't.

11 MS. JARAMILLO: And I think the intent in the original proposal
12 was to elevate the concerns to all the working groups basically so it
13 would become a working group of the entire NEJAC, not just of one
14 working group.

15 PARTICIPANT: Right.

16 MS. JARAMILLO: The other point is that I think it strengthens
17 the resolve to have it as a separate and distinct proposal outside of
18 the purview of a subcommittee resolution.

19 MR. TURRENTINE: Just a point of order. We tabled a motion,
20 a resolution -- we tabled a resolution that had been put into a motion
21 as a stand-alone. If we bring that back from the tabled position, it
22 has to be placed as a stand-alone motion, not as an amendment --

1 no, not as an amendment to another motion. There has never been
2 a motion from the original presenter to do that.

3 MS. MILLER-TRAVIS: Okay.

4 MR. TURRENTINE: So I don't think we can do this, what you're
5 asking.

6 MS. MILLER-TRAVIS: Yes, that's --

7 MS. JARAMILLO: That's a short version of what I was trying to
8 say.

9 (Laughter.)

10 MS. MILLER-TRAVIS: Can I speak to the question?

11 MR. TURRENTINE: Damon is on next.

12 MS. MILLER-TRAVIS: Oh, Damon has to go.

13 MR. WHITEHEAD: Well, then I wil -- are you saying only -- this
14 is a point of information before we have discussion, if Mr. Chair will
15 allow it.

16 Are you saying only the original presenter of the motion that was
17 tabled can bring it back off the table? That's not my understanding.

18 PARTICIPANT: No.

19 MR. TURRENTINE: No.

20 MR. WHITEHEAD: Well, then I would like to move -- at this
21 point, because I'm confused, I almost have to agree with Jane on can
22 we have a formal discussion of this -- simply, can we bring the

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1 motion that was tabled -- because I believe the spirit of tabling was
2 simply to allow the Health and Research Subcommittee to present
3 their motion, their presentation. I am assuming that this is presented,
4 their resolution is presented as an emergency resolution just, you
5 know, as another point of clarification.

6 I would like to make a motion that that -- that the motion that
7 was tabled be brought back at this point not as an amendment, but
8 as a simultaneous -- whatever --

9 MR. TURRENTINE: That's in order. That is in order.

10 MR. WHITEHEAD: Okay, then that's my motion at this point.

11 MR. LEE: That needs to be seconded, right?

12 MR. TURRENTINE: Tom. It does need to be seconded.

13 MR. WHITEHEAD: Can I call the question or is there
14 discussion that?

15 PARTICIPANT: There's discussion.

16 MR. WHITEHEAD: Call for the question.

17 MR. TURRENTINE: Please, let's not discuss it anymore.

18 (Laughter.)

19 MR. WHITEHEAD: And this is only for a point of clarification.

20 MR. TURRENTINE: Okay.

21 MR. WHITEHEAD: This is only to bring back the tabled motion,
22 not to vote on any of them, correct?

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1 PARTICIPANT: That's correct.

2 MR. WHITEHEAD: Okay. That's better.

3 MR. TURRENTINE: Tom -- oh, I'm sorry, Vernice. Okay,
4 Vernice. I'm sorry.

5 MS. MILLER-TRAVIS: I support that motion, that we vote on
6 the previous resolution as a stand-alone resolution. And then I
7 suggest that we table this motion from the Health and Research
8 Subcommittee to combine it with the recommendations from the
9 Waste and Facility Siting Subcommittee which also come from the
10 Assistant Administrator from the Office of Solid Waste and
11 Emergency Response who wants a linkage between this work and
12 the Office of Federal Facilities at EPA

13 I mean, there's some real institution-building of those
14 relationships.

15 PARTICIPANT: Right.

16 MS. MILLER-TRAVIS: I think we could come up with a stronger
17 resolution that incorporates the sentiments of all of our working
18 groups, but I think we need to walk out of here with a commitment to
19 the establishment of a work group on federal facilities.

20 PARTICIPANT: Right.

21 MS. MILLER-TRAVIS: So instead of getting bogged down in
22 further discussion of it, let's table these issues, talk about it at the

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1 protocol and on our subcommittee conference calls come up with an
2 integrated resolution that incorporates all of our thinking and come up
3 with that resolution and vote on it within the next 30 days. But I think
4 we need to vote on Luke's resolution as a stand-alone resolution.

5 PARTICIPANT: Amen.

6 MR. TURRENTINE: Damon.

7 MR. WHITEHEAD: I'm calling the question.

8 MR. TURRENTINE: Call for the question.

9 MR. WHITEHEAD: I think on the first resolution because I -- if
10 we're going to discuss these other ones -- I did want to have a
11 discussion on the other ones, but I just want to call the question on --
12 for one, the first point of information being simply bringing it back off
13 the table before we could actually vote on it. I believe that's proper,
14 sir.

15 MR. TURRENTINE: We're bringing it back for the purpose of
16 voting it up or down.

17 MR. WHITEHEAD: Well, I guess my question, though, is -- and
18 it's only a point of information.

19 MR. TURRENTINE: Sure.

20 MR. WHITEHEAD: Is the vote we're about to take to bring it
21 from the table or is it a vote to bring it from the table and a vote to
22 approve it?

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1 MR. TURRENTINE: We'll have to have two votes.
 2 MR. WHITEHEAD: Well, that's fine.
 3 MR. TURRENTINE: One to bring it back --
 4 MR. WHITEHEAD: Right. That's what I'm --
 5 MR. TURRENTINE: And that's what's on the floor at this point.
 6 All in favor of bringing the previously tabled motion back, let be
 7 known by the usual sign.
 8 (Chorus of ayes.)
 9 MR. TURRENTINE: Those opposed?
 10 (No audible response.)
 11 MR. TURRENTINE: The chair will now entertain a motion to
 12 carry the original motion on the previously tabled, now brought back
 13 motion.
 14 MS. MILLER-TRAVIS: Moved.
 15 MR. WHITEHEAD: Second.
 16 MR. TURRENTINE: Call for the question.
 17 MR. WHITEHEAD: Call for the question.
 18 MR. GARCIA: Wait. What happened to the motion to table
 19 the --
 20 MR. TURRENTINE: We're going to get to that.
 21 (Simultaneous conversation.)
 22 MR. GARCIA: Okay. So right now we're voting then on the

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1 original resolution?
 2 MR. TURRENTINE: That's correct. That is correct.
 3 MR. GARCIA: Oh, okay.
 4 MR. HILL: Call for the question.
 5 MS. PAYTON: May I ask a question?
 6 MR. TURRENTINE: Yes, sure.
 7 MS. PAYTON: I think I'm sort of embarrassed to.
 8 Voting on the original resolution, does that mean that we --
 9 MR. TURRENTINE: Ask the question.
 10 MS. PAYTON: Vemice's comment was not a motion, right?
 11 MS. MILLER-TRAVIS: No.
 12 MR. TURRENTINE: No.
 13 MS. PAYTON: Okay. It was only a suggestion?
 14 MS. MILLER-TRAVIS: Right.
 15 MS. PAYTON: So to vote on Luke's resolution does not mean
 16 that we are rejecting the Health and Research Subcommittee's --
 17 MS. MILLER-TRAVIS: No.
 18 MR. TURRENTINE: It has no relevance to your --
 19 MS. PAYTON: Okay.
 20 MR. TURRENTINE: -- to your resolution at all.
 21 MS. MILLER-TRAVIS: That's right.
 22 MS. PAYTON: Well, I just wanted to ask that question.

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1 MR. TURRENTINE: Any other --
 2 PARTICIPANT: It needs to be rejected.
 3 MS. PAYTON: Well, he said it does not mean that.
 4 MS. MILLER-TRAVIS: No, it doesn't mean that.
 5 MR. LEE: It doesn't.
 6 MR. TURRENTINE: Hold on, guys. Rosa.
 7 MS. RAMOS: As a housewife, this is the point where I always
 8 get lost.
 9 (Laughter.)
 10 MS. RAMOS: I just want to know if there is a manner in which
 11 this type of alliance, which I don't consider an unholy alliance but a
 12 blessing, becomes a reality.
 13 MS. MILLER-TRAVIS: Yes.
 14 MS. PAYTON: Excuse me. Could I just make another
 15 suggestion?
 16 MR. TURRENTINE: Wait a minute. Wait a minute. Wait a
 17 minute.
 18 The discussion now is on the motion on the floor.
 19 MS. PAYTON: Okay.
 20 MR. TURRENTINE: Is there any other discussion?
 21 (No audible response.)
 22 MR. TURRENTINE: The question has been called for. All in

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1 favor of the original motion presented by Luke Cde before he left, let
 2 it known by the usual signs.
 3 (Chorus of ayes.)
 4 MR. TURRENTINE: Opposed?
 5 (No audible response.)
 6 MR. TURRENTINE: The ayes have it, and so ordered.
 7 Now, the chair will entertain any other discussion or motions you
 8 have relative to whatever.
 9 MS. PAYTON: Okay. My suggestion is relevant to the two but
 10 not necessarily --
 11 MR. TURRENTINE: Speak into the microphone, please.
 12 MS. PAYTON: I'm just going to make a suggestion that we just
 13 vote on approving both resolutions.
 14 MR. TURRENTINE: Marinele, you can make a motion to
 15 approve your resolution.
 16 MS. PAYTON: Okay. Then I --
 17 MR. TURRENTINE: The other resolution has already been
 18 taken care of.
 19 MS. PAYTON: Okay.
 20 MR. TURRENTINE: Any discussion now is relative to your
 21 resolution. We either vote it up or we vote it down, or we table it, or
 22 we do whatever. But it has to come before the floor now, and the

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1 chair will entertain such motion.
 2 MR. GARCIA: Charles -- excuse me, Mr. Chairman.
 3 MR. TURRENTINE: Yes, yes.
 4 MS. MILLER-TRAVIS: Vernice had a motion to table this
 5 resolution, right? Do you still have that motion?
 6 MS. MILLER-TRAVIS: I haven't formally made it as a motion,
 7 but I will, and I can.
 8 MR. GARCIA: And I would second it.
 9 (Laughter.)
 10 MS. MILLER-TRAVIS: I didn't want to preclude -- I just didn't
 11 want to preclude further discussion by making that definite motion
 12 now.
 13 MR. GARCIA: Right.
 14 MR. TURRENTINE: Yes, Damon.
 15 MR. WHITEHEAD: Mr. Chair, I just wanted to have discussion
 16 on -- at this point I'm confused -- on the Health and Research
 17 Subcommittee's motion. I just wanted to have discussion on that. Is
 18 that appropriate at this point?
 19 MR. TURRENTINE: It is appropriate to have discussion on it.
 20 Is it not?
 21 MR. WHITEHEAD: Well, I guess my question is, in theory I
 22 definitely support this motion. I only have I guess some questions

1 and I'm not sure if this is the appropriate place. I believe there is an
 2 Executive Order from previous case work regarding federal facilities.
 3 Now, the context I dealt with was the Department of Defense
 4 facilities --
 5 MS. MILLER-TRAVIS: 12580.
 6 MR. WHITEHEAD: I guess -- is there anyone to speak to that?
 7 I'm not -- I guess, would this be more broader than the existing one?
 8 MR. LEE: I think it's important to clarify this. The discussion in
 9 the Health and Research Subcommittee did note that, and there was
 10 a commitment to do some research on all previous Executive Orders
 11 that may relate to federal facilities. That was seen as a necessary
 12 step before we move forward to what is being recommended here,
 13 which is that EPA consider preparation of an Executive Order.
 14 Is that the --
 15 MS. MILLER-TRAVIS: That's right.
 16 MS. PAYTON: I'm sorry?
 17 MS. MILLER-TRAVIS: Executive Order 12580.
 18 MS. PAYTON: I'm so sorry, I didn't hear what was said.
 19 MR. LEE: I just wanted to know if you wanted to add anything
 20 to that, Marinelle.
 21 MS. PAYTON: I didn't hear what she said. That's why --
 22 MR. LEE: Basically the question had to do -- the question had

1 to do with whether or not there were Executive Orders that relate to
 2 federal facilities. What I indicated was that there was a commitment
 3 on EPA's part to research that.
 4 MS. PAYTON: Right. Yes. That's why I think our resolution is
 5 a separate entity and should be put forth as is.
 6 MR. TURRENTINE: Tom.
 7 MR. GOLDTOOTH: I have a clarifying question on this Health
 8 and Research Subcommittee's resolution. On the eighth "whereas,"
 9 is it my understanding that because we passed this other resolution
 10 that's called Luke's resolution --
 11 (Laughter.)
 12 PARTICIPANT: Uh-huh.
 13 MR. GOLDTOOTH: -- which established the creation of a
 14 federal facilities working group, that resolution did pass?
 15 PARTICIPANT: Right.
 16 MR. GOLDTOOTH: Okay.
 17 MS. PAYTON: Right.
 18 MR. GOLDTOOTH: Am I to understand, then, that the Health
 19 and Research Subcommittee is still wishing to push forward a
 20 resolution still maintaining the creation of a working group that's
 21 going to address federal facilities within its subcommittee?
 22 MS. PAYTON: Exactly.

1 MR. GOLDTOOTH: Or does it want to reconsider that and give
 2 that task to the creation of this working group that was just passed
 3 under Luke's resolution?
 4 I'm concerned about this because I heard from the community
 5 members who were concerned about having a voice, a mechanism
 6 that provides a voice; that they wanted it to stand alone, --
 7 MS. PAYTON: Exactly.
 8 MR. GOLDTOOTH: -- separate from the Health and Research
 9 Subcommittee.
 10 MS. PAYTON: Yes.
 11 MR. GOLDTOOTH: So I'm concerned that there might be some
 12 resistance from that community if we continue to consider a
 13 resolution where this working group under the Health and Research
 14 Subcommittee will not be supported by the community members who
 15 came here from that group. It's my understanding that they wanted
 16 something that stood alone on its own.
 17 So I would suggest, if possible, if the Health and Research
 18 Subcommittee would still go forward with pushing the resolution -- I'm
 19 making a friendly amendment -- and withdrawing the eighth
 20 "whereas."
 21 MS. PAYTON: Okay. Let me just say that the resolution was
 22 initially written with that thought in mind. The eighth "whereas"

1 statement was not written -- as I stated earlier, it was only included
2 because on Wednesday, May 24th the Health and Research
3 Subcommittee was assigned the task and it was announced.

4 For the record, the Health and Research Subcommittee wanted
5 to follow-up on that responsibility and state that we heard the chair's
6 request and we did create a working group the following day.

7 However, we did have this very same discussion. I announced, the
8 same as you did, that the public -- that the community wanted a
9 broader, a NEJAC work group not a Health and Research
10 Subcommittee work group.

11 So that is why we stated "but would support a broader NEJAC
12 work group in lieu thereof." So, therefore, that means, should
13 another subcommittee, work group, or NEJAC recommend a NEJAC
14 work group, the Health and Research Subcommittee work group that
15 was created would be resolved (sic).

16 Also, that's why we did not state in the resolution to resolve (sic)
17 a NEJAC work group composed of a broader -- you know, a broader
18 spectrum. The reason being because it was decided then what we
19 were going to do. So we thought this would be the best language to
20 encompass the two things.

21 We did not want to ignore what we had already been given a
22 task of; yet and still, we felt that there should have been a broader

1 NEJAC work group, actually, because it was our stakeholder
2 members, Ms. Augustine, who made that initial suggestion.

3 MR. TURRENTINE: Are you still holding on to the hopes of
4 keeping this in your resolution or are you accepting the notion -- I
5 mean, it's not a resolution --

6 MS. PAYTON: Oh, no, no.

7 MR. TURRENTINE: It's not a motion on the floor at this point.
8 But in discussion, in order to move this, Tom offered that perhaps
9 you want to delete that eighth "whereas" --

10 MS. PAYTON: Oh, okay.

11 MR. TURRENTINE: -- and then allow the rest of your
12 resolution --

13 MS. PAYTON: That's fine.

14 MR. TURRENTINE: -- to be discussed and acted on. Is that --

15 MR. GOLDTOOTH: It could go either way. It could go either
16 way.

17 MS. PAYTON: Right.

18 MR. GOLDTOOTH: I'm just concerned that we can go forward
19 in a timely manner if everyone understands this clarification. I
20 understand that in lieu of -- it could go either way.

21 MS. PAYTON: Yes.

22 MR. TURRENTINE: Arnoldo.

1 MR. GARCIA: The shorthand is that we would have two work
2 groups, one with a more specific and one with a more broader view
3 on federal facilities?

4 MS. PAYTON: No, no, no. It --

5 MR. GARCIA: But let me finish; that way you can clarify for me.
6 Okay?

7 MS. PAYTON: No, no.

8 MR. GARCIA: But the fact is that we just passed a resolution to
9 form the broader group, right?

10 MS. PAYTON: Right.

11 MR. GARCIA: And I believe that the broader group could
12 incorporate what you have here in your resolution.

13 MS. PAYTON: Right.

14 MR. GARCIA: And there would also -- I mean, it would be sort
15 of like -- if in my subcommittee there was a resolution to approve a
16 border work group, you know -- but we already have one -- and we
17 would have to decide where we wanted to place our resources and
18 our efforts. I think that that's the issue.

19 I think it would send a mixed signal to the communities about
20 how we understand their urgent demands. And also I think that the
21 broader resolution, as opposed to your resolution, addresses some of
22 the structural political issues that NEJAC is facing. That's why we

1 have to give it the broadest equality, the issue of the communities --
2 the broadest signal of equality to their demand for a subcommittee,
3 right, which there is a process to forming that, and that would
4 address some of that -- it would put the resolution we approved -- it
5 does put it on that footing of equality.

6 MS. PAYTON: Okay. Let me just add, we are saying exactly
7 what you are saying. The language -- this resolution means that if
8 NEJAC votes on and adopts a NEJAC work group, then the work
9 group that was created in the Health and Research Subcommittee
10 will resolve (sic). Okay?

11 If we adopt Luke's resolution --

12 MR. TURRENTINE: Will do what? Will do what?

13 MS. MILLER-TRAVIS: Dissolve.

14 MS. PAYTON: It will be resolved.

15 MR. TURRENTINE: Resolved? Resolved or dissolved. That's
16 what I'm trying to hear.

17 MS. PAYTON: Dissolved. Right, dissolved.

18 MR. TURRENTINE: Okay.

19 MS. PAYTON: So I accept Tom's suggestion to just strike the
20 number 8 "whereas" from this resolution.

21 The only reason it was put in here, as I say again and I reiterate,
22 is the language.

1 MR. TURRENTINE: We're with you there.
 2 MS. PAYTON: Okay.
 3 MR. TURRENTINE: We understand why it was put in there.
 4 MS. PAYTON: So there's not going to be two work groups.
 5 This is only done as a formality.
 6 MR. TURRENTINE: The question, Marinelle, is, are we striking
 7 that?
 8 PARTICIPANT: Call the question.
 9 MS. PAYTON: Yes, we'll strike that.
 10 MR. TURRENTINE: Okay.
 11 PARTICIPANT: Can we call the question?
 12 MR. TURRENTINE: I'm sorry, what?
 13 PARTICIPANT: Can we call the question?
 14 MR. TURRENTINE: Can we call the question? There's not a
 15 motion on the floor. The chair will entertain a motion.
 16 MR. WHITEHEAD: Can we have a motion to approve this
 17 resolution with the friendly amendment that I believe has already
 18 been accepted. If there's a second --
 19 MR. TURRENTINE: Is there a second?
 20 MS. MILLER-TRAVIS: Second.
 21 MR. WHITEHEAD: Can we have a motion to end discussion on
 22 that?

1 MR. TURRENTINE: I'm sorry. I'm hearing a lot of
 2 conversations going on and I'm not able to focus on what's going on.
 3 And I think the contractor also is not hearing. Yes?
 4 PARTICIPANT: (Inaudible.)
 5 MS. MILLER-TRAVIS: Second.
 6 MR. TURRENTINE: Charles.
 7 MR. LEE: I want to raise the -- the "Therefore, be it resolved,"
 8 the first one focuses on next meeting the issue of environmental
 9 justice arising from federal facilities, including environmental
 10 compliance and remediation.
 11 You've already made a decision that the next meeting is going
 12 to focus on implementation of Executive Order 12898. Now, you can
 13 either understand that that includes much more than just federal
 14 facilities.
 15 PARTICIPANT: Right.
 16 MR. LEE: Okay. Now, I do think that the idea of a NEJAC
 17 meeting focused on federal facilities is something that you should
 18 consider that has enough weight to -- but I don't want for you to be
 19 boxed into the next meeting being that I do think, however, that a
 20 significant part of the next meeting can be focused on federal
 21 facilities environmental compliance in and of itself.
 22 I would recommend that your language be something like

1 "consider a future meeting" on the issue of environmental justice
 2 arising from the federal facilities.
 3 MR. TURRENTINE: Let me just suggest one other thing. I
 4 know there is a motion on the floor and it has been seconded.
 5 What I'm fearful of is that we are now, with this resolution,
 6 embarking on the work that the work group is yet to decide it needs
 7 to do.
 8 PARTICIPANT: Exactly.
 9 MS. PAYTON: Exadly.
 10 MR. TURRENTINE: So my question is whether or not we have
 11 a resolution to go forward at this point. Vernice.
 12 MS. MILLER-TRAVIS: I want to reiterate the statement that I
 13 made earlier.
 14 Since we have approved the Luke resolution to create a federal
 15 facilities work group -- we are already on the record that we are going
 16 to do that -- I want to recommend that we table this resolution and we
 17 have discussion at the protocol level and in our subcommittees about
 18 what the structure and function of that would be, make a formal
 19 recommendation and resolution back to the Protocol Committee for
 20 full discussion and approval by the full Council on something that
 21 incorporates all of the suggestions.
 22 I just simply want to reiterate that. The Waste and Facility Siting

1 Subcommittee had an extensive conversation about this yesterday
 2 with community members from the Wampanoag Tribe who
 3 specifically asked us to do something about the federal facilities
 4 issue. We committed to doing something with them. Assistant
 5 Administrator Timothy Fields committed to doing something with
 6 them as it relates to federal facilities. There's a lot to pack into this.
 7 I would like our work to be as comprehensive and inclusive as
 8 possible of all of our discussions. I don't know what the other
 9 subcommittee did, but we had a very full conversation about this with
 10 EPA and we would like that to be folded into the mandate for this
 11 work group.
 12 There's no way that you can know that because your meeting
 13 was going on at the same time as our meeting. But I would the
 14 NEJAC to make a comprehensive resolution, which I don't feel at this
 15 time that this is. I think this is only a component of our thinking about
 16 federal facilities. But we are on the record of committing to creating a
 17 federal facilities work group. There's no way we're going to take that
 18 off the table, but we need to think a little bit more about what that
 19 would encompass and what the work products would be.
 20 MR. TURRENTINE: And your motion is?
 21 MS. MILLER-TRAVIS: So I recommend that we table this
 22 motion.

1 MR. TURRENTINE: Is there a second?
 2 PARTICIPANT: Second.
 3 MR. TURRENTINE: All in favor of tabling this motion, let it be
 4 known -- Damon?
 5 MR. WHITEHEAD: I'm voting.
 6 (Laughter.)
 7 MR. TURRENTINE: Oh. All in favor of tabling this motion, let it
 8 be known by the usual sign.
 9 (Chorus of ayes.)
 10 MR. TURRENTINE: Opposed?
 11 (No audible response.)
 12 MR. TURRENTINE: The ayes have it, and so ordered.
 13 The next order of business?
 14 MS. AUGUSTINE: Mr. Chair.
 15 MR. TURRENTINE: Yes, Rose.
 16 MS. AUGUSTINE: I would like to state something. If there is
 17 any discussion coming regarding a federal facilities, instead of just
 18 being the Protocol Committee I think that the whole NEJAC should
 19 be involved in that decision and in those discussions.
 20 MR. TURRENTINE: Rose, from a process standpoint -- now, I
 21 just want to share with you how this will proceed from this point -- the
 22 Protocol Committee, with the Designated Federal Officers of each of

1 the subcommittee, will have discussions and we will then -- and
 2 whatever discussions we have, we will come to the full Council with
 3 any of the discussions we've had, and then the full Council will
 4 determine where we go with it.
 5 The Protocol is only going to be the processor of the
 6 discussions, and then the Council will then have to act on any
 7 recommendations coming from the Protocol Committee based on
 8 some discussions we've had.
 9 That's about the most expeditious way that we can get anything
 10 accomplished because we can't get 25 or 26 people on a conference
 11 call to discuss this, but we can through our normal process of
 12 protocol, which we meet on a monthly basis, we will, in any action we
 13 take, as we have done in the past, go to the full Council with approval
 14 of those recommendations.
 15 Does that address your concern?
 16 MS. AUGUSTINE: Yes.
 17 MR. TURRENTINE: Okay. Are there other resolutions for
 18 which we have to take action? Oh, I'm sorry, Marinelle.
 19 MS. PAYTON: Oh, that's okay, I give up. But we do have
 20 another resolution.
 21 MR. TURRENTINE: Before the resolution, Marinelle, I think
 22 Jane might have a comment

1 MS. PAYTON: Oh, okay.
 2 MS. STAHL: I'll make this very brief. I would just like to urge
 3 that as we move forward on the federal facilities issue, that we pay
 4 attention to the calendar because we --
 5 MR. TURRENTINE: Speak into the microphone, Jane.
 6 MS. STAHL: That we pay attention to the calendar. If fact, we
 7 are not going to meet again until after November 5th, and if we want
 8 to capture the attention of existing administrations, we need to act
 9 before that.
 10 MR. TURRENTINE: So noted.
 11 MS. PAYTON: And let me just add, we also had a very
 12 extensive discussion with our program offices, who had agreed to
 13 begin that effort with us. That's why I was pushing our resolution.
 14 I think it is important to consider a part of the next meeting on
 15 federal facilities in environmental --
 16 MR. TURRENTINE: Well, let's understand one thing. Either
 17 this motion is going to be pulled from the table back for discussion, or
 18 we're going to move on.
 19 MS. PAYTON: Are you ready for our next resolution
 20 MR. TURRENTINE: Uh-huh.
 21 MS. PAYTON: I believe you do have this at your table. This is
 22 a resolution on the development of the Community Environmental

1 Health Assessment Decision Tree. As you know, the Health and
 2 Research Subcommittee formulated a work group on community
 3 environmental health assessment to recommend and advise on the
 4 development of one of it's subcommittee initiatives, the Decision Tree
 5 framework.
 6 We had our second work group meeting on May 22nd. At that
 7 time, it was suggested -- well, at that time the work group made
 8 several recommendations to the Health and Research Subcommittee
 9 and at our meeting on May 25th the Health and Research
 10 Subcommittee adopted by consensus those recommendations.
 11 We feel that the recommendations are very important.
 12 Therefore, we recommendation that NEJAC advise EPA to support a
 13 Decision Tree as a priority issue. As we know, the Decision Tree is a
 14 tool that will help to empower and educate environmental justice
 15 communities on issues regarding community health assessment
 16 intervention and prevention strategies.
 17 Also, we would like NEJAC to recommend to EPA funding and
 18 appropriate sources for the design and development of the Decision
 19 Tree and to extend the term of work group members to ensure
 20 completion of the Decision Tree and any training materials to
 21 accompany the tool and dissemination of the tool to environmental
 22 justice communities.

1 We feel this is a very important issue to try to -- as an attempt to
2 secure funding and resources for further development of the Decision
3 Tree, in particular application to community trials.

4 MS. SHEPARD: Marinelle, it's just come to my attention that all
5 resolutions have to be circulated 30 days in advance.

6 MS. PAYTON: Oh, okay.

7 MS. SHEPARD: And unless this is an emergency resolution it
8 will have to be distributed to the entire Council and then voted on
9 when we've had a chance to read it.

10 MS. PAYTON: Okay.

11 MS. SHEPARD: Yes, Jane.

12 MS. STAHL: I would just like to know -- I mean, I think we need
13 a point of clarification here, or a point of information, or just a
14 question that needs to be answered.

15 (Laughter.)

16 MS. STAHL: That is, if we wait 30 days or more, are we
17 jeopardizing the meat of this resolution? Because if that is the case,
18 then I would suggest that it becomes an emergency.

19 You know, I would just -- again, paying attention to the calendar,
20 I think that it's important that we know whether or not this work group
21 is going to fall apart before we would have the opportunity to get it
22 extended if we don't act on it now.

1 I don't know if there's anyone here who knows that as a --

2 MS. SHEPARD: Marinelle, do you want to speak to that

3 MS. PAYTON: I concur wholeheartedly with what she's saying.

4 MS. SHEPARD: Well, she didn't make an affirmative statement.
5 She asked a question.

6 MS. STAHL: Do we know how long the work group was
7 constituted for?

8 MS. PAYTON: I'm sorry?

9 MS. STAHL: Do we know for how long the work group was
10 constituted? Is it going to -- do we have --

11 MS. PAYTON: Yes. Through May 2000.

12 MS. SHEPARD: Speak into the microphone, please.

13 MS. PAYTON: Through May 2000.

14 MS. STAHL: Through May 2000?

15 MS. PAYTON: Uh-huh.

16 MS. STAHL: So, if we don't do this --

17 MS. PAYTON: It terminates at the end of this month.

18 MS. STAHL: It terminates?

19 MS. PAYTON: Yes.

20 MS. STAHL: So I would suggest, then, that this is indeed an
21 emergency --

22 MS. PAYTON: Okay.

1 MS. STAHL: -- because this work group will otherwise fall
2 apart, and we need it to continue so that its work can reach fruition.

3 So, on that basis, I would move that we consider and adopt this
4 resolution as an emergency.

5 MS. MILLER-TRAVIS: Second.

6 MS. SHEPARD: All right. Would everybody -- let's call the
7 question.

8 MR. WHITEHEAD: Are we voting on the resolution or just the --

9 MS. SHEPARD: On the resolution.

10 MR. WHITEHEAD: Okay.

11 PARTICIPANT: Are we voting?

12 MS. SHEPARD: Yes. All hands, aye?

13 (Chorus of ayes.)

14 MS. WOOD: Question.

15 MS. SHEPARD: Are there any nays? Oh, I'm sorry, I didn't see
16 your question.

17 MS. WOOD: I had a question -- I'm not sure what we just did. If
18 indeed we need to take action to continue the work group, I'm
19 certainly supportive of that since unfortunately I'm not even familiar
20 with what the Decision Tree process is all about. I would suggest if
21 this is indeed an emergency resolution, that we should act on it, but I
22 don't know enough to be able to say that, yes, I could support the

1 Decision Tree as a priority issue.

2 My suggestion is that if we are indeed trying to take action to
3 continue the work group, we could then remove the first two bullets,
4 and basically the third bullet, and extend the work of the work group
5 in order to address these issues. I mean, if indeed that's the
6 emergency situation, I certainly could support that. But I don't know
7 enough about the rest of it to be able to say yea or nay.

8 MS. SHEPARD: Do you accept that amendment?

9 MS. PAYTON: Yes. To move -- you're saying number --
(Simultaneous conversation.)

10 MS. SHEPARD: We've already approved it. That's what the
11 vote was.

12 MS. WOOD: That's why I was trying to --

13 MS. SHEPARD: There had been a motion by Jane. It was
14 seconded by Vernice. And then we called the question.

15 MS. WOOD: I know. And I had my card up and hadn't had a
16 chance to --

17 MS. SHEPARD: I'm sorry, I didn't see it.

18 MS. WOOD: I'll abstain from voting. How about that?

19 MS. SHEPARD: Okay. So we have one abstention. And any
20 nays?

21 (No audible response.)
22

1 MS. SHEPARD: Okay. Are there additional resolutions or
2 action items? Vernice.

3 MS. MILLER-TRAVIS: I have one that's toward the full Council.
4 The Waste and Facility Siting Subcommittee does not have any
5 prepared resolutions. We have actions in principle, but they can go
6 into the next part of the discussion.

7 The only action item that I have is actually for the full Council,
8 and not from the Waste and Facility Siting Subcommittee. It is the
9 approval -- and I suppose we probably got that --

10 MS. SHEPARD: Vernice, can you --

11 MS. MILLER-TRAVIS: We've probably got that in the Office of
12 Environmental Justice, but this is just for the record -- approval by the
13 full Council for the environmental justice in the permitting process
14 report that was mailed to everyone in early May or late April, that
15 hopefully you have all seen. I believe also a sheet was mailed by the
16 Office of Environmental Justice to the full Council and I just want to
17 put it on the table so that we know that we are actually putting this
18 document forward into the public and submitting it to the
19 Administrator which will probably be done in the next ten days.

20 I just want to reiterate for folks that the critical items -- there are
21 just five key policy recommendations. The need to clarify what legal
22 authority the permit writer has to address environmental justice

1 issues in permitting; 2) clarifying substantive permit criteria, including
2 cumulative impacts, degree of risk, community demographics and
3 disproportionality of risk; 3) community involvement in the
4 decisionmaking progress as it relates to permitting decisions; 4)
5 enforcement, and 5) the relationship between land use zoning and
6 environment decisions.

7 Those are the critical recommendations and key
8 recommendations out of this report. I just wanted it to be put on the
9 table and entered into the official record of this meeting that we are
10 affirming this report. We've actually already done this, but I want it
11 on the record for this meeting.

12 There you have it.

13 MS. SHEPARD: Pat.

14 MS. WOOD: This is in the nature of a question since I'm still
15 trying to -- I'm not certain about the -- I had submitted the letter
16 because I had reservations with the report. I'm not sure how that is
17 incorporated.

18 MS. MILLER-TRAVIS: Sure. Gary. Hello, Gary?

19 GARY: Yes?

20 MS. MILLER-TRAVIS: Would you come to the table.

21 To my knowledge -- and I'm asking Gary to come to the table
22 because Gary is actually the person who physically did this -- all of

1 the comments that we received, we went back into the document and
2 tried to address either in specific language -- Bob Varney made
3 detailed comments and critiques which we then changed the
4 document; other subcommittee members made changes. I want
5 Gary to specifically address Pat's question about the comments that
6 Pat sent, the changes that Pat recommended in terms of language to
7 the document.

8 What did we do with Pat's comments? How did we address her
9 comments in the body of the report?

10 GARY: Are you talking about the specific comments to -- what
11 was it -- recommendation numbers 77 and 78?

12 MS. WOOD: No. I had submitted a letter -- and I have copies
13 of it here -- in terms of my reservations with some of the report, and
14 have given copies to Haywood and to Marva, and had also sent a
15 copy over to the office in Washington.

16 MR. TURRENTINE: You all would not have even received this
17 -- by the time you put this together, Vernice, you wouldn't have even
18 known about it, so it would not have been incorporated in your final
19 report.

20 MS. WOOD: Okay.

21 MR. TURRENTINE: That letter that Pat is speaking of --

22 MS. MILLER-TRAVIS: I haven't seen it.

1 MR. TURRENTINE: -- she gave to us since we've been here.

2 MS. MILLER-TRAVIS: Oh, okay.

3 MR. TURRENTINE: And I guess she's asking now what is the
4 process for that letter being considered in the scheme of things.

5 MS. MILLER-TRAVIS: Well, this is the first time I'm seeing it,
6 Pat.

7 MS. WOOD: Okay. What I'd like to do is ask that it at least be
8 included as part of the record because I had the impression it was
9 still timely, and it may be that it's not. I would like to have it as part of
10 the record.

11 MS. MILLER-TRAVIS: Barry, can you speak to that?

12 MR. HILL: Well, I haven't seen it either.

13 MS. WOOD: Okay.

14 MR. HILL: The only thing I can say, Pat, at this particular point,
15 let me read it first --

16 MS. WOOD: Yes.

17 MR. HILL: -- and then, you know, respond at that particular
18 point.

19 MS. WOOD: Okay, but I think I would request that it be part of
20 the record. I mean, I realize the report may already be a done deal,
21 but nonetheless I would at least like my letter to be a part of the
22 record of this meeting because I had the impression that it was

1 something that we were going to be voting on at this meeting.

2 MR. HILL: Well, it had been voted on previously, so your
3 assumption is a little incorrect. Remember the ballot that went
4 around to everyone?

5 MS. WOOD: Yes. And this is in response to that.

6 MR. HILL: Okay. Well, it can be included in the record.

7 MS. WOOD: Okay. Thank you.

8 MS. MILLER-TRAVIS: As I recall, the period for comment
9 closed on May 10th, and I think we sent the report out -- what date
10 did we send the report out? April 22nd or thereabout? The week of
11 April 22nd?

12 GARY: Yes, it was the week of the 22nd.

13 MS. WOOD: Okay.

14 MR. TURRENTINE: A point of clarification. I'm not hearing Pat
15 say that she wants her letter to be included in the report

16 MS. MILLER-TRAVIS: Yes.

17 MR. TURRENTINE: She wants her letter to be--

18 MS. MILLER-TRAVIS: Yes, to be a part of the record.

19 MR. TURRENTINE: -- made a part of the official record of this
20 meeting --

21 MS. MILLER-TRAVIS: Yes, that will happen.

22 MR. HILL: And the answer is yes.

1 MS. WOOD: Fine.

2 MS. MILLER-TRAVIS: And, Pat, we're sorry that for whatever
3 reason we weren't able to receive it in the timeframe because we
4 were very judicious in trying to incorporate and address every
5 comment that we received no matter what quarter it came from.

6 MS. WOOD: Well, not having been a member of NEJAC when
7 that meeting occurred, attending portions of it, as people are aware, I
8 spent some time -- actually spent a considerable amount of time
9 trying to talk with the folks who had participated in the meeting, who
10 had been there for the full session, and I am sorry that I got it in there
11 late; I thought I was still getting it in in a timely fashion.

12 I'm not suggesting you go back and tear the report apart
13 because I realize it's too late, but nonetheless, I do want it to be a
14 part of the record. And as I say, there was a lot of time that went into
15 trying to evaluate just what that permitting report.

16 In essence, for those of you that haven't seen the letter, I had
17 two areas of reservation, and I will preface my remarks by saying I
18 had never seen the first draft and so, therefore, don't know what was
19 in the first draft, but understand that there were significant changes
20 incorporated in the second draft which I understand was the draft that
21 was sent out.

22 Indeed, we had a few weeks, but for those of us who were trying

1 to catch up with what amounted to months of work, I spent some time
2 on it.

3 I had two general areas. One, that the 80 recommendations
4 that were included in the report, when you read that as an outside
5 observer -- which I felt I was since I really hadn't participated much in
6 that session except for attending the last day -- you get the sense
7 that those were recommendations endorsed by the entirety of the
8 folks at the session. I don't believe that's the case and I felt that that
9 really should be clarified further; that they're not consensus
10 recommendations.

11 I know that there's some language in there making it clear that
12 not everyone necessarily -- different people offered different
13 recommendations, but the tone of the report is that indeed there was
14 an overwhelming support for those recommendations. I don't think
15 that's true, which is not to say that there might not be if people had
16 the time to actually look at all those recommendations because it
17 seems to me that most of those recommendations were such that
18 any of them could turn into their own separate FACA committee.

19 And I'm not suggesting that; please let the record show that;
20 that's not what I would suggest, but rather, every one of them had
21 considerable text. In some cases it had considerable substance, in
22 other places, some of the recommendations to me were very

1 ambiguous, you couldn't figure out what they meant. And so I would
2 think one would have to spend a lot of time really trying to sort them
3 out.

4 So I'm not about to say that I support or disagree with them
5 because it varies, to be honest, from number to number, and as I
6 say, sometimes I couldn't figure out what my position would be
7 because it wasn't clear to me what the recommendation was.

8 Second -- and I think I've actually touched on it -- the fact that
9 there needed to be considerable deliberation on each of those issues
10 and, therefore, suggested that I could not support the report unless
11 there was further clarification about that, I thought in particular in the
12 introduction and also in the conclusion because we also know that
13 reports that thick seldom get read by most of the public; instead they
14 look at the front piece and they look at the back of it.

15 And we'll certainly make sure that the rest of you get copies of
16 my letter as well. Thank you.

17 MS. MILLER-TRAVIS: Thank you, Pat. And, again, I'm sorry
18 that for whatever reasons we weren't able to see your comments and
19 your concerns before we came up with a final version of the report.

20 But I do want to say, Mr. Chair, that we had a work group that
21 was established of the full Council, and that work group included
22 people from all stakeholder groups -- not just NEJAC members and --

1 I think I was actually the only NEJAC member who was on the work
2 group. It was comprised of people from a variety of backgrounds,
3 including business and industry.

4 I particularly want to lift up Sue Briggum, who is here in the
5 audience, and Eileen Gauna, who was here and may be out in the
6 hall or may have left, who were members of that work group and who
7 took particular pains -- I know Sue is there. Where's Eileen? I know
8 Sue is there, but I think Eileen has left -- who took particular pains to
9 do a line-by-line review of a multi-hundred page transcript.

10 Sue did that in particular because she had exactly the concerns
11 that Pat expressed, that because there were not a lot of business
12 and industry representatives at the meeting who presented to us, that
13 their points of view were not necessarily going to be given equal
14 weight in the report because there weren't that many business and
15 industry representatives who presented to the panel; and therefore
16 their opinions were not necessarily a part of the record.

17 So Sue took it upon herself to make sure that that
18 constituency's issues would be lifted up, but also would be lifted up in
19 the sense that they did not represent consensus, that there was not
20 agreement on a number of critical issues as it pertains to the
21 perspective of business and industry.

22 So we tried to take great pains to state that this is not a

1 consensus report and there's still a tremendous amount of
2 disagreement on a number of very fundamental issues as it relates to
3 permitting. But we do know that we need to go further; we need to
4 advance the discourse.

5 That's what we think this document does. It takes us in the
6 direction of at least clarifying what the problems are, where the needs
7 are for further investigation and research, and where we really do
8 need to do some more bridge-building between constituencies to
9 resolve these issues.

10 That's it for me.

11 MS. SHEPARD: Are we at break? No? Where are we? I know
12 all of the resolutions have been put forward and we are at -- I think
13 we're at the committee reports.

14 We'll start with Marinelle, the Health and Research
15 Subcommittee, because she is about to leave.

16 So, Marinelle, will you give your report.

17 COMMITTEE REPORTS

18 HEALTH AND RESEARCH SUBCOMMITTEE

19 MS. PAYTON: Thank you, Madam Chair. I'm going to give a
20 synopsis of our meeting.

21 Let me just say that in December of 1999 the Health and
22 Research Subcommittee recommended that the focus of the May

1 meeting be on public health issues. At that meeting we decided on
2 an interagency forum to consider a collaborative integrated public
3 health agenda.

4 We voted to establish a Health and Research Subcommittee
5 work group on public health which will include the Health and
6 Research Subcommittee members and invited agency
7 representatives of the Interagency Forum who were present
8 yesterday, and others who could not make it, to develop a strategic
9 plan to implement an integrated collaborative community-based
10 health agenda.

11 We proposed a resolution for NEJAC approval recommending
12 that the next meeting be focused on the issue of environmental
13 justice arising from federal agencies, and at that time our program
14 office director, Dr. William Sanders, and Assistant Deputy
15 Administrator Hal Zenick mentioned that they would be very happy to
16 work with us on this.

17 We also agreed to prepare a NEJAC approval that would
18 support the Decision Tree framework that you just heard me discuss,
19 and we voted to recommend that NEJAC establish a Health and
20 Research Subcommittee work group on federal facilities, which no
21 longer exist -- the reason I'm telling you this is I'm just giving you an
22 order of some of the things that we did, not to be redundant here.

1 We also voted to recommend that NEJAC establish a
2 recommendation -- oh, excuse me, establish a work group on federal
3 facilities, and as a result of that, we had the recommendation that
4 was formally presented by Luke Cole because we did have extensive
5 discussions with him about that prior to the meeting. And as
6 mentioned by Ms. Augustine -- she brought that up during the public
7 comment period on Wednesday night -- we agreed to prepare a
8 resolution for NEJAC approval recommending that EPA include in
9 their criteria in the agency permitting process to protect communities
10 with comparatively poor health from additional pollution-releasing
11 facilities. We feel that, as you heard Jerome Balter discuss his
12 environmental justice standard of Philadelphia, that a criterion of
13 health should be included.

14 We agreed to prepare a resolution for approval, recommending
15 that EPA establish an effective national facility registry system for all
16 operating facilities that emit hazardous chemicals, and make the
17 information accessible and understandable to the public. This will be
18 done under a report resolution on community-right-to-know.

19 We also agreed that we would develop a resolution to support
20 the formation of a NEJAC work group to focus on bringing about
21 resolution to issues of concern to the Mossville community. In doing
22 so what we did is that we had a joint session with the Waste and

1 Facility Siting Subcommittee yesterday evening.
 2 Thank you.
 3 MS. SHEPARD: Are there any comments or questions on the
 4 report.
 5 (No audible response.)
 6 MS. SHEPARD: Okay, thank you.
 7 MS. PAYTON: Thank you, Madam Chair.
 8 MS. SHEPARD: Who would like to go next? Okay.
 9 AIR AND WATER SUBCOMMITTEE
 10 MS. JARAMILLO: Already distributed to you were some of the
 11 action items that came out of the Air and Water Subcommittee. I'm
 12 going to try and summarize those real quickly and kind of put them in
 13 a framework for you.
 14 The first four pieces have to do with the mercury emissions
 15 resolution. Obviously number one would have been the passage of
 16 the resolution, which the Council has done. The others are follow-
 17 ups to that. Number two being that the Office of Air and Radiation
 18 report back to the subcommittee on the determination and that we
 19 get a report -- the report issued by the National Academy of
 20 Sciences, which will be issued in the next couple of months. And
 21 then also, we requested a copy of the Clean Smokestacks bill of
 22 1999 which we wanted to look at that a little bit more clearly.

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1 The second piece that I have lumped together here was the
 2 establishment of kind of a joint working group. We didn't see it as a
 3 formal work group; that it would be kind of a review work group of the
 4 draft guidance to reduce toxic levels, and that that group have
 5 members from both the Air and Water Subcommittee and the Waste
 6 and Facility Siting Subcommittee and that they could do some review
 7 on that document and provide comment on that.
 8 We agreed to meet with -- or, there was a commitment to meet
 9 with Johnny Wilson on the contaminated drinking water issue in
 10 several Georgia counties.
 11 A third major piece was expanding the fish consumption working
 12 group to have a collaborative working group that is working with the
 13 Indigenous Peoples Subcommittee to look at the impacts of
 14 contaminated fish on communities.
 15 Along with that, I met with members from the Indigenous
 16 Peoples Subcommittee on a couple of action items that we need to
 17 address quickly, and that's to provide a couple of members on the
 18 Steering and Planning Committee for EPA's upcoming conference in
 19 April of 2001 on communicating state consistency. We'll be providing
 20 a couple of members to that Steering Committee.
 21 Also, identifying community groups and individuals that --
 22 excuse me, I have two different pieces here -- providing people for

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1 the Steering Committee for the National Risk Communication
 2 Conference, and then providing a list that they can draw on for
 3 participants to that.
 4 I won't go any further into the report. I can answer questions.
 5 What I'd hoped to do was that we would have a little bit more time to
 6 share some results of a study that was presented to us. In the
 7 interest of time, I don't need to do that now, but I do have that if
 8 anybody is interested, after all the reports are given. There are five
 9 slides I kept from the researcher that show some real significant
 10 results, and if anybody is interested in looking at those, I'll be -- I'm
 11 going to be here until the bitter end and we can show that after
 12 everybody has had an opportunity to report.
 13 MS. SHEPARD: Okay, thank you.
 14 Are there any comments or questions? Yes, Jane.
 15 MS. STAHL: I'm hoping that you won't gavel me down because
 16 I'm just going to take an opportunity here because there was the
 17 nexus of the Air and Water Subcommittee's resolution on mercury. I
 18 do not want to go without comment in explaining a no-vote on
 19 something that I support, my state supports, the Northeast states
 20 support, as do the northeastern premiers of the sovereign nation of
 21 Canada.
 22 I think it's very important for us to recognize that, for example,

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1 the Environmental Protection Agency is in court right now on the
 2 appellate level, having lost in the courts below on the issue of
 3 establishing an eight-hour ozone standard, which is one of the major
 4 health issues arising from environmental sources, because the courts
 5 did not find that there was a substantial or demonstrable or
 6 sustainable basis for the agency to have established that standard.
 7 What Pat raised as an issue on the mercury resolution was a
 8 way to avoid a similar result occurring by the Administrator adopting
 9 an action without having the firmest, most solid basis for doing so.
 10 If we, as a NEJAC, are going to advise EPA, we do ourselves,
 11 our constituencies, and EPA, a disservice if we ill-advise them.
 12 We also do ourselves a disservice when, for all the best reasons
 13 and intentions, we turn our meetings upside down and can't have the
 14 necessary productive conversations before we vote on resolutions
 15 because I am convinced that we could have modified that resolution
 16 to address this issue and not ask the EPA Administrator to do
 17 something that would jeopardize the timely and important work that
 18 we're urging upon her.
 19 MS. SHEPARD: Okay, thank you. Vernice, are you ready?
 20 WASTE AND FACILITY SITING SUBCOMMITTEE
 21 MS. MILLER-TRAVIS: I'm ready, Madam Chair. I'm going to
 22 quickly go through nine items and then two work products.

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1 Our first issue is that we committed, along with the Office of
2 Solid Waste and Emergency Response, to continue working with the
3 Waste Transfer Station Working Group on the development of a draft
4 status report entitled EPA's Municipal Solid Waste Transfer Station
5 Action Strategy.

6 I just want to remind people that in March the Waste and Facility
7 Siting Subcommittee and the NEJAC approved and transmitted to the
8 Administrator a report entitled The Regulatory Strategy for Siting and
9 Operating Waste Transfer Stations, and the Administrator is in
10 receipt of that report

11 At our stakeholder meeting yesterday Assistant Administrator
12 Timothy Fields responded to that report with the following document:
13 A Draft Status Report on EPA's Municipal Solid Waste Transfer
14 Station Action Strategy Responding to the National Environmental
15 Justice Advisory Council Recommendations on Waste Transfer
16 Stations. It's a 21-page report of action items and responses of
17 things that the Office of Solid Waste and Emergency Response and
18 the Office of Solid Waste are going to continue to do to implement
19 the recommendations of that report.

20 Included in that are specific action items that EPA Region 2 and
21 EPA Region 3 are going to undertake specific to this issue in their
22 regions because, as you remember, the two cities that we focused on

1 were New York City in Region 1 and Washington, D.C. in Region 3.
2 They're going to do some specific things to follow-up on this report
3 and its recommendations as it relates to trying to resolve the issue of
4 impacted communities and waste transfer stations in those two cities.

5 But there's a whole host of things that EPA has committed to
6 do. I won't go over them now, but if anyone is interested in looking at
7 this, you can contact Kent Benjamin, 202-260-2822.

8 (Laughter.)

9 MS. MILLER-TRAVIS: To get copies of the response from Tim.
10 It is rather detailed, and I think the NEJAC would be very, very
11 pleased to see the immediate response that we received from the
12 Office of Solid Waste and Emergency Response in how detailed that
13 response is in terms of our recommendations.

14 The second item is related to that, that we agreed to provide the
15 Office of Solid Waste and Emergency Response with points of
16 contact to inform the subcommittee on OSWER's implementation of
17 the best management practices presented in a draft report entitled,
18 EPA's Municipal Solid Waste Transfer Station Action Strategy.

19 One of the commitments as a result of this is to create a best
20 management practices guide on waste transfer stations for local and
21 state governments. That process is currently underway in the Office
22 of Solid Waste.

1 Thirdly, we -- this is an action item for Barry, wherever he is --
2 for Barry and Charles -- that we look at the development of a
3 mechanism to involve all subcommittee through a representative
4 work group in the ongoing discussion of the cumulative risk
5 framework. We thought that the presentation that Mike Callahan
6 made to the full NEJAC on Tuesday required some real follow-
7 through on behalf of the NEJAC in terms of how EPA is going
8 forward with the development of that cumulative risk framework.

9 We had an opportunity to talk to Mike yesterday. It was a great
10 discussion and he was really engaging of the NEJAC and engaging
11 of the subcommittee in really wanting our involvement, and I think
12 that we should follow through on that request and that the full NEJAC
13 should have some process of members of us who want to work on
14 that cumulative risk -- I mean, that somebody from every
15 subcommittee should be involved in that process. And certainly the
16 Waste and Facility Siting Subcommittee committed that we would
17 continue to work with him on that as a subcommittee.

18 The fourth item was a request -- Charles, did you want to say
19 something?

20 MR. LEE: No.

21 MS. MILLER-TRAVIS: The fourth item was a request by
22 Communities in East Liverpool, Ohio who came to visit us regarding

1 the WTI incinerator in East Liverpool, Ohio. We asked Mike Shapiro,
2 who was the Deputy Assistant Administrator for OSWER who was
3 with us all day -- we asked him to specifically get back to the
4 community and to work with Region 5 regarding what are the issues
5 pertaining to the ongoing operation of the WTI incinerator in East
6 Liverpool, Ohio. And in that process we are going to continue to
7 work on it with them so that we can get back to the community with a
8 definitive response from the agency about what they're doing
9 regarding that specific facility.

10 We also received a commitment from OSWER that OSWER
11 would, with Region 4 and Region 6, develop and provide to the
12 Alabama African-American Environmental Justice Action Network
13 and the Southern Organizing Committee statistical information on
14 permit compliance and enforcement actions taken in the regions
15 focusing specifically on the states of Alabama, Georgia, Mississippi
16 and Texas where there are particular concerns from communities
17 about enforcement and compliance activities by Region 4 and by
18 Region 6 in those respective states. And that commitment was made
19 by Tim Fields.

20 Then we have the issue of federal facilities, which we don't need
21 to go into at length because we've already talked about it enough
22 today, but simply to say that our subcommittee as it relates to federal

1 facilities is going to work specifically to try to resolve issues that were
2 brought to us by the Wampanoag Tribe of Massachusetts.

3 The Office of the Secretary of the Environment of the State of
4 Massachusetts and the Massachusetts Department of Environmental
5 Protection have specifically asked us to look into intervention on
6 behalf of EPA and the Department of the Navy as it relates to the
7 ongoing use of Nomans Island as a bomb site and a test site. It's
8 exactly that same issue as Vieques, but this place is in
9 Massachusetts right off Martha's Vineyard. It's actually five miles off
10 the coast of Martha's Vineyard.

11 Finally, the last three items are all issues related to Mossville.
12 In our conversation yesterday, as well as our ongoing conversation
13 within the Waste and Facility Siting Subcommittee with residents of
14 Mossville Environmental Action and EPA Region 6, we agreed to
15 meet with representatives of EPA and ATSDR to formulate a plan for
16 conducting a public health response to the dioxin study in Mossville,
17 Louisiana. That was a commitment that the subcommittee made to a
18 particular request that was made of us.

19 We also agreed to work with EPA Region 6 staff with the
20 residents of Mossville, Louisiana to solve various issues of concern
21 to their community. Part of our effort was our discussion last night.
22 And Charles is going to talk about ongoing efforts related to that.

1 But the Waste and Facility Siting Subcommittee has specifically
2 responded to work on that process. We have been asked by Region
3 6 to provide some intermediary facilitation and we have agreed to do
4 that.

5 And, finally, we recommend to the Executive Council that a
6 resolution be developed to support the formation of a NEJAC work
7 group to assist ATSDR and EPA in following EJ Public Participation
8 Protocols and to focus on bringing about resolution of issues of
9 concern to the Mossville, Louisiana community.

10 Those are all of our action items. One more work product,
11 Madam Chair. We mentioned this at the last NEJAC meeting, and
12 I'm not sure -- Kent, did everybody in the Council receive a copy of
13 this? Well, if I can request that everybody on the Council receive a
14 copy of the Social Aspects of Siting RCRA Hazardous Waste
15 Facilities.

16 We have finished this document. Here it is. And we
17 recommend that all Council members look at it and the public. We
18 think it is an extraordinarily useful document.

19 That is it for us.

20 MS. SHEPARD: Thanks. Charles.

21 MR. LEE: The first comment I wanted to make was, in regard to
22 the discussion in the Waste and Facility Siting Subcommittee around

1 the cumulative risk framework, I'm really pleased to hear that it was a
2 well-engaged discussion.

3 It was our intention to bring that issue to the Council as a whole
4 and to the Waste and Facility Siting Subcommittee, recognizing the
5 early stages of development of that framework and the critical
6 importance of it to environmental justice. So I'm really pleased to
7 hear that there is going to be ongoing discussion.

8 We need to have a discussion probably in the Protocol
9 Committee on how best to achieve that. There is a desire on the part
10 of the Cumulative Risk Technical Review Panel to be holding more
11 dialogues with the NEJAC, and they are also going to be holding a
12 number of panel discussions in the near future.

13 So there are these initial opportunities. But I think that that's a
14 place that we really do need to follow-up, and is in fact a very
15 important outgrowth of this particular meeting focusing on health
16 issues.

17 Just as far as a further follow-up to the meeting last night, there
18 was a conversation with ATSDR and members of the Mossville
19 community and EPA Region 6 after the larger meeting that was very
20 productive and came up with a number of specific suggestions in
21 terms of next steps.

22 I don't want to go into them specifically because I think they

1 need to be further vetted by all the groups involved before they
2 become made open, but I think that can be definitely added into the
3 work of the work group that's going to get established.

4 MS. SHEPARD: Thank you, Charles. Are there any comments
5 or questions?

6 (No audible response.)

7 MS. SHEPARD: Okay. Is there anyone here for the
8 International report, the Indigenous Peoples report?

9 MR. YANG: I'm sorry, I'm actually waiting for one of my
10 committee members still to come back? Is there somebody else that
11 could go first? If not -- otherwise I would --

12 MS. WALKER: I'm going to be giving the Indigenous Peoples
13 Subcommittee report.

14 MS. SHEPARD: Okay.

15 INDIGENOUS PEOPLES SUBCOMMITTEE

16 MS. WALKER: I'm the only one still left from the subcommittee.
17 We had a pretty busy meeting. One of the things that we did was to
18 approve the emergency resolution on persistent organic pollutants,
19 which the Council also approved today.

20 We also agreed to coordinate with the Waste and Facility Siting
21 Subcommittee on two EJ issues involving Native groups and Tribes
22 which presented testimony at the larger meeting. That is, one

1 situation involving the proposed landfill, the Gregory Creek landfill in
2 California, which is located near about six Indian reservations and is
3 being opposed by the Tribes. Also the Wampanoag Tribe which was
4 mentioned.

5 We also have prepared a revised draft of the Guide on
6 Consultation in Public Participation with Tribes. I think everybody
7 should have a copy of that.

8 One reason why this was developed -- and I guess it's been
9 being developed over a couple of years -- but due to the unique
10 political status of Indian tribes and their government-to-government
11 relationship, the federal trust responsibility that's owed to them,
12 consultation is required by executive order and also in many of the
13 federal statutes. So this guide is to help agencies and others on how
14 to go about that consultation process. So, if anyone has comments,
15 we're looking for those by August 15th.

16 The Indigenous Peoples Subcommittee will also be coordinating
17 with the International Subcommittee in its roundtable efforts on
18 border issues because there are many Tribes located in those areas.

19 We approved a letter which is going to Barry Hill in the Office of
20 Environmental Justice which basically reaffirms a resolution that was
21 passed by the subcommittee in 1998. It articulating the need for a
22 NEJAC meeting that would be held in Alaska to address the wide

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1 range of issues that concern Alaska Natives.

2 Also, the subcommittee has agreed to cooperate with the Air
3 and Water Subcommittee's working group for fish contamination and
4 consumption studies.

5 The last thing, the subcommittee is supporting the Interagency
6 Working Group on Environmental Justice in its plans to hold a
7 roundtable addressing environmental justice in Indian Country and
8 among Alaska Native Tribes.

9 MS. SHEPARD: Thank you. Comments or questions?

10 (No audible response.)

11 MS. SHEPARD: All right. Tseming.

12 INTERNATIONAL SUBCOMMITTEE

13 MR. YANG: Thanks. This has been an extraordinarily busy
14 meeting for our subcommittee. But before just describing what we
15 did, I just wanted to provide some thanks to Wendy Graham, our
16 subcommittee DFO, for her terrific work in preparation for this, as well
17 as thanking our witnesses, Maria Elena Lucas Rochel and also
18 Jeannie Economas, who were kind enough to attend our meeting to
19 talk to us about farm workers and pesticides.

20 The farm workers and pesticides was one of our big focus areas
21 for this meeting, and I'll actually let Fernando Cuevas, co-
22 subcommittee member, speak on the activities on that.

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1 MR. CUEVAS: Thank you. First of all, I want to recognize and
2 thank NEJAC and also recognize and thank our International
3 Subcommittee and, of course, Wendy Graham for helping me and
4 allowing me to do a farm worker health presentation. And I want to
5 especially thank Maria Elena and Jeannie for accompanying me in
6 that and the fantastic work that they have actually done in that group.

7 What was really presented as issues at that meeting was the
8 critical issues on pesticides towards farm workers, the dangers that's
9 there, the harm that's happening, and actually also presenting that
10 the farm worker labor rights that are never there, the farm worker civil
11 rights that are never there -- always getting abused of and taken
12 advantage of. And least, but not last, one of the very critical ones is
13 lack of enforcement -- of whatever you can think of when it comes to
14 migrant farm workers.

15 I just want to repeat myself and recognize that the presentation
16 from Maria Elena Lucas Rochel and her life as a farm worker and as
17 an organizer in part of her life, was really a tremendous impact of all
18 of us. She focused on the conditions facing all farm workers in their
19 labor rights violations, the physical exploitation that's going on and
20 the verbal abuses and harassments that she shared with us in her life
21 as a migrant farm worker and her life as a woman organizer.

22 I mean, I've know her for probably 30 years myself, we've been

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1 friends off and on working together -- out in the field, that's what I
2 mean by working together -- and also working together as organizers,
3 and she still made me shed a tear as she was talking of her lifestyle
4 because it reminds me a lot of all our women working in the fields as
5 migrant farm workers. It reminds me a lot of my mother and
6 grandmother working out in the fields alongside of myself.

7 She was talking as if it was my mother talking, like if it was my
8 grandmother talking, like if it was my sister that I never had that was
9 talking also. It just reinforced everything.

10 For those of you that are interested, Maria Elena was a
11 fortunate farm worker also in that somebody took an interest and put
12 together a book on her life as a migrant farm worker and as an
13 organizer. And if you want to learn more about farm workers, learn
14 more about Maria Lucas' life, I'd ask you to try and get ahold of that
15 book. We did get it for the subcommittee. It makes an impact.

16 We also had a presentation by Jeannie Economas from Farm
17 Worker Association of Florida. She brought the case on the Lake
18 Apopka, which according to her presentation Lake Apopka during
19 World War II, in the 1940s, was drained, a big portion of it, to develop
20 it as agricultural land to produce vegetables and all kinds of crops.
21 But recently, in the last three years, by finding out that the water and
22 the land had a lot of residue of chemicals that were found there, they

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1 decided to buy the land from the growers.

2 The state put up \$113 million to invest on assuring that those
3 growers would not lose any money by having to close down the
4 agricultural operation. It's a big investment that they did on behalf of
5 growers that got the majority of that land free because, in the first
6 place, they drained the land to make it possible for agriculture, but
7 yet 40 or 50 years later they pay them a big chunk because of the
8 fact that they found out that -- also, later, there was a lot of migration
9 of birds dying in great numbers, according to the figures that she had
10 there, by extensive poisoning because of coming to those wetlands
11 of that lake.

12 The sad thing about it is that there were over 2,000 migrant farm
13 workers that lost their jobs when the state bought all that land for
14 \$113 million. A lot of them lost their homes because their homes
15 were in those same farms. Again, nothing was done to address the
16 health of those migrant farm workers that were actually evicted from
17 those lands. But yet -- I've just got to repeat this -- a lot was done for
18 the farmers that were using that land that they got free to begin with.
19 They gave them \$113 million and they didn't spend a buck on the
20 migrant farm workers to see how they can be replaced, retrained or
21 rehoused or about their health needs.

22 All of this brought a lot of discussion, a real good discussion on

1 the systematic nature of the violations of farm workers, pesticide
2 poisoning, and, yes, death of a lot of migrant farm workers that's
3 been going on and on an will continue to go on until we do something
4 about it.

5 There was a lot of discussion on child labor. Child labor --
6 especially exposure to child labor when they are working in the fields,
7 and child labor that are actually not working in the fields, but
8 because, again, of lack of day care, they are taken to the fields to
9 either stay in the vehicle or play alongside the parents or at the edge
10 of the fields, but playing on the contaminated ground that all those
11 chemicals are being sprayed on. And they're getting more affected
12 than even us adults because they are actually getting them all over
13 their bodies.

14 A lot of discussion was also into the inadequate or no health
15 care at all for migrant farm workers out here in this good old USA that
16 everybody tells me. But it -- really, I'm trying to hold my temper, in
17 reality. I really appreciated Richard Moore the day before yesterday
18 because he let it out for all of us. It's just too bad that we didn't have
19 an opportunity to show our support to them or show our frustration
20 also -- like Richard Moore did a beautiful job for all of us. I want to
21 commend him for that.

22 We mentioned earlier that there are some working groups that

1 are going to be formed out of that, and I want to thank all of you
2 NEJAC members for passing those resolutions. It's a resolution that
3 I myself think was desperately needed. I'll make my commitment
4 that I'll do the best I can to make sure that the working group on farm
5 workers gets formulated and that we can, with the help of Arnoldo --
6 and the first person I know that I want to invite to be a part of that
7 working group is Maria Elena. We need persons like Maria Elena to
8 be involved in a working group like that to share her experience and
9 to guide us in the right direction where we can start actually getting
10 more information to the rest of you on NEJAC of the needs of the
11 farm workers and how we should start paying attention to their health
12 now and in the future.

13 Again, I want to thank you also for agreeing on the round table
14 on farm workers. Hopefully we can put something together that --
15 excuse my language, everybody -- that will scare the hell out of all of
16 you so that you can start paying attention and we can start going to
17 work on eliminating all those pesticides that are out there that are
18 really killing us, damaging us, and destroying us and trying to vanish
19 us from this country.

20 But keep in mind, when this really happens, you're next, you're
21 next, and we're not going to be there to furnish the fruit that we all
22 eat, or the crops that we all eat, or the vegetables. But you are next;

1 so by destroying us, you're destroying yourselves.

2 With that, I want to thank you very much.

3 MR. YANG: Thanks, Fernando. I will try to sort of make it quick
4 in terms of wrapping up.

5 One thing that I wanted to emphasize also is that part of the
6 reason why the International Subcommittee chose to take this issue
7 on is really we did this in particular also because we did have some
8 conversations with the Enforcement Subcommittee and this, as you
9 can tell from Fernando's description, is an incredibly important issue
10 that has been not sufficiently paid attention to.

11 Pesticide enforcement and pesticide protections for farm
12 workers is really one of the big neglected areas. But there are also
13 some connections with some of the international work that NEJAC
14 does in terms of the proximity of the border as well as the importance
15 that migrant workers play within this issue.

16 But before going on I also wanted to -- I forgot to mention that
17 we wanted to also extend our thanks to the other members of EPA
18 that attended that particular session, but in particular the staff from
19 OPPT that came in and were willing to answer questions.

20 This is only the first part, I guess, of greater inquiry into the
21 issue of farm worker health and also into pesticides, I believe, as the
22 establishment of this work group on farm worker health will explore

1 further issues.

2 The subcommittee spent considerable time thinking about future
3 agenda items that our subcommittee will tackle. We've had a very,
4 very productive discussion with Principal Deputy Assistant
5 Administrator Alan Hecht about some of the issues that the
6 subcommittee can provide assistance on, as well as issues of
7 interest to the subcommittee members.

8 Those issues ranged from further events that will happen at the
9 U.S./Mexico border, in particular development of the next Border XXI
10 plan, an integrated plan, essentially, that will deal with environmental
11 issues at the U.S./Mexico border and that OIA is seeking input into
12 from the NEJAC and really much more importantly, from the
13 community groups that live on the border and that we hope to
14 facilitate.

15 Other issues that arose include potential work of the
16 subcommittee on OIA's input into multilateral development banks,
17 some human rights issues, trade and environment. In that context I
18 think our attempts to involve the State Department as well as the
19 U.S. Trade Representative's Office in some of this work will become
20 important.

21 There's been some encouraging progress with regard to a
22 resolution that the NEJAC passed this past meeting, attempting to

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1 get the USTR and also the State Department more involved in
2 environmental justice issues, but we expect to see further work on
3 that.

4 MS. SHEPARD: Could you wrap up, please?

5 MR. YANG: Yes, sure. There was also quite a significant
6 discussion on further follow-up on border issues, and that really ties
7 into some of the larger issues of how immigration, environmental
8 justice and the border itself, and developing investment at the border
9 will promote community stability and the issues of environment
10 racism and injustice.

11 Of course, finally, last but certainly not least, is the delegation
12 from South Africa that the International Subcommittee hosted and a
13 session that we held for an exchange of views and information
14 regarding how NEJAC could be most helpful to the South African
15 delegation, and vice versa, some of the lessons that we could have
16 learned.

17 I think that wraps up the major items. There are a number of
18 other minor action items, but I think in the interest of time I'll stop
19 here. Thanks.

20 MS. SHEPARD: Thank you. You all had extensive
21 discussions.

22 Is there anybody left here for the Enforcement report?

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1 PARTICIPANT: (Inaudible.)

2 MS. SHEPARD: Okay.

3 MS. PATE: Hi, I'm Shirley Pate, the DFO for the Enforcement
4 Subcommittee.

5 MS. SHEPARD: Speak into the microphone, please.

6 MS. PATE: Is that better? Okay.

7 MS. SHEPARD: Identify yourself.

8 MS. PATE: Pardon?

9 MS. SHEPARD: For the record, identify yourself.

10 MS. PATE: I'm Shirley Pate, the DFO for the Enforcement
11 Subcommittee.

12 Yesterday the Enforcement Subcommittee had a very full day.
13 We met with Sylvia Lowrance, the Deputy Assistant Administrator for
14 OECA. Had a very good lively discussion with her, and received a
15 commitment from her to involve the Enforcement Subcommittee in
16 various stages of OECA's strategic planning process. So we were
17 particularly pleased about that.

18 The health related portion of our agenda dealt with the general
19 theme of what health data or indicators should EPA use in order to
20 better focus its enforcement targeting resources. We had
21 presentations from a Dr. Tim Aldrich from the South Carolina
22 Department of Environment and Control.

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1 We had a presentation from Dr. Maureen Lichqueld from the
2 CDC and Juanita Buney who is a public health nurse who is
3 conducting a study in Richmond County Georgia.

4 We had a very good discussion and a couple of members of the
5 subcommittee are going to follow-up on those discussions and
6 develop a report.

7 We also received a presentation on CAFOs by Steve Wing from
8 the University of North Carolina and Gary Grant who is with
9 Concerned Citizens of Tillery County. It further deepened the
10 Enforcement Subcommittee's concern that this is a very serious
11 issue which needs immediate attention.

12 We also spent some time with Ann Goode regarding Title VI. I
13 don't think it's any secret that Luke Cole in particular has been very
14 concerned about the lack of movement of Title VI cases, and that
15 was expressed to Ann strongly yesterday.

16 The Enforcement Subcommittee is going to produce a fairly
17 lengthy report on Title VI that will involve a couple of things. During
18 our Enforcement Subcommittee meeting that we had in San Diego in
19 August we had a panel of two or three people who had actually filed
20 Title VI cases. We asked them to come before the Enforcement
21 Subcommittee to let us know what is it in the process of filing of the
22 Title VI cases that's wrong, that's not going right, and get their

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1 suggestions. So part of the report will focus on that.
2 The other part of the report will actually kind of chronicle the
3 lack of progress in the movement of Title VI cases and will make
4 overall recommendations to the Agency.

5 And that's it

6 MS. SHEPARD: Okay, thank you.

7 Mr. Chair, do we have any next steps?

8 MS. MILLER-TRAVIS: Peggy, can I ask a question?

9 MS. SHEPARD: Oh, I'm sorry. Yes, Vernice?

10 MS. MILLER-TRAVIS: Shirley, are you all trying to get that
11 report done within the timeframe of response back to the Guidance?
12 I mean, it sounds like it's separate from the Guidance and more than
13 a guidance, but are you trying to get it done in a timeframe of that
14 public notice?

15 MS. PATE: No. I think that the amount of topics that Luke is
16 interested in having the subcommittee covering the report is going to
17 take some additional research and it's probably going to go beyond
18 the comment period.

19 MS. MILLER-TRAVIS: So how do we then want to use that
20 report to influence the agency as it looks to implement Title VI?

21 MS. PATE: I guess what you're saying is that if it's not done
22 within the 60-day public comment session, what good could it be?

1 MS. MILLER-TRAVIS: Well, that we just need another strategy.
2 We need a strategy for how we're going to get OCR and OGC and
3 the rest of the agency to pay attention to it if it's outside of the
4 framework of that public comment period.

5 MS. PATE: I think all I can say now is that I think Luke is very
6 creative in getting attention to the issues.

7 (Laughter.)

8 MS. PATE: Let me put it this way, I'm sure he's got a plan and
9 I'm sure he won't share it with me until the last minute.

10 MS. MILLER-TRAVIS: Okay, thank you.

11 MR. TURRENTINE: I guess we are at the point of next steps.

12 Before we do that, I want to say something to the staff from the
13 Office of Environmental Justice and other EPA personnel who in my
14 opinion have been invaluable to this process this week. They've had
15 to contend with us being cantankerous at times and being demanding
16 of them, and they responded in a very positive way each and every
17 time.

18 I just want to say to the staff that we truly appreciate what
19 you've done, the way you do it and the way you get knocked down by
20 us and you keep getting up and going on about doing the business
21 that you're supposed to do. I just want you to know that we
22 appreciate it.

1 And to the contract personnel who have had to work with us in
2 terms of getting the sound system up and running and doing the
3 other things that they've done, I want to say thank you to them.

4 Most particularly I want to say thank you to Region 3 -- I mean
5 Region 2 -- I mean Region 4 personnel --

6 (Laughter.)

7 MR. TURRENTINE: -- because they have been tireless in their
8 attempts to make this NEJAC meeting work.

9 To John Hankinson and all of his staff, I just want to say thank
10 you to them because without the effort they've put into it, this meeting
11 certainly could not have gone as smoothly as I think it has gone. And
12 we certainly could not have gotten to the point that we are going to
13 talk about next steps and -- in my estimation, I think we may be a
14 little bit ahead of time, but we certainly have stayed on time.

15 To that end, I want to say thanks to all of the Council members
16 for your cooperation and the support that you've given to the process
17 of trying to get through this agenda and cover as much of the work as
18 we've had to cover. It is only with your cooperation that we were able
19 to do that. So, thank you to the Council members.

20 Charles, if you or Barry -- I'm not sure who -- wants to cover
21 next steps, if you can give us an idea of how much time you need to
22 take because we do have a couple of other things that we want to do,

1 and that is to give each of the Council members an opportunity to
2 reflect or make whatever comments they have to make.

3 Now, how much time are you going to need, Barry?

4 MR. HILL: I'm just going to need five minutes, you know, at the
5 most. All I want to do is really -- as you know, Haywood, this
6 morning when I came in I said to you that I needed about five or ten
7 minutes to thank everyone for the effort that they put into trying to
8 make this meeting a success.

9 What had happened was that the Region 4 people were
10 involved with the South African delegation and we were waiting for
11 them to come back, many of the people to come back. And they
12 didn't.

13 I am going to send a letter to John and to Stan and particularly
14 to Phyllis thanking them for all of the effort that their staff put into
15 making this meeting a success.

16 I would be also remiss if I didn't thank the OEJ people,
17 particularly this guy on my right. He's a visionary. If you think about
18 it, none of us would have been here without him.

19 If you go back to the 1987 United Church of Christ report, they
20 recommended that an Executive Order be issued, and that was done
21 in 1994; that an office of Environmental Justice -- it may have had a
22 little bit of a different name -- be established, and that was in 1993;

1 and also that a National Environmental Justice Advisory Council be
2 established, and that was done in 1994.

3 So when you think about it, when you think about what he was
4 perceiving back in 1987, it's really a remarkable thing to realize that
5 this is how far we've come.

6 This whole meeting about community-based research, this guy
7 has seen it, he envisioned it a couple of years ago. I think that a
8 good definition of a genius is somebody who sees the obvious
9 quicker than anybody else. We're just catching up with him, you
10 know, as far as these ideas are concerned.

11 I also want to thank Marva. As Charles said, she's the one who
12 really runs the NEJAC. She gets real testy in the weeks before the
13 NEJAC and then --

14 (Laughter.)

15 MR. HILL: -- the beautiful thing is that she'll apologize.

16 (Laughter.)

17 MR. HILL: I remember one day she was calling me from the
18 train saying I'm sorry that I was real nasty to you. I said, oh, that's
19 fine, I'm used to it at this particular point; it's NEJAC time.

20 (Laughter.)

21 MR. HILL: And also Linda. Linda, she reminds me she has the
22 checkbook. "Barry, that mic's going to cost \$500. You've got to

1 make sure that it's going to be used, and it's going to be used
2 correctly." So she's a valued member of the team.

3 And Marty. This has also been very dear to him, you know, this
4 particular topic.

5 The contractors. The way in which they have provided all of
6 their assistance.

7 And I can go on and on and on. I just want everyone to
8 understand how deeply appreciative I am of all of the efforts that
9 people have made, the staff.

10 And also the presenters. Getting those people to take the time
11 to put together their thoughts and ideas on a particular topic. It's one
12 thing to identify the people who should speak, but it's also another
13 thing for those people to say, "I want to come, I want to participate."
14 All it's going to do is make the report that we have much better as far
15 as advice and recommendations.

16 I would also like to thank the members of the Council and the
17 Planning Committee for this particular meeting and the ones that are
18 going to be coming up in time, because without you none of this
19 could be done.

20 So, my heartfelt appreciation for everything that everyone has
21 done. I just wish that all of you have a good weekend and a good
22 holiday. Thanks.

1 NEXT STEPS

2 MR. LEE: Thanks. Well, I want to repeat everything that Barry
3 said.

4 I think I just want to say a few things about next steps and also
5 to say that this is the biggest NEJAC meeting ever. There were 540
6 people in attendance. For those of you who are still left, I guess you
7 can take that and tell that to the rest of the people.

8 One of the reasons for that is, of course, like Barry said, the
9 involvement of Region 4. You should know -- I just want to share
10 with the Council that Phyllis Harris and I had talked and I intend to go
11 back down to Region 4 to spend some time on debriefing about how
12 this meeting was put together.

13 As you notice, there was a real connection between this
14 meeting and a lot of the EJ communities. A lot of effort was done in
15 terms of making sure that that happened. There were a lot of things
16 that were done in preparation for this meeting which we want to try
17 again, including preparation in terms of stakeholder forums in
18 preparation for this meeting, and things of this nature.

19 What we wanted to talk about was how has a meeting like this
20 helped integrate environmental justice in the region and helped their
21 work. We want to take all those lessons and use them for future
22 meetings and for the work here in Region 4, the very important work

1 here in Region 4.

2 The two main things in terms of next steps are, of course, we
3 want to develop a report around community-based health concerns
4 and strategies in EJ communities.

5 I do have to say that this is an extremely difficult issue and we're
6 only beginning, I think as a result of this meeting, to truly understand
7 a lot of the complex kinds of issues we have to deal with that I don't
8 want to go into.

9 So what we're going to do -- and this is what was worked out
10 with the Health and Research Subcommittee, is to develop a process
11 similar to the last meeting where we'll bring together a group of
12 individuals on a work group to help develop a report that gets
13 forwarded to the full Council. So that's the first thing.

14 Then, in terms of the next meeting, as you know, the next
15 meeting will take place in Washington, D.C. focusing on
16 implementation of Executive Order 12898, interagency strategies on
17 environmental justice.

18 So basically that's what's going to be in store for us over the
19 next six months.

20 I, too, want to thank everyone here for their efforts. I'm not
21 going to go through it in detail, like Barry has, but we couldn't have
22 had the success it's been without all your efforts.

1 MR. TURRENTINE: And lastly, for me, I want to thank Peggy
2 Shepard. Peggy is now the Vice-Chair of the NEJAC and has
3 worked with me, has given me an opportunity to at least go to the
4 bathroom.

5 (Laughter.)

6 MR. TURRENTINE: And I can tell you, I really enjoy the fact
7 that we're working together and that she's able to give me a break,
8 and yet she's here taking the hits like everybody else. So, Peggy,
9 thank you so very much.

10 At this time I would go to the Council members for any final
11 thoughts or comments that you may have. Rosa Hilda.

12 MS. RAMOS: Thank you. I would like to present two requests
13 for the record regarding two very important issues for the
14 communities.

15 I was part of the Site Tour Planning Committee and since the
16 beginning I requested a report on the enforcing record of Region 4.
17 This request was not properly addressed except for a verbal
18 admission that they have not done too much -- they have not done
19 too many enforcement actions.

20 So I request that for the next meeting to receive a progress
21 report on enforcement actions of Region 4.

22 Also, I have been asking for a copy of a press release

1 announcing the conference. Let's remind ourselves of the meeting of
2 these meetings. This is an opportunity for the agency to reach out to
3 the communities to make everybody aware that this is happening.
4 But also it's an opportunity for all affected communities to have a
5 voice, to be heard by as many people as possible.

6 The community, some groups did invite the press. But the
7 region did not invite the press for the conference.

8 I don't want this to happen again. For the next meeting it must
9 be clearly stated that the region must invite the press, explaining that
10 they have the opportunity to interview either NEJAC members or
11 community members or agency members. This is part of the effort to
12 reach state representatives. This is part of the effort to administer
13 justice, environmental justice.

14 MR. TURRENTINE: Pat.

15 MS. WOOD: I just had a question of unfinished business. I
16 think it was Wednesday that I raised the question after one of the
17 panels of how long --

18 MR. TURRENTINE: Speak into the microphone, please.

19 MS. WOOD: I'm sorry. Wednesday after I think the third panel I
20 raised a question about how long the record would be open so that
21 people could submit additional material.

22 My understanding is that there's a normal 30-day period, but

1 there was confusion after -- in fact, one of the items I mentioned in
2 my letter was that there was some confusion by some folks after the
3 permitting conference that the record was not open at all after that
4 session and I thought we would want to make it clear this time that
5 the record is open so that people can submit some additional
6 material if they wanted to.

7 MR. LEE: Yes. We'll make a determination definitively exactly
8 how many days, but at this point it is open.

9 MS. WOOD: May I suggest that I think -- I've served on some
10 other federal advisory committees and the normal period of time is 30
11 days. So I would hope that we would follow that.

12 MR. LEE: Okay.

13 MS. WOOD: I'd like to see the issue resolved today, if it could
14 be, so that we can go back and tell folks that --

15 MR. LEE: That's fine with us.

16 MS. WOOD: If it's not going to be 30 days, let's get out that
17 there now so that we know what the period of time is.

18 MR. LEE: That's fine with us.

19 MS. WOOD: Okay. Thirty days?

20 MR. LEE: Yes.

21 MS. WOOD: Everybody agrees with that? Okay. Thank you.

22 MR. TURRENTINE: Thirty days it will be.

1 Closing -- Vernice?

2 MS. MILLER-TRAVIS: I don't really have closing comments. I
3 just wanted to say to Rosa Hilda that one of the action items for the
4 Waste and Facility Siting Subcommittee was to develop and provide
5 to two particular organizations with EPA statistical information on
6 permit compliance and enforcement actions taken in those regions --
7 those regions being Region 4 and Region 6 -- focusing on the states
8 of Alabama, Georgia, Mississippi and Texas. That came to us at the
9 specific request from community groups in Alabama who really
10 wanted that information.

11 Tim Fields committed to getting that, and Mike Shapiro
12 committed to getting that information to them.

13 MS. RAMOS: Good.

14 MR. TURRENTINE: Anyone else?

15 MS. SHEPARD: I just wanted to express my appreciation to
16 Charles Lee for the good content of the meeting we've had this past
17 week. I know the hard work that went into it in getting quality people
18 for the panels. So I just wanted to say that I thought the meeting
19 went very well, and thank you to Charles for all of the thought you put
20 into it, as you usually do.

21 I thank the staff. I'm going to be needing your help more and
22 probably needing the patience of the Council members. I don't have

1 as much experience as Haywood has so I'm going to need your help
2 over the next few years.

3 I just wanted to also welcome the new members. This must be
4 a really tiring but overwhelming and probably interesting experience.
5 I look forward to working with all of you. Thanks.

6 MR. TURRENTINE: Yes, Annabelle.

7 MS. JARAMILLO: Charles, I want to thank you too for all the
8 work you've done, and I want to thank everybody here for all the hard
9 work they've done.

10 I also want to express my support for using the issues focus at
11 these meetings. I think that at first there was some trepidation about
12 that, but I really do think that they do bring more of the concerns of
13 environmental justice communities to the table when you can focus
14 on the specific issues, and then that can broaden the scope of our
15 understanding and also broaden the scope and identify to a greater
16 extent the concerns of those communities.

17 So I like the issues focus. I know there's a lot of refinement that
18 needs to be done in terms of the process part of it, but I'd like to see
19 us continue this way.

20 MR. TURRENTINE: Fernando.

21 MR. CUEVAS: I think it would be very helpful to me and
22 probably to all of the new members of NEJAC if before the next

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1 meeting I could have a list of all the resolutions that have been
2 turned in to NEJAC to turn in to EPA, of what they were. At least the
3 category of what they were and the dates of when they were turned
4 in, and what has been the process, the follow-up. In other words, if
5 there were a hundred turned in, have fifty been worked on and
6 agreed or are 25 just in the wastebasket? You know, to me it's very
7 important to see that.

8 The same thing with any recommendations that's been done to
9 NEJAC to give to EPA. What's the process on that, what's the
10 follow-up, and where are we standing on that. Because if there's
11 some resolutions that's already been turned in before I got in and it's
12 not moving or pushing, I want to be pushy. You know, that's the
13 main reason.

14 MR. TURRENTINE: Fernando, we can do that and we will do
15 that.

16 MR. CUEVAS: Thank you.

17 MS. SHEPARD: I have one more thing, Haywood. I just
18 wanted to say that the Mossville ADR was great. I think Barry, Kent,
19 Vernice and Marinelle did a great job. We should look at that model,
20 you know, in terms of helping other communities a little more. I think
21 that shows real progress. I think it was great.

22 MR. TURRENTINE: Anyone else?

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1 (No audible response.)

2 MR. TURRENTINE: Anyone else?

3 MS. JARAMILLO: Mr. Chair?

4 MR. TURRENTINE: Yes?

5 MS. JARAMILLO: Move to adjourn.

6 MS. MILLER-TRAVIS: Second.

7 MR. TURRENTINE: That's a superior move. This NEJAC, the
8 Fifteenth Meeting of the NEJAC now stands adjourned.

9 (Applause.)

10 (Whereupon, the meeting in the above-entitled matter, was
11 adjourned.)

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