MEETING SUMMARY

of the

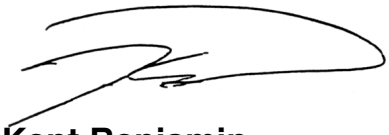
WASTE AND FACILITY SITING SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

December 13, 2000
Arlington, Virginia

Meeting Summary Accepted By:



Kent Benjamin
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
Designated Federal Official

Vernice Miller-Travis
Chair

Veronica Eady
Vice-Chair

CHAPTER EIGHT
SUMMARY OF THE
WASTE AND FACILITY SITING SUBCOMMITTEE

1.0 INTRODUCTION

The Waste and Facility Siting Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Wednesday, December 13, 2000, during a four-day meeting of the NEJAC at the Hyatt Regency Crystal City Hotel in Arlington, Virginia. Ms. Vernice Miller-Travis, the Ford Foundation, continues to serve as chair of the subcommittee. Mr. Kent Benjamin, Environmental Justice Coordinator, Outreach/Special Projects Staff (OSPS), U.S. Environmental Protection Agency (EPA) Office of Solid Waste and Emergency Response (OSWER), continues to serve as the Designated Federal Official (DFO) for the subcommittee. Exhibit 8-1 presents a list of the members who attended the meeting and identifies those members who were unable to attend.

This chapter, which provides a summary of the deliberations of the Waste and Facility Siting Subcommittee, is organized in six sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair and the Assistant Administrator of OSWER. Section 3.0, *Activities of the Subcommittee*, summarizes the discussions about the proposed work group on land use planning. Section 4.0, *Presentations and Reports* presents an overview of each presentation and report, as well as summaries of relevant questions posed and comments offered by the subcommittee. Section 5.0, *Summary of Public Dialogue*, summarizes discussions offered during the public dialogue period provided by the subcommittee. Section 6.0, *Significant Action Items*, summarizes the action items adopted by the subcommittee.

Exhibit 8-1

WASTE AND FACILITY SITING SUBCOMMITTEE

List of Members Who Attended the Meeting
December 13, 2000

Ms. Vernice Miller-Travis, **Chair**
Ms. Veronica Eady, **Vice-Chair**
Mr. Kent Benjamin, **DFO**

Ms. Denise D. Feiber
Mr. Melvin Holden
Mr. Michael K. Holmes

Mr. Neftali Garcia-Martinez
Ms. Donna Gross McDaniel
Ms. Katherine B. McGloon
Mr. Harold Mitchell
Ms. Mary Nelson
Ms. Brenda Lee Richardson
Mr. Mervyn Tano
Mr. Michael Taylor
Ms. Patricia Wood

Members
Who Were Unable To Attend

Mr. David Moore
Mr. Johnny Wilson

2.0 REMARKS

Ms. Miller-Travis opened the meeting of the subcommittee by welcoming the members present and Mr. Benjamin, as well as Mr. Timothy Fields, Jr., Assistant Administrator, OSWER, and Mr. Steve Luftig, Acting Deputy Assistant Administrator, OSWER. At the conclusion of Ms. Miller-Travis' welcoming remarks, Mr. Fields greeted the members of the subcommittee and thanked Ms. Miller-Travis for her words of praise and her leadership of the subcommittee. He then thanked specific members of the staff of OSWER, including Mr. Benjamin and Ms. Linda Garczynski, Director, OSPS. Referring to his impending retirement, Mr. Fields then stated his belief that the future of the subcommittee will be in "good hands" with Mr. Michael Shapiro, Principal Deputy Assistant Administrator, OSWER, and Mr. Luftig.

Concluding his remarks, Mr. Fields outlined some of the initiatives in which the subcommittee had been involved. Those initiatives, he said, include, but are not limited to, the American Society for Testing and Materials (ASTM) Standard Guide for Process of Sustainable Brownfields Redevelopment; waste transfer stations, the relocation of residents under Superfund, Brownfields redevelopment, and EPA's Superfund Redevelopment Initiative. It's been a great partnership, he said. Mr. Fields then recognized three departing subcommittee members: Mr.

Johnny Wilson, Clark Atlanta University; Mr. Michael K. Holmes, Northside Education Center; and Ms. Brenda Lee Richardson, Women Like Us.

Ms. Miller-Travis thanked Mr. Fields for the hard work he had done in partnership with the subcommittee and then spoke briefly about the excellent relationship the subcommittee had had with EPA OSWER. Ms. Miller-Travis also commended Mr. Luftig's hard work on issues related to the Superfund program. Mr. Luftig commented that it is unfortunate that Mr. Fields is retiring and stated his hope that the NEJAC and the Waste and Facility Siting Subcommittee soon would have the opportunity to meet with the new Assistant Administrator of OSWER.

3.0 ACTIVITIES OF THE SUBCOMMITTEE

This section summarizes the discussions about the activities of the proposed land use planning work group of the Waste and Facility Siting Subcommittee. Ms. Miller-Travis began the discussion of local land use and zoning policies as they pertain to the siting of waste management facilities. She stated the objective of the discussion was to brainstorm how to involve state and local officials in the issue of locating waste facilities in communities of color or low-income communities. Ms. Miller-Travis stated that the purpose of the discussion was to synchronize the efforts of the various work groups of the Waste and Facility Siting Subcommittee under a single theme of land use. One of the goals of the discussion, she continued, was to prepare a work plan for helping EPA develop guidance for local governments on how to actively address and identify environmental justice issues when planning for land use and making zoning decisions. Such guidance, she noted, should recognize that EPA has only limited authority in the matter.

Ms. Veronica Eady, Executive Office of Environmental Affairs, Commonwealth of Massachusetts and member of the subcommittee, reported that the various work groups of the subcommittee share several common traits, including:

- Bolstering public participation in local decision making about land use.
- Developing an environmental justice paradigm for land use planning.
- Preparing case studies of how communities respond to threats posed by local development.
- Examining public health impacts of land use decisions related to the siting of waste management facilities.
- Examining the relationship between public participation and decision making related to land use.

According to Ms. Eady, guidance regarding land use planning would be extremely helpful to communities because members of communities often are not aware of the involvement of state and local authorities in land use planning and zoning decisions.

After identifying the common traits, Ms. Eady solicited the recommendations of the members of the subcommittee. Specifically, Ms. Eady asked what should be included in the work plan under development. Mr. Fields clarified Ms. Eady's request, stating that it had been requested that EPA develop guidance on land use and zoning, as well as for EPA to provide information about land use planning and facility siting. He then stated that he believed a manual on best management practices (BMP) should be developed.

Ms. Patricia Wood, Georgia-Pacific Corporation and member of the subcommittee, responded by stating her hesitation about the use of the word "guidance." She said that she was not convinced that industry is interested in an EPA guidance document on the subject. Ms. Miller-Travis then stated her belief that the involvement of EPA is necessary. She agreed, however, that the word "guidance" should not be used. Ms. Miller-Travis offered the "smart growth" policy adopted by Prince George's County, Maryland as an example of how smart growth, as a local land use planning tool, fails to consider environmental justice concerns. Mr. Melvin Holden, Louisiana Legislature and member of the subcommittee, then stated that he believed direction from EPA is essential to help differentiate between rural versus urban zoning.

Mr. Michael Taylor, Vita Nuova and member of the subcommittee, referred to a document, *Land Use in the Remedy Selection Process*, signed by former OSWER Assistant Administrator Elliot Laws. The document, he said, stipulates that site assessment is governed by anticipated future use of the site. However, he stated the articulation of current and future land use has not been

adequate. Further, he stated, people need access to employment opportunities if they are to escape the unhealthy environment in which they live and work. He questioned whether "real community planning" could be done.

Ms. Eady then endorsed Mr. Fields' suggestion that a BMP manual be developed. She asked the members of the subcommittee to consider how effective such a document might be, especially in communities affected by decisions of land use and zoning made without input, as if slipped through the "back door." Echoing Ms. Eady's support for a BMP manual, Ms. Mary Nelson, Bethel New Life, Inc. and a member of the subcommittee, suggested that EPA develop a "how-to" document. She also stated that organizations representing local associations should be involved in the development of the document. "Getting the document in the right hands" would be the most effective use of it, she added. Ms. Nelson also proposed focusing such a document toward industry and local governments that promotes a "win-win" scenario. In that regard, Mr. Mosi Kitwana, International City/County Management Association (ICMA), added that it is important to engage local government associations, such as ICMA, to participate in such a dialogue. He urged the subcommittee to support the work EPA had undertaken in Clearwater, Florida to develop a land use plan that emphasizes environmental justice. The work in Clearwater is an example of a "win-win" scenario, he pointed out.

Ms. Miller-Travis commented that she envisioned the new work group to be modeled after the subcommittee's Waste Transfer Station Work Group. Its membership should reflect the diversity of the stakeholders affected by these issues, she said.

Topics that the members of the subcommittee recommended the proposed land use work group should address include:

- Creating a Superfund team that focuses on Superfund, brownfields redevelopment, and land use.
- Examining the effects of gentrification under "smart growth" programs on communities concerned with environmental justice issues.
- Conducting a literature review of EPA and NEJAC materials and reports related to land use.
- Providing guidance to local communities, state and local governments, and business and industry, on the environmental justice implications of land use decision making related to the siting of waste management facilities.
- Examining how local politics affects local land use decisionmaking.
- Developing a clearer articulation of land use considerations in site assessments and determinations of future land use.

The members of the subcommittee agreed that it is imperative to ensure the broad dissemination to trade and other constituent-based associations that could be natural allies in addressing such issues related to local land use of any resulting document. Mr. Holmes observed that, in St. Louis, Missouri, small developers are not interested in such a land use document. Rather, they are interested more in economic development, he added, noting as well that developers "are not sure what community involvement is." In response, Mr. Taylor reminded the members of the subcommittee to keep their expectations realistic. The document, he suggested, should emphasize the positive results that can be realized when developers involve communities in decisions. Perhaps use of BMP is a good way to encourage community involvement in the development process, he noted. Mr. Kitwana stated that most communities already have a process in place. The problem, he pointed out, is educating community members about that process.

Mr. Neftali Garcia-Martinez, Scientific and Technical Services and a member of the subcommittee, stated that there are external issues related to land use, as well. Land use is related to price, incentives, and the quality of various environmental media (air, water, and other media), he continued. In Puerto Rico, he said, a regional and municipal approach is taken to land use planning. Ms. Eady added that the document should acknowledge various types of land use.

Ms. Denise Feiber suggested that the subcommittee focus on mechanisms for promoting dialogue among various stakeholders. After discussing the issue, the members of the subcommittee then identified the following mechanisms:

- Prepare a resource inventory of existing communications guidances.

- Identify existing trade association resources that address local land use issues.
- Invite local governments to join the subcommittee in the deliberative process.

Ms. Nelson suggested that the subcommittee also focus on identifying content areas for the document. After discussing the issue, the members of the subcommittee agreed that a BMP manual should:

- Include "win-win" language that highlights benefits to stakeholders.
- Identify "input points" for local government.
- Provide a list of incentives for developers.
- Provide information and guidance about sources of additional information about land use.
- Identify a list of related initiatives and topics, such as Smart Growth, to which land use can be linked.

Mr. Taylor recommended that the document also focus on the lack of open space in urban areas. He stated that the new Land Use Work Group should focus on existing unsustainable local land uses, such as parking lots and new roads. Ms. Miller-Travis added that the language of the document should be "community-friendly" and able to define from an environmental perspective development that is sustainable.

Ms. Eady concluded the discussion by stating that the members had agreed that the new work group would focus on developing a BMP manual; identify a set of implementation issues associated with land use; and prepare, as an addendum to the manual, a resource guide on land use planning instruments. Ms. Eady stated further that she planned to develop a work plan for the conference call of the subcommittee scheduled for January 2001.

4.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations made and reports submitted to the Waste and Facility Siting Subcommittee of the NEJAC.

4.1 Status of Environmental Protection Agency's Brownfields Redevelopment Initiative

Ms. Linda Garczynski, Director, OSPS, provided an update to the recommendations outlined in the NEJAC report *Environmental Justice, Urban Revitalization, and Brownfields: The Search for Authentic Signs of Hope* published by the NEJAC in 1996. The report, a summary of the issues and concerns expressed by communities during a series of public dialogue meetings, examined and offered suggestions for addressing environmental justice concerns within the context of urban revitalization and the redevelopment of brownfields sites. Ms. Garczynski commented that the report, known as the "Public Dialogues Report" brought to the attention of EPA, a number of timely issues. The Agency's Brownfields initiative has evolved to include themes and issues identified in the public dialogues report. She then cited specific examples of actions EPA had taken that address recommendations made by the NEJAC.

Ms. Garczynski pointed out that one key recommendation of the report called for EPA to create opportunities for outreach and bring together various stakeholders to exchange information and create opportunities for communities to be influential in decisions about redevelopment. She stated that in the four years since the report was published, EPA has held an annual conference on brownfields redevelopment, each of which featured a community caucus session in which the views and concerns of community-based groups were shared directly with EPA senior management. The next national brownfields conference is scheduled for September 24 through 26, 2001, she announced.

Other examples of EPA actions, continued Ms. Garczynski, are the Resource Conservation and Recovery Act (RCRA)-Brownfields Prevention Initiative, which links Brownfields redevelopment to current RCRA reforms that emphasize "results over process," as well as greater community involvement. Ms. Garczynski announced that EPA anticipates that in 2001, the Agency will fund up to 6 pilot demonstration projects, up to 20 regional projects, training, and outreach activities. Exhibit 8-2 presents background information about the initiative. EPA also has funded the Brownfields Job Training and Development Demonstration Pilot projects, she said, which are designed to prepare trainees for employment in the environmental field, while facilitating the cleanup of Brownfields sites and providing trainees with "sustainable careers." Currently, 36 job training

Exhibit 8-2

RESOURCE CONSERVATION AND RECOVERY ACT BROWNFIELDS PREVENTION INITIATIVE

Under the U.S. Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative, EPA has created a work group to resolve at brownfields properties challenges related to provisions of the Resource Conservation and Recovery Act (RCRA). The goals of the work group are:

- Identify and advertise good work that already is being done in the EPA regions and states.
- Focus on several important efforts, including training, outreach, and the conduct of monthly information-sharing meetings.
- Coordinate issues related to the RCRA Brownfields Prevention Initiative and develop tools, issue papers, and guidance for the consideration of EPA decision makers.

EPA will announce four pilot projects to "showcase" flexibility under RCRA and to help model future innovations in cleanup and redevelopment at sites regulated under RCRA.

pilot projects are underway, with 8 to 10 more to be added in the future, she reported. EPA has funded 363 Brownfields site characterization and assessment projects and anticipated adding 50 additional cities, she continued. In addition, due to the success of the 16 showcase communities, 12 new showcase communities recently were announced, she added.

Ms. Garczynski acknowledged that the NEJAC concern for the need to define the role and participation of youth has been only partially addressed by EPA. Pointing to a lack of funding for a formal outreach program to youth, she stated that young adults have been and continue to be reached through the job training pilots. Other ways in which youth have been involved in Brownfields activities are summer internships in EPA's Brownfields program and other outreach to colleges, Ms. Garczynski added.

Turning to Title VI of the Civil Rights Act of 1964, Ms. Garczynski stated that in 1999, EPA had conducted a series of case studies examining the effects on the Brownfields redevelopment process of EPA's interim guidance on addressing Title VI complaints. Noting that the NEJAC's public dialogues report had called for a similar effort, she reported that the level of on-going community involvement and the types of reuses at the sites studied had mitigated the need for filing Title VI complaints related to the permitting process.

Discussing the Brownfields Revitalization and Environmental Restoration Act of 2000 (S.2700), Ms. Garczynski stated the bill currently before the United States Senate had a strong chance of passage because of strong bi-partisan support. Commenting that the bill had been introduced in the Senate during the preceeding term and had attracted 67 supporters, she stated that if passed, it could potentially double funding for brownfields redevelopment and related state response programs. However, Ms. Garczynski labeled the bill a "mixed blessing," stating that passage of the bill would not only result in increased funding, but effectively "institutionalizes" the brownfields program.

Ms. Garczynski agreed to provide the members of the subcommittee with copies of the proposed Brownfields legislation.

Ms. Garczynski concluded her presentation by urging the members of the subcommittee to provide input about existing projects and identify new projects for consideration by the Agency.

4.2 Presentation on the Responsible Care® Initiative

Ms. Katherine McGloon, American Chemistry Council and member of the subcommittee, introduced Mr. Louis H. Kistner, Millennium Chemicals, Inc., who discussed Responsible Care®, an initiative of chemical industries around the world. The Responsible Care® initiative is a commitment to continuous improvement of environmental health and safety performance, he explained, adding that the initiative also describes a "path for gaining or regaining public respect by demonstrating responsible and safe management of chemicals." Exhibit 8-3 provides an overview of the Responsible Care® initiative implemented by the American Chemistry Council, formerly the Chemical Manufacturers Association.

Mr. Kistner then focused his presentation on how Millennium Chemicals, Inc. had adopted the guiding principles of the Responsible Care® program. He stated that community awareness is one of the seven global codes of management practice adopted by his company. He commented that Millennium Chemical, Inc. has identified

Exhibit 8-3

AMERICAN CHEMISTRY COUNCIL RESPONSIBLE CARE® INITIATIVE

In 1988, the American Chemistry Council, formerly the Chemical Manufacturers Association, launched its Responsible Care® initiative to respond to public concerns about the manufacture and use of chemicals. The Responsible Care® program is comprised of ten elements, including guiding principles, codes of management practices, self-evaluations, measures of performance, performance goals, and management systems verification.

The six codes of management practices focus on:

- Community awareness and Emergency Response – promotes emergency response planning and calls for ongoing dialogue with local communities.
- Pollution Prevention – commits industry to the safe management and reduction of wastes.
- Process Safety – designed to prevent fires, explosions, and accidental releases of chemicals.
- Distribution – reducing risks from the shipment of chemicals, including transportation, storage, handling transfer, and repackaging of chemicals.
- Employee Health and Safety – protects employees and visitors to sites.
- Product Stewardship – makes safety and environmental protection an integral part of designing, manufacturing, marketing, distributing, using, and recycling and disposing of products.

several key performance indicators by which it will measure progress toward achieving success under that code. Noting that the "value" to a community of a company or plant essentially is determined by the community itself, Mr. Kistner stated that the indicators measure the reduction or elimination of environmental reportable incidents; the number of complaints of local residents; the positive survey responses of employees and community members; and the reduction or elimination of negative media coverage. He also added that his company has adopted a policy that requires its plants to establish functioning community advisory panels and appoint a community liaison officer.

4.3 Presentation on Supplemental Environmental Projects

Ms. Melissa Raack and Ms. Beth Cavalier, Multimedia Enforcement Division, EPA Office of Enforcement and Compliance Assurance (OECA), provided an overview of EPA's supplemental environmental projects (SEP) program. Ms. Raack stated that the goals of SEPs are to promote EPA's goals of protecting and enhancing public health and the environment and providing environmental protection that might not occur otherwise. Ms. Cavalier stated that SEPs can be defined as a multimedia compliance program. Further, she said, SEPs are environmentally beneficial projects that are not otherwise required by law but included in the settlement of an enforcement action. There are some constraints on SEPs, she noted. For example, she said, EPA may not manage or control SEP funds, and a SEP cannot be designed to satisfy EPA's obligation to perform an activity. In addition, there must be a relationship between the violation and the project, she continued, saying that a SEP can not be inconsistent with statutes.

The presenters identified the various issues addressed by SEPs such as public health, pollution prevention, pollution reduction, environmental restoration and protection, environmental assessments and audits, promotion of environmental compliance, and emergency planning and preparedness. They also identified several types of SEPs not allowed, including those projects focusing on general public education, activities required by state or local government, "outright donations," studies without commitment, projects funded by low-interest Federal loans or grants, and projects unrelated to environmental protection.

Ms. Eady asked whether SEPs are designed to provide the opportunity for public participation. Ms. Raack replied that EPA wants to include communities in the selection and implementation of SEPs. Ms. Raack added that communities will not be involved in the development or assessment

of a SEP. The design, and implementation of a SEP does not follow a "cookie-cutter" approach, she acknowledged.

Mr. Holden asked whether EPA exercises oversight to determine whether states are taking parallel action. There is no process in place for reviewing actions taken by states, Ms. Raack replied. She then added that additional information on SEPs can be found online at <*www.epa.gov/oeca/sep*>.

4.4 Update on the Anniston, Alabama, Polychlorinated Biphenyl Superfund Site

Mr. Brian Holtzclaw, Environmental Justice Coordinator, Waste Management Division, EPA Region 4, updated the subcommittee on activities currently underway at the Anniston, Alabama Polychlorinated Biphenyl (PCB) Superfund Site. Currently, he reported, EPA has established an Anniston Work Group, a cross-divisional group examining all environmental issues in Anniston. The current emphasis is on examining potentially funding a water and air toxics evaluation for the city. EPA also plans to perform an independent evaluation of the west and south landfills and to evaluate the site to determine whether the site qualifies for listing on the National Priorities List (NPL) of sites most in need of cleanup, he continued. Sampling for lead in soil also was being conducted, said Mr. Holtzclaw. If necessary, EPA will perform removal actions for properties contaminated with lead. EPA also currently is conducting an investigation of potentially responsible parties, he added.

In response to questions about the time table for additional testing and sampling, Mr. Holtzclaw reported that under the provisions of an Administrative Order on Consent agreement, Solutia, Inc. is required to conduct composite surface soil sampling for lead and PCBs. EPA will provide heavy oversight of those activities, he assured the members of the subcommittee.

Ms. Donna Gross McDaniel, Laborers-AGC Education and Training Fund and a member of the subcommittee, inquired about the initial health screening of residents of the area. Mr. Holtzclaw replied that a community group had conducted testing in 1995. Mr. Grover Hankins, Tulane University Law School and legal representative for the Swect Valley/Cobbtown Environmental Justice, added that in 1995, the Alabama Department of Public Health also had conducted health tests.

4.5 Report on the Environmental Protection Agency Delegated Authority

Mr. Bill Luthans, Deputy Director, Compliance Assurance and Enforcement Division, EPA Region 6, presented an overview of EPA's oversight of permits under the RCRA program, with a particular emphasis on the goals of such oversight. Currently, most permits issued under RCRA are in response to statutory requirements, he said. To ensure the proper establishment of permits under RCRA, a program delegated by EPA in which authorized states manage the program, EPA and the states enter into various agreements to implement program requirements, he continued. If a state is to be authorized to conduct the RCRA programs, a memorandum of agreement (MOA) is established that addresses the basic guiding principles of the program, he said. Further, the MOA includes the principles on which the relationship between EPA and the state is based and outlines the criteria EPA will use in conducting oversight of the state program, he continued.

Mr. Luthans reported that EPA has identified 1,714 high priority facilities that need corrective action and which form the baseline of hazardous waste facilities to meet cleanup goals under the Government Performance and Results Act (GPRA). In a nod to the subcommittee's concerns about regulatory enforcement by Texas and Louisiana, Mr. Luthans stated that those states are "onpar" with the rest of the country in terms of the number of corrective measures imposed. Exhibit 8-4 provides background information on GPRA baseline facilities.

Mr. Samuel Coleman, Director, Compliance Assurance and Enforcement Division, EPA Region 6, then presented information about EPA's National Oversight of the RCRA delegated programs. He stated that implementation of the program, which features a national oversight database of data provided by the states, follows a four-pronged approach:

- Establishing procedures for evaluating a state's activities under the MOA.
- Conducting enforcement by EPA if a state fails to provide effective and consistent enforcement.
- Implementing an appropriate reporting process.

Exhibit 8-4

GOVERNMENT PERFORMANCE AND RESULTS ACT BASELINE FACILITIES

In the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act of 1980 (RCRA), Congress directed the U.S. Environmental Protection Agency (EPA) to require corrective action for all releases of hazardous waste and hazardous constituents from solid waste management units at facilities seeking RCRA permits. Congress also expanded EPA's authority to address cleanup at permitted RCRA hazardous waste management facilities for releases beyond the facility boundaries. Although the Corrective Action program has been in effect since 1984, concerns have been raised that companies are not cleaning up their facilities quickly enough and that properties remain contaminated, posing risks to public health and the environment.

As part of the process to formulate EPA goals to achieve outcomes under the Government Performance and Results Act (GPRA), EPA identified 1,714 high priority baseline facilities that need corrective action. EPA developed the baseline of hazardous waste facilities to meet GPRA goals. The list of facilities will be used to measure the environmental progress of EPA's Corrective Action program. The baseline was developed from the National RCRA Corrective Action Priorities Initiative and each facility was given an initial ranking with input from the states. Most facilities were ranked based on information in their RCRA Facility Assessment report. The ranking tool took into account: (1) type and design of waste management unit; (2) volume of waste; (3) waste toxicity; and (4) likelihood of releases to the environment. Other factors included: (1) depth to groundwater; (2) groundwater use; (3) distance to surface water; (4) nearest drinking water intake; (5) nearest sensitive environment; and (6) nearby pollution.

The current focus of the Corrective Action Program is to achieve by 2005 two environmental indicators at the 1,714 baseline facilities: current human exposures under control at 95 percent of the baseline facilities, and migration of contaminated groundwater under control at 70 percent of the baseline facilities. The environmental indicators are interim outcomes of progress toward the ultimate GPRA goal of restoring the baseline facilities. To initiate progress toward the achievement of the environmental indicators, EPA or authorized states can require corrective action through permits or orders which should include schedules for corrective action.

- Providing clear communication with communities about activities under the delegated program

Ms. Miller-Travis asked how "grandfathered" facilities, facilities operating before enactment of a law or regulation, are handled. Mr. Luthans responded that, recently, such facilities have received greater attention. Mr. Coleman added that, once operational units have been modified, they no longer are considered to be "grandfathered" and now must adhere to the provisions of the regulations.

4.6 Update on the Environmental Protection Agency Relocation Policy Under Superfund

Ms. Suzanne Wells and Ms. Pat Carey, Office of Emergency and Remedial Response (OERR), presented a status report on the EPA policy on relocation under Superfund. Exhibit 8-5 presents background information about the Agency's relocation policy. Ms. Wells announced that on November 8, 2000, EPA had issued the policy *Release of Appraisals for Real Property Acquisition at Superfund Sites*. Effective immediately, she explained, EPA would provide the owner of a residential or business property affected by an action of the Agency with a copy of the appraisal used to establish the value of the property.

Ms. Carey then discussed EPA's Advisory Services Team, which is conducting a pilot of EPA's Interim Policy on the Use of Permanent Relocation as part of Superfund remedial actions. She explained that the pilot project will focus on the Escambia Arms Apartments complex in Escambia, Florida which EPA is acquiring as part of the permanent relocation of residents affected by the Escambia Wood Treating Superfund site in Pensacola, Florida. The purpose of the project, she said, is to assist residents in understanding the relocation procedures, their rights under the Uniform Relocation Act (URA), and the eligibility requirements related to the voucher system for Section 8 subsidized housing.

Ms. Wells then discussed case studies that are underway at five sites: Escambia, Florida; Times Beach, Missouri; Koppers, Texas; Old Southington, Connecticut; and Grand Street, New Jersey. The purpose of the studies, she said, is to determine what action EPA took at the site, how residents were treated, and what could have been done differently or better to improve conditions for the residents.

Exhibit 8-5

EPA POLICY ON RELOCATION UNDER SUPERFUND

In January 1995, the Waste and Facility Siting Subcommittee of the National Environmental Justice Advisory Council requested that the U.S. Environmental Protection Agency (EPA) develop a policy to be used in determining when citizens should be relocated from residential areas near or affected by Superfund sites. EPA initiated the national relocation pilot project at the Escambia Woodtreating Superfund Site in Pensacola, Florida. EPA reviewed sites at which cleanups had been conducted in residential areas and solicited the views of stakeholders by sponsoring a series of forums to provide stakeholders the opportunity to share their views and experiences.

In May 1996, EPA convened the Relocation Roundtable meeting in Pensacola, Florida, with community and environmental justice representatives. Seven additional forums were held in 1996 and 1997 with representatives of industry; state and local governments; public health, tribal, and environmental justice organizations; and other Federal agencies.

In June 1999, EPA issued its *Interim Final Policy on the Use of Permanent Relocations as Part of Superfund Remedial Actions*. The policy clarified when to consider permanent relocation as part of a cleanup at National Priorities List (NPL) sites. The policy also provided examples of situations where permanent relocation could be considered, although EPA's preference is to clean up and restore property so that people can live safely in their homes. Public comments to the policy were received and a multistakeholder meeting was held in Washington, D.C. on March 2 through 3, 2000.

Currently, EPA has issued "mini-guidances" on such implementation issues as the release of appraisals and the establishment of advisory service teams. There is also closer coordination with the U.S. Army Corps of Engineers, which manages for EPA, permanent relocation; and training for staff responsible for overseeing relocations.

Ms. Wells concluded the discussion by announcing that a URA course would be held on January 10 through 12, 2001 in Dallas, Texas.

Ms. Miller-Travis then thanked Ms. Wells and Ms. Carey for the presentation adding that EPA has been very responsive.

4.7 Presentations of Federal Environmental Justice Demonstration Projects

Presentations were provided on three Federal environmental justice demonstration projects, conducted in partnership between EPA, the U.S. Department of Housing and Urban Development, the National Institute of Environmental Health Sciences, and state and local governments and organizations.

4.7.1 Spartanburg, South Carolina

Mr. Harold Mitchell, Regenesis, Inc., and a member of the subcommittee, and Ms. Jewell Harper, Deputy Director, Waste Management Division, EPA Region 4, presented information about environmental justice activities taking place in Spartanburg, South Carolina. Spartanburg is made up of two communities surrounded by five waste sites, including two landfills, they reported. Approximately 2,000 citizens are affected by the waste sites, and more than 45 people living within a one-half-mile radius of the waste sites have died, they continued.

Working with local officials, Regenesis, Inc., has developed many community programs that are being implemented during the cleanup process, they said, adding that major stakeholders currently were "at the table working together." They then described the Arkwright/Forest Park Environmental Justice Project which supports three research projects on the former IMC fertilizer plant, which has since been removed, and the Arkwright landfill superfund site. The project will continue and expand existing research on health surveys of residents, former employees and families of the superfund site, they reported, adding that the results will be disseminated to the residents through a monthly newsletter. This project is unique because it is totally driven by the community and includes more than 60 individuals from various organizations, Mr. Mitchell said. With the help of Regenesis, the community is turning toxic waste sites into "livable" communities and the town is being revitalized, he concluded. Mr. Fields commended Mr. Mitchell for his perseverance in pushing the projects.

4.7.2 Protecting Children's Health and Reducing Lead Exposure Through Collaborative Partnerships, East St. Louis, Illinois

Ms. Noemi Emeric, Regional Team Manager, EPA Region 5, presented an overview of the East St. Louis, Illinois, Environmental Justice Demonstration Pilot Project, Protecting Children's Health and Reducing Lead Exposure Through Collaborative Partnerships. The goals of the program include promoting greater coordination and cooperation among Federal agencies and making government more accessible and responsive to communities, said Ms. Emeric. Historically, EPA had used a "top-down approach" to implement its management program, she continued. Inherent in this approach were such limitations as a primarily regulatory program directed at point sources of pollution, a lack of a framework to address multiple sources of pollution, one-size-fits-all solutions, and a lack of direct relationships between Federal and local governments, she pointed out.

Ms. Emeric then said that the East St. Louis pilot project is a model for collaborative partnerships. The model, she continued, has five levels:

- Level One: Engage the Community – listen and identify problems.
- Level Two: Understand the Problems – building collaborative partners helps to support solutions.
- Level Three: Collaboratively Design the Project – develop local capacity.
- Level Four: Create a Sustainable Infrastructure and Model.
- Level Five: Create Livable Communities.

Currently, the program is focused on the third level, she added.

Mr. Michael Holmes, St. Louis Community College and member of the subcommittee, then explained why the pilot project is needed, stating that 65 percent of the population of East St. Louis is low-income, compared to the state average of 27 percent. Approximately 99 percent of the population is minority, he continued, while minority population of the state averages 25 percent. The unemployment rate, he added, is 24 percent, and only 51 percent of the population are high school graduates. By helping the community, the region is helped, Mr. Holmes concluded.

4.7.3 Bridges to Friendship, Nurturing Environmental Justice in Southeast and Southwest Washington, D.C.

Mr. David Ouderkirk, EPA OSWER, and Ms. Brenda Lee Richardson, Women Like Us and member of the subcommittee, represented the Bridges to Friendship partnership. She presented information about the Nurturing Environmental Justice in Southeast and Southwest Washington, D.C. demonstration project sponsored by the Interagency Working Group on Environmental Justice (IWG). Bridges to Friendship is a partnership of community stakeholders who have agreed to work together to achieve inclusive community revitalization, said Ms. Richardson. The organization, she explained, was founded on the premise that nongovernment organizations, private businesses, and the District of Columbia and Federal government agencies can use existing resources and expertise to improve services. The primary "product" produced by Bridges to Friendship is the building of "organizational" bridges and fostering their use, she continued, pointing to efforts aimed at identifying and organizing the sharing of resources and serving as a broker, catalyst or implementer, as examples of how the partnership works.

Ms. Richardson identified several commitments the partnership has made to the Interagency Environmental Justice Work Group, including (1) Bridges to Friendship Strategic Goals 2000, (2) involving Community Visioning, (3) Gentrification as Rising Tide Rather than Wave of Displacement, (4) developing revitalization tools, (5) fostering envirojobs and a small business focus, (6) convening an environmental justice project dialogue meeting, and (7) serve as a link to improving government efforts.

Ms. Richardson then focused on one project, the Youth Outreach-Job Training-Employment Pipeline. The project, she said, is linked to the NIEHS Minority Youth Worker Training, with local youth outreach and life skills training provided to ensure a complete training package. To date, she continued, more than 120 participants had been trained, and 72 percent of those participants had been hired and currently were out on the job. Salaries for the participants average $11 to 14 per hour, she added. The next step is to have "envirojobs" training program with curriculum linked to the private sector. The Navy will advertise job openings via D.C. Department of Employment Services.

5.0 SUMMARY OF PUBLIC DIALOGUE

When Ms. Miller-Travis opened the floor to public dialogue, the following comments were offered.

5.1 Community of Vieques, Puerto Rico

Mr. Garcia-Martinez introduced Dr. Antonio Rivera-Castano, Committee for the Rescue and Development of Vieques. Dr. Rivera-Castano informed the subcommittee of the status of the case of occupation by the U.S. Navy of the island of Vieques, Puerto Rico. The Navy, he said, has occupied Vieques for approximately 60 years. In the 1970s, the island was used, with the permission of EPA, for burning and exploding ordnance, he continued. In 1980, the Navy requested permission from EPA to conduct open burning of unexploded ordnance, said Dr. Rivera-Castano.

Dr. Rivera-Castano stated that such activities had led to serious adverse effects on the health of residents of the island, as well as to the natural environment. On the island of Vieques, rates of cancer, liver disease, diabetes, and heart disease are higher than those on the main island of Puerto Rico, he pointed out. Further, he said, samples of seafood had been found to contain high concentrations of heavy metals. Seafood is a staple in the diet of the residents of Vieques, Dr. Rivera-Castano reminded the members of the subcommittee. Further, recent studies of divers indicates that approximately 60 percent have some form of heart disease, he said.

Mr. Garcia-Martinez added that high concentrations of metals had been found in the hair of residents, as well as in fish and land animals. Such concentrations are not naturally occurring, he continued, noting that the main pathway for exposure to the metals is through exposure to particulate matter.

On December 31, 2001, 8,000 acres of land on the island of Vieques will be turned over to Puerto Rico without having been cleaned up, Dr. Rivera-Castano claimed that residents know what activities have occurred that have resulted in the contamination of the area with hazardous materials. He then invited the members of the subcommittee to visit Vieques to see first hand "what is going on." Dr. Rivera-Castano added that, in 1999 in Fajaida, Puerto Rico, the residents of Vieques had met with officials of EPA to discuss issues. However, no issues had been resolved during that meeting, he said.

Ms. Miller-Travis asked Dr. Rivera-Castano whether there were specific issues he would like the NEJAC to pursue. Dr. Rivera-Castano replied that he would like the subcommittee to investigate the island to help the residents in their efforts to have the island listed on the NPL. Ms. Miller-Travis asked Mr. Fields about the protocol for cleanup when the potentially responsible party (PRP) is a Federal agency, such as the U.S. Department of Defense (DoD). Comparing Vieques residents' concerns about unexploded ordnance to citizen concerns about the cleanup of the Nomans Island bombing range, Ms. Miller-Travis asked how the White House could issue a directive that uses cleanup standards that are not acceptable to local communities. Mr. Fields acknowledge that many Federal agencies would need to get involved. He expressed his hope that the NEJAC's Federal Facility Work Group would be developed into a Federal facility subcommittee of the NEJAC.

Responding to questions about whether the Vieques case might be examined as a case study, Mr. George Pavlou, Director, Division of Enforcement and Compliance Assistance, EPA Region 2, responded that it would not. He then stated that only water quality standards have been violated. The prescore ranking of the island under EPA's Hazard Ranking System is lower than the 28.5 cutoff standard for placement of a site on the NPL, he said. Therefore, he continued, the island of Vieques is not eligible for listing on the NPL. Further, said Mr. Pavlou, the Navy, rather than EPA, determines when ammunition has become waste.

Mr. Fields agreed to pursue the issue with DoD, communicate to the affected community what actions EPA Region 2 had taken, and consider the possibility of developing a pilot case study.

Citing what he termed the unwanted transportation and storage of napalm into the Baton Rouge, Louisiana, Mr. Holden asked Mr. Fields whether any current Federal regulation can be invoked to direct the Navy to consider in such incidences, factors and issues related to environmental justice. Mr. Fields responded that the Navy is required only to ensure that waste is transferred to regulated facilities that accept hazardous waste.

Ms. Nelson concluded the discussion with the suggestion that Puerto Rican communities on the United States mainland be mobilized to lobby for congressional support to terminate the Navy's use of the island as a bombing range. Ms. Miller-Travis added that EPA Region 2 encourage and

participate in a briefing to the Hispanic Congressional Caucus and other Puerto Rican members of Congress.

5.2 Concerns of the Citizens of Freetown, Massachusetts

Reverend Curtis Dias, Pastor, Calvary Pentacostal Church, presented to the subcommittee information about what he termed the only minority community in Freetown, Massachusetts. The residents, descendants of Africans from Cape Verde who settled in the Bradley Road area a century ago, are fighting a series of environmental injustices, he said. In recent years, he continued, zoning action taken by the local government has caused the majority of the industry in town, and the heavy commercial traffic it produces, to be clustered around Bradley Road. In 1995, the Bradley Road community had been zoned for industrial use, said Reverend Dias, resulting in a number of proposals to site heavy industrial facilities in the once "quiet" community. He added that 180 acres of underdeveloped land may potentially be developed into a waste transfer station.

Reverend Dias reported that EPA Region 1 is investigating whether the town deliberately zoned the neighborhood for industrial purposes simply because the residents are mostly low-income and black. Currently, there are 19 businesses along the two-mile Bradley Road, including trucking companies, the Massachusetts Department of Public Works, and a tire dump that had caught fire, he continued.

Ms. Miller-Travis asked Ms. Eady to describe what action the Commonwealth of Massachusetts has taken to address the situation in Freetown. Ms. Eady replied that the situation in Freetown was being evaluated under the Massachusetts Environmental Policy Act. Mr. Ira Leighton, Deputy Regional Administrator, EPA Region 1, joined the discussion, stating that the case represents a challenge and could prove to be a test case in the investigation of environmental justice concerns. He stated that given the nature of the violations, EPA is taking steps consistent with its responsibilities. Referring to an EPA investigation of two Freetown officials for the filling and delineation of wetlands, Mr. Leighton stated that EPA had attempted to involve the U.S. Army Corps of Engineers in the permitting process. EPA Region 1, he said, has now assigned a wetland expert to the case and had slowed other enforcement actions to "prevent competition." The next step the Agency would take, he added, is the conduct of a complete investigation of the situation in Freetown.

Ms. Miller-Travis recommended that the Massachusetts Department of the Environment, EPA Region 1, and OSWER discuss how they can collaborate to address the issue and then make recommendations within three months to the subcommittee.

6.0 SIGNIFICANT ACTION ITEMS

This section summarizes the significant action items adopted by the subcommittee. The members of the subcommittee adopted the following action items:

- ✓ Develop an environmental justice paradigm for land use planning for local decision making related to the siting of waste management facilities. To achieve that end, the subcommittee will undertake the following actions: 1) develop a "best management practices" manual on the environmental justice implications of local land use decisions related to the siting of such facilities; 2) develop a set of implementation issues associated with land use and environmental justice; and 3) develop a resource guide on land use planning instruments. To begin to implement the land use planning framework, the subcommittee will develop a work plan for discussion during its January 2001 conference call.

- ✓ Recommend that representatives of the Massachusetts Department of Environmental Protection; residents of Freetown, Massachusetts; and representatives of EPA OSWER, EPA Region 1, and other appropriate Federal and state agencies, meet to discuss how to collaborate to resolve environmental justice issues faced by the Bradley Road community of East Freetown, Massachusetts.

- ✓ Recommend that the NEJAC Federal Facilities Work Group use the issue of continued bombing of Vieques, Puerto Rico, as a case study. It is recommended that other Federal agencies, especially DoD, be asked to join EPA in its further investigation of the concerns of the residents of Vieques. It is recommended further that EPA Region 2 communicate to the community the actions the region had taken to ensure that information about wastes and cleanup activities are communicated more clearly to the affected community. There should be ongoing follow-up with EPA Region 2, OSWER, and the subcommittee about activities related to Vieques and ongoing Navy bombing activities.