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U.S. Governmental Advisory Committee
*Independent Federal Advisors on the
North American Agreement on Environmental Cooperation*

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May 31, 2022

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The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Regan:

The U.S. Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC) held its 54th meeting via video platform on April 28, 2022. This letter represents our advice resulting from that meeting.

The main objective of our meeting was to provide you with advice on the CEC's draft *Air Quality Improvement for Environmental Justice Project*, and on how to integrate climate change and environmental justice into the 2021-2025 Strategic Plan of the Commission for Environmental Cooperation. Our meeting included presentations on *U.S. Priorities on the CEC*, from Jane T. Nishida, Assistant Administrator for EPA's Office of International and Tribal Affairs (OITA). The committee also received presentations on *Environmental Justice Goals at EPA*, from Matt Tejada, Director of EPA's Environmental Justice Office, and an *Overview of Indigenous Traditional Ecological Knowledge*, by JoAnn Chase, Director of EPA's American Indian Environmental Office. In advance of the meeting, we also received written presentations on 1) Overview of Climate and Environmental Justice Initiatives in the CEC, 2) Update on the CEC's Operational and Strategic Plans, and 3) a JPAC update report from Louie Porta, Chair of the CEC Joint Public Advisory Committee.

The meeting was opened by a welcome from Federal Advisory Committee Management Division (FACMD) Acting Director Robbie Young-Mackall, who provided an update on FACMD activities. The GAC deeply appreciates the excellent support provided by the FACMD and thanks Acting Director Young-Mackall, NAC/GAC Designated Federal Officer, Oscar Carrillo and all the FACMD staff for their support, before, during and after the meeting. We hope this letter will be useful in your deliberations with your counterparts in the CEC Council.

Sincerely,



Marina Brock, Chair
Governmental Advisory Committee

cc:

Jane Nishida, Assistant Administrator, Office of International & Tribal Affairs (OITA), EPA

Rafael DeLeon, Deputy Assistant Administrator, OITA, EPA

Robbie Young-Mackall, Acting Director, FACMD, OMS, EPA

Matthew Tejada, Director, Office of Environmental Justice, EPA

JoAnn Chase, Director, American Indian Environmental Office, EPA

Surabhi Shah, Acting Director, Office of Community Revitalization, EPA

Mark Kasman, Director, Office of Regional & Bilateral Affairs, OITA, EPA

Lisa Almodovar, Deputy Director, Office of Regional & Bilateral Affairs, OITA, EPA

Nadtya Hong, General Standing Committee (OITA), EPA

Oscar Carrillo, Designated Federal Officer, FACMD, EPA

Louie Porta, Chair, Joint Public Advisory Committee

Richard A. Morgan, Executive Director, CEC

Members of the U.S. National and Governmental Advisory Committees

Governmental Advisory Committee
(GAC) to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

The April 28, 2022 meeting of the Governmental Advisory Committee (GAC) resulted in advice that responds in several ways to the priorities of the EPA via the Commission for Environmental Cooperation (CEC).

Advice 2022 – 1 (May 31, 2022)

Charge Questions: Air Quality Improvement for Environmental Justice Project

Questions: How can we improve/enhance the effectiveness of the project? Do you see any weak points or blind spots in the description that would impact the achievement of the goals/objectives of the project?

The GAC discussed the charge question and found several examples of projects throughout the country that could provide insights into the development of the *Air Quality Improvement for Environmental Justice Project (AQIEJP)*. What follows are examples and a distillation on some lessons learned to consider in finalizing this project.

First, black carbon (BC) or “soot” is an element of fine particulate matter (PM), and it is a critical air contaminant affecting both public health and climate. There are numerous sources of emissions globally, including agricultural burning, domestic sources of fossil fuel and wood combustion, and sources from transportation and industrial activities. However, collective systems for monitoring data regarding air pollution have minimal coverage, with millions of people across North America residing in communities with no means of measuring their local air quality conditions.

The GAC thinks this project (AQIEJP) has the potential to identify the great extent of the problem areas, quantify community environmental health metrics, and provide considerably needed data necessary to develop and pursue more system-based and rigorous, well-defined, and effective cross-cutting policy interventions, while identifying and promoting the possibility of supporting emerging technology and solutions. These issues and efforts are complex, and data gathering must be the initial focus.

1. Gordie Howe International Bridge Air Monitoring Project Example

An example of a more established, community-based coalition related to this project exists in Southwest Detroit, Michigan. A local air-monitoring project examined black carbon as the key pollutant identifying the impacts of existing and future truck traffic that resulted from the new border crossing currently under development at the Detroit and US-Canada border, called the Gordie Howe International Bridge. The Detroit project is in a local community that has been identified as a community with Environmental Justice (EJ) concerns.

The Southwest Detroit Community Benefits Coalition (CBC) was formed in 2008 and began organizing efforts that lasted 10 years before the initial community benefits agreements were reached in 2017. CBC collaborated with faculty at the University of Michigan School of Public Health to help advise these studies. Funding was secured and allocated to create a comprehensive air monitoring program that involved the participation of the Michigan Department of Environment, Great Lakes, & Energy (EGLE).

EGLE installed three (3) additional air monitoring stations to conduct ambient air quality monitoring to ascertain air pollution levels in the community. Air monitoring commenced in 2018 to establish a pre-construction/baseline and continues during construction to determine the effect of earth moving and home demolition equipment. In addition, the project counts with a mobile monitoring van fully stocked with reference-grade equipment, as well as indoor and outdoor residential air monitors. The air monitoring is ongoing and will continue during several years after initial operation to better understand the role that traffic plays in air quality.

Follow these links for additional information about this project.

- a) [Gordie Howe International Bridge- Air Monitoring](#)
- b) Gordie Howe International Bridge: Air Monitoring & Health Impact Assessment January 25, 2017 • Community Meeting (Detroit, MI) [PowerPoint Presentation \(umich.edu\)](#)
- c) [About Us | Southwest Detroit Community Benefits Coalition \(swdetroitcbc.org\)](#)
- d) <https://caphedetroit.sph.umich.edu/about-us/>

The GAC thinks that information and data gathered from this initiative could greatly assist in improving and enhancing any effectiveness while identifying potential weaknesses or blind spots which could be similarly encountered.

Recommendation:

- *Long-term sustainability requires the collaboration of numerous stakeholders, community education, trust, support, and a solid foundation of resources to sustain and follow these efforts through to resolution or completion.*

2. California Community Air Protection Program (CAPP): Two Examples

California has two similar project examples of air monitoring in San Diego and San Francisco funded by the state's Community Air Protection Program (CAPP). This Program was established by the California Air Resources Board in response to Assembly Bill 617 (C. Garcia, 2017).

a) San Diego Region Community Air Protection Example

The San Diego project initiated in 2018 focuses on the Portside Environmental Justice Community and is managed by the San Diego County Air Pollution Control District. The funding has resulted from state legislation passed to understand sources of pollution in communities with environmental justice concerns and reduce pollution exposure based on environmental, health, and socioeconomic information. Air quality monitors were installed with input from the community about potential sources of pollution and collaboration with the Port of San Diego and the California Department of Transportation. Vehicle modeling also was performed. These sources of information helped the community and steering committee identify sources of pollution (e.g., port activities, traffic on freeways, and local streets). A community emissions reduction program was developed with actions to mitigate the pollution from the identified sources.

The proposed draft CEC project plan addresses only the first strategic pillar of clean air, water, and land.

Recommendation:

- The GAC recommends consider addressing the pillars devoted to shared ecosystems and species, resilient economies, and communities and evaluating the pillar dedicated to effective enforcement of environmental laws. Minimize silos and focus on the crosscutting approach mentioned in the draft project plan.

b) San Francisco Region Community Air Protection Project Example

In San Francisco, precisely identifying air pollution sources has been a creative process that relies on examining reported emissions, making assumptions about which different industry mixes and traffic flows and patterns are contributing, and then extrapolating the information. The San Francisco CRRP focuses on improving transportation because the area does not have a significant number of polluting activities from industries. The varied topographies, however, can change the locations of air quality issues.

Recommendations:

- The GAC recommends formulating and implementing mitigation measures as soon as possible and not wait until 2025. The CEC plans to select communities with current or perceived

problems. A precautionary approach can be used in which mitigations are implemented and the results measured in real-time.

- This approach can undermine the collection of empirical evidence, but it also tracks qualitative measures. Instruments (e.g., community questionnaires) have been validated to determine changes (e.g., real-time information about measurable air quality, understanding of or participation in mitigation measures). These changes can improve the community members' quality of life and health in real time. Therefore, the project can be approached in a sensible, defensible, and holistic manner, even if, at the end of the project, it is impossible to say, "The mean PM2.5 from black carbon was reduced by X percent."

3. International Ports of Entry in the US – Texas Example

The GAC would like to bring attention to a related and corresponding Texas border issue relevant to the AQIEJP project. Texas commitment to enhanced border inspectional actions have had an effect of long wait times in international ports of entry. These measures have been identified as causing international, political, environmental, and economic concerns at the Texas-Mexico border (areas of EJ concern). The inspectional measures have resulted in miles of gridlocked commercial traffic and near-constant idling vehicle/truck cargo traffic into Texas, as well as the spoilage of produce shipments. These issues are also being encountered at many southern US-Mexico border crossings, suggesting that there may be merit in the EPA working with other federal agencies to conceive a uniform and acceptable systemized approach to expedite border crossings.

Various monitors, including stationary monitors, show the effects of commercial activities that have occurred during the past year at the Texas-Mexico border. The Ciudad Juárez portion of the air shed between El Paso, Texas and Ciudad Juarez has not had conventional long-term monitors.

The regional Joint Advisory Committee (JAC) in the El Paso/Juarez area serves as the local community-based organization overseeing the process to achieve cleaner air of the El Paso del Norte Region, an Air Group under the U.S.-Mexico La Paz Agreement. Under the JAC, in 2021, the *Binational Air Quality Monitoring Fund* which is held at the North American Development Bank was created to support the purchases of air monitoring equipment and contracts for the operations and maintenance of the air monitoring network. Federal, state, and local government entities can contribute on a voluntary basis to the Fund. The private sector and foundations can also contribute. This has been a regional initiative that has proven positive results.

In terms of low-cost monitoring, the Texas Commission on Environmental Quality (TCEQ) has teamed with and maintains a collaborative contract with The University of Texas at El Paso (UTEP) to perform various air quality studies in the Paso del Norte region. One of the projects include researching brown and black carbon soot to determine the effects of wildfires on regional air quality. The TCEQ's Quality Assurance Project Plan was used in these studies. These are important projects being undertaken by community and academic stakeholder in the border region.

Below are links to these projects [UTEP air quality research reports](#), information about the [Binational Air Quality Monitoring Fund](#), and a [low-cost air sensor study in the Paso del Norte region](#) and the link to a [YouTube video](#) about the project using low-cost sensors in the shared Ciudad Juárez–El Paso air basin.

Recommendation:

The GAC recommends looking at the JAC and incorporating elements of the Binational Air Quality Monitoring Fund (AQF) in other parts of the country, and partnering with other state, local and community organization to raise funds for monitoring equipment. We also recommend partnering with local universities.

Recommendations on Potential Weak Spots Identified from Similar Projects

- Time is needed to gather enough data to determine appropriate monitoring sites, obtain permits, set up the monitoring sites, overcome the mistrust of community members, develop an implementation plan in collaboration with the community and communicate progress on its implementation to the community.
- Solicit input on the described post-project expected impacts. Consider integrating both qualitative and quantitative assessment criteria into the project design.
- A thorough community survey is essential to determine environmental metrics and collective health conditions of the community.
- A thorough pre-area survey of potential air pollutant sources is critical. Review specifications of instruments to be most aptly suited for your needs.
- Monitors should be installed with input from the community with inclusive research regarding potential sources of pollution.
- Developing defensible calculations and statistics is complex. Establish a reasonable set of expectations about what can be accomplished in terms of meaningful values and statistics.
- Mistrust in the instrumentation and its placement exists, it is vital to understand instrument capabilities and which parameters affect their accuracy (e.g., fog causes anomalous increases).
- Carefully consider the parameters, concentrations, and atmospheric hazards appropriate for each type of instrumentation deployed and ensure that a robust educational component is included, particularly in citizen science activities.
- Citizen participants should have a good understanding of what they are participating in and reasonable expectations about the technologies being employed.
- Consider how data collected during monitoring may be used by local, state, and federal agencies as well as community groups at the outset of project design. This can be useful in terms of identifying data protocols, necessary equipment, potential project partners, as well as education and outreach necessary.
- If the air pollutant source is unknown or mixed, it is challenging to determine accurate measurement technology. For example, rural communities may have increased woodstove usage, and communities that burn garbage and have open fires produce more PM and black carbon than other sources. Rural communities have unique challenges. Identify necessary and required operation and maintenance (O&M) and required quality assurance quality control (QA/QC) issues to ensure data integrity and reliability.
- Institutionalizing the funding to support deployment of a sustainable funding source. Establish which partner or entity will maintain monitors, perform data collection, compile data, etc. A university may volunteer to assist, but universities also have limited funding. Continued support is needed; this is not a one-off situation. It is essential to think about the conclusion of the grant. There are many instances where the funding ends, and the researchers abandon the community. Researchers must continue to engage the community. Considering how to maintain a project in a community is a critical step.

Recommendations on Wide-Range Collaborative Approaches

- Many GAC members mentioned that long-term sustainability in any region requires the collaboration from numerous stakeholders, including but not limited to national and international governmental agencies and departments (from local to national level), sovereign tribal nations, academic institutions, non-governmental organization (NGOs), public health and health care affiliates, and community groups and associations.
- The greatest and most sustainable efforts involve open and honest community education, development of trust, diversified support, and a solid and continuous foundation of resources to sustain and follow these efforts through to resolution or completion.
- The GAC believes that both neighborhood groups and community organizations usually have homogeneous memberships. To effectively communicate with all segments, it is essential to connect with these various groups and respectfully do so within their own territory. Although not always easy, forming relationships, coalitions, and cadres with these diverse stakeholder groups united by mutual and connected concerns can undoubtedly be a valuable and potentially solid and sustainable commitment strategy. A respected, committed, and well-administered community or stakeholder group can provide well-timed and accurate information on planning interests and points and rally strong support within their community. One way to create such multidisciplinary and diverse representation on such projects is through appointment of a citizen advisory group with membership drawing from multiple organizations within the community.

List of Communities with Vulnerable Populations and Environmental Justice Concerns

Our members mentioned several areas open for consideration for this project.

1) The GAC would like to bring to your attention to a community of color located close to the freeway in Phoenix, Arizona with high levels of asthma in children and elders. This region needs special attention and consideration.

2) The Shoshone-Bannock Tribes are located on the Fort Hall Reservation in Southeast Idaho. In 1991, EPA placed the Eastern Michaud Flats Superfund Site on the National Priority List. It was comprised of two elemental phosphate processing plants. FMC Operable Unit, which is primarily located within the exterior boundaries of the reservation, and the JR Simplot Don Plant (Simplot Operable Unit), which is located on state lands adjacent to the FMC Operable Unit. FMC closed operations in 2001, and Don Plant remains in operation. A third operable unit is the Off-Site Operable Unit, an area known to have been contaminated by these two facilities.

The Fort Hall Business Council is the governing council of the Shoshone-Bannock Tribes. There is a concern about when CERCLA stops cleaning up contamination from these two facilities and when RCRA starts being responsible for ensuring no future contamination occurs. Three regulatory Agencies (US EPA, the Shoshone-Bannock Tribe, and the State of Idaho's Department of Environmental Quality) address these two facilities and the off-site area.

The US EPA addresses the CERCLA activities on the Fort Hall Reservation, but the State of Idaho has been delegated authority for the Simplot Operable Unit. During the last 5-Year CERCLA review, EPA claimed that no human health or ecological risks were noted in the Off-Site Operable Unit even though no new environmental data was collected. However, historical data clearly show an ecological and environmental risk from fluoride emissions. Moreover, groundwater contamination from both facilities continues to flow off-site. Simplot's remedy captures only 60% of the groundwater contamination, with the remaining bypassing the extraction system and flowing onto the Fort Hall Reservation. FMC has yet to have a groundwater extraction system put into effect.

Simplot collects vegetation samples for fluoride and has violated the State of Idaho's fluoride standard for the past decade. These violations are increasing in number and concentration. In a meeting with the US

EPA and the Shoshone-Bannock Tribes, the Tribes asked why no additional air monitoring efforts are made to address some of the known CERCLA constituents associated with the emissions from these plants. It was explained that we could use the concentrations from the fluoride and assume that all the other constituents were similar in concentration. Emissions from the fertilizer-producing Simplot facility include radionuclides that blow off the gypsum stack entering the air column.

In this matter, it is recommended that the State of Idaho CERCLA and Superfund require some assessment and attention. The Shoshone-Bannock Tribes and locations within the cities of Pocatello and Chubbuck are environmental justice EJ communities. These communities continue to be impacted by the ongoing emissions from the JR Simplot Plant. Air monitors from this facility are not expressly located in areas that capture all the plumes. Odor complaints are ignored, and the community has not been provided accurate information from this facility regarding the extent of the possible impact on these EJ communities. The Shoshone-Bannock Tribes only provide piecemeal data, as some data is provided through Superfund, while the day-to-day activities are regulated through RCRA and are not well communicated. Further, the off-site fluoride and other contamination violations (possibly RCRA violations) are not addressed through Superfund. Finally, EPA Region 10 has declared no risk to the off-site area despite these continued releases.

The Superfund program says the ongoing releases cannot be addressed through Superfund; despite being included in the original Record of Decision. EPA Region 10 has not clearly communicated when the ongoing CERCLA risks become legacy, and the State of Idaho permit program is primary. Additional concerns within the FMC Operable Unit include ongoing phosphine generation throughout the entire FMC facility and 22 buried railcars within a slag pile Region 10 wants to leave in place.

Multiple agency cross-jurisdictional communication coupled with historic CERCLA clean-up activities added to current facility production operations can create CERCLA and RCRA compliance matters. Issues for a cross-cutting approach include clean air, water, land, circular economy, shared ecosystems, resilient economies and communities, and effective enforcement of environmental laws. The GAC recommends attention to the issues being experienced by this vulnerable community.

3) The Louisiana Corridor, one of the largest swaths of black carbon and fine particulate matter (PM_{2.5}) emissions generated by petrochemical operations in the United States lies in the area between Baton Rouge, Louisiana, and Corpus Christi, Texas. Historically, in the same area, wildcat drilling—which has resulted in numerous unplugged wells, massive flaring, waste gas emissions, leaks, and spills, including offshore drilling and unprecedented fracking operations—has left the southern U.S. Gulf Coast region in a quagmire of pollution and public health disasters. Residents in this region are generally older, poor, and an ethnic minority population. The area contains the infamous “cancer alley,” the CDC and U.S. Department of Transportation–designated Mississippi Delta region and a robust fisheries region. In addition, methane leakage is a significant problem in the same area. The flaring and fracking operations routinely burn excess gas and are regulated by few inspections or enforcement measures.

The GAC joins the NAC in recommending generating an auditable public report of emissions data collected from the source and not relying on industry estimates. These data could be combined with satellite observations, regulator reports, and other independent data.

Governmental Advisory Committee
(GAC) to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

Advice 2022 – 2 - (May 31, 2022)
Climate Change & Environmental Justice

Questions:

- *How can we best integrate climate change and environmental justice concepts into the CEC work, via its [Operational Plan 2021](#) while supporting the current strategic plan structure and themes?*
- *More specifically, which strategic priority areas are better suited to incorporate climate change and environmental justice components within potential activities?*
- *What are some examples of potential topics and activities that fit within the strategic priorities and cross-cutting approaches within the 2021-2025 Strategic Plan that would address climate change and environmental justice issues? Review the six strategic plan pillars in the [2021-2025 CEC Strategic Plan](#)*

The GAC discussed climate change and environmental justice and how to integrate into the CEC work. During our discussions we discovered communities that are facing significant challenges related to climate change and environmental justice. Below are examples of this areas of the country that are ready to be assisted by the work of the CEC.

List of Relevant Community-based Projects

1) The West Van Buren plume in Arizona is located near a cancer cluster. A significant drinking water production well was closed due to high per- and polyfluoroalkyl substances (PFAS) levels. Community-based organizations (e.g., Las Aguas) have been working to bring justice to their communities following these contaminations. Such groups as Las Aguas, have been mobilizing to bring attention to their communities to obtain EJ and could serve as a resource for GAC.

2) *Colonias* in the U.S-Mexico border. *Colonias* are substandard housing developments, often found along the Texas-Mexico border, where residents lack basic services such as drinking water, sewage treatment, and paved roads. More than approximately 2,000 colonias are identified within the U.S. The highest concentration is in Texas, with others in New Mexico, Arizona, and California. Evidence suggests that there are more than 1,800 designated colonias in Texas, around 138 in New Mexico, 77 in Arizona, and 32 in California. The GAC recommends identifying *colonias* as fertile ground for introducing environmental justice projects by the CEC.

3) San Xavier Indian Reservation of the Tohono O’odham Nation. EPA Region 9 has reported 3.8 parts per trillion (ppt) of perfluoro butanoic acid and 2.5 ppt of perfluoro-butanesulfonic acid, or PFAS in the community well. As a result, the drinking water source and other wells are being re-tested and monitored. In 2021, the Arizona Department of Environmental Quality (ADEQ) and the Air Force Civil Engineering Center (AFCEC) executed an Environmental Services Agreement for an initial \$1.7 million in funding for this Central Tucson PFAS Project. The community is also being affected by trichloroethylene, which still is being remediated. This San Xavier area is fertile ground for a potential CEC EJ project.

4) Pesticide and Herbicide Spray Drift in Blackfeet Nation, Montana. Farmers and pesticide applicators are concerned regarding pesticide/herbicide spray drift, resulting in acute or chronic harm to humans, animals, and other environmental exposures. The commercial applicators have responded that exposure to the small amount of these pesticide mixes would not cause damage yet offered no legitimate information relating to the potential of chronic environmental health exposures. Pesticides can cause serious long-term

injury, and regulators and applicators must work in sync to mitigate the possibility of damage through the evaluation and the taking precautionary actions.

Also, the intensity and length of wildfires are changing because of climate change. The increasing intensity and duration of wildfires can elevate community members' hazardous air pollution exposure and increase or compound all respiratory hazards. Chronic environmental health effects are much more difficult to determine because of the longer time frame and potential co-contributors and co-factors of exposures (like pesticides and herbicides). Exacerbation of or increasing occurrence of respiratory illnesses, asthma, heart disease, emphysema, COPD, cancers, miscarriages, and other similar health metrics could be used for short-term and long-term analysis. There is a need for studies that examine repetitive, acute, and chronic exposure to wildfire smoke. There is increasing data regarding the harm of black carbon exposure to all sectors of the community, especially to populations, such as the elderly, pregnant women, children, and the immuno-compromised.

The Blackfeet Nation developed a climate change adaptation plan that the tribe has been using for two years. He recommends EPA fund additional resources for implementation for tribes that already have developed adaptation plans. Here is a link to the [Blackfeet Climate Change Adaptation Plan](#).

Conclusion and Observations

These GAC community-based areas demonstrate the wide-range and far-reaching potential of topics and activities that fit the strategic priorities and cross-cutting approaches of the 2021-2025 Strategic Plan. For example, the issues outlined and overlapping include clean air, land, and water, effective enforcement of environmental laws, shared ecosystems and species, circular economy and sustainable materials management, and resilient economies and communities are wholly at issue in these described EJ communities referenced in Michigan, Arizona, Montana, California, Idaho, and Texas. In addition, these communities each share a border with Canada or Mexico.

It has long been understood that pollution does not respect international, national, tribal, state, regional, or local government boundaries, and localized management and control can no longer serve to control this environmental multimedia contamination crisis. The GAC feels that joint endeavors need to be made to collaborate, share, and seek solutions collectively in these efforts to identify, prevent, and mitigate pollution holistically. Working with the public and environmental health agencies in all three nations, the CEC could use this data to evaluate current research and development opportunities, identify gaps, and promote coordination and partnerships between all stakeholders to fill those gaps.