

EPA

Moderator: Lisa Garcia
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Operator: Good afternoon, my name is (Bonnie) and I will be your conference operator today. At this time, I would like to welcome everyone to the EPA Quarterly Environmental Justice Conference Call. All lines have been placed on mute to prevent any background noise. After the speaker's remarks, there will be a question and answer session. If you would like to ask a question during this time, simply press star, then the number one on your telephone keypad. If you would like to withdraw your question, press the pound key. Thank you, Ms. Garcia, you may begin your conference.

Lisa Garcia: Thank you very much. Hello everyone. Welcome again to the Environmental Justice Community Outreach Call that we are trying to hold once every three months and trying to hold firm to that. As in past phone calls, what I'll do is, we're going to go to a few updates and try to respond to some of the comments we received through our website and through e-mail and then we're going to open it up for a general Q and A.

So, first I would just like to update everybody on Plan EJ 2014. This is the plan that we issued for public comments, July of 2010, and it's still in draft. We received about 117 comments. We're reviewing the comments and the different programs are I guess taking ownership of the many different work groups that we have. We have lead staff working on these. The plan is to finalize implementation plans for public review. And so we're going to come out with those hopefully in the next three weeks. It's a little bit later than we had hoped. We hoped we would get them out the beginning of February; now

it looks more like early March. But we look forward to once again having the public review those and see where we are going with Plan EJ 2014.

I won't go through a whole discussion of what the implementation plans will have. But generally, for each area focus and for each tool that we highlighted in Plan EJ 2014, the implementation plans will talk about the deadlines and the work plan moving forward for EPA. So, we look forward to getting that out and you'll probably be getting it through e-mail and posted on the web.

The next item, I just want to quickly update folks on since our last call, is the Environmental Justice Interagency Work Group. As many of you know, the Administrator, along with Chair of the Council for Environmental Quality Nancy Sutley, re-invigorated the Interagency Work Group at the highest level. On September 22nd last year, we had a cabinet level meeting. Coming out of that meeting, one of the first outcomes or deliverables was to hold a forum for the public that was held on December 15. And even though it was by invitation only, we had over extended our RSVPs and a lot of people came in from all over the country. We got many good comments and recommendations to the different agencies. There were about 15 agencies represented at the White House Forum. And of course the exciting part was that the cabinet level members joined us for each of the different sessions and were there to participate with the community groups that were represented and federal stakeholders from the states and other federal agencies. And going forward, the Interagency Work Group has committed to doing more community based or local, regional outreach.

A few of the agencies were represented in Alaska, at the Alaska Environment Forum. That was an all day event with the different agencies and stakeholders who were able to make it to Alaska, to Anchorage in Alaska. A lot of the native villages and some of the tribal representatives were there and it was truly educational and informative. We definitely came back with a lot of good recommendations and we think it was, overall, a day of really good dialogue between the agencies and the different stakeholders. So those are my two quick updates. We're going to have an update on three other, I think, very interesting, I guess, initiatives and work that are going on here at EPA. And I'm going to turn it over to Carlos to introduce the topic.

Carlos Evans: Thanks Lisa. My name is Carlos Evans. I work for Lisa Garcia and as you know during this call, we're trying to make this call relevant to the issues that you see in your communities. So before each call, we asked you for agenda topics that you might want to talk about and one of those topics is radon. So, we have on the call the Office of Air and Radiation to talk about the federal Radon Summit. Is OAR on the call? Maybe not, OK. So we'll wait for them. Another topic that people wanted to talk about was civil and criminal enforcement. So, we have Melissa Marshall on the call from OECA, Office of Enforcement and Compliance Assurance. Melissa, are you on the call?

Melissa Marshall: I am Carlos. Thank you.

Carlos Evans: Thank you.

Melissa Marshall: Yes, I understand that there's interest in knowing about EJ and the enforcement process. When we enforce our environmental laws, we consider EJ throughout the process and they're basically, sort of five stages to the process of enforcing the environmental laws. You have strategic planning, to determine where EPA should take enforcement actions, then you're targeting either specific areas or specific facilities. The next step is inspecting for violations, which we may or may not find. But when we do, developing cases and then bringing the case to conclusion, which almost all the time is through settlement. But we do occasionally have to litigate the matter.

It's not really a stage but sort of a six-part of it, is that we're really trying to emphasize communicating the EJ results of our actions now too. Basically, when we do strategic planning as to where we should go, we consider various things. The first is we look at what we call initiatives, and these are areas in which we see nationwide. They are major environmental and enforcement issues that need to be dealt with. And right now, we have a number of them that I'll just mention. The first is keeping raw sewage and stormwater runoff out of our water which is a particular problem in some of the inner-cities, urban, older areas of this country where we have sewer overflows and related issues.

The next is cutting animal waste in order to protect surface and ground waters and that's largely focused on what we call concentrated animal feeding operations. It's basically, it's like industrialized farms, where you may have many hundreds or thousands of animals confined in one area and they create a massive amount of waste which is frequently somewhat uncontrolled.

Next is reducing widespread air pollution from the largest sources, especially coal-fired utilities, cement facilities, glass, acid sectors. I think you may have seen that there has been a lot of press over it in the last couple of years about the air pollution, especially from the coal-fired utilities that generate electricity. They contribute significantly to some, well the pollutants that come from them are highly tied to respiratory issues, asthma rates and that sort of thing. And next is cutting air toxic pollution that affects community's health. And air toxic, they're pretty much what they say they are. Then, the energy extraction sector is another one.

And finally, reducing pollution from mineral processing operations and a good number of those are located right in EJ areas. We have those initiatives. We also make special efforts in other areas. For instance, we have underway a clean water action plan in which we're enhancing various aspects, and this is an agency wide effort, various aspects of the Clean Water Act. And enforcement is right in there in terms of how can we be more effective and aggressive in dealing with the pollutions from those.

I don't know if you all are familiar with the term showcase communities but those Clean Water Action plan showcase communities, where we look at areas in which maybe watersheds or dense areas where there are a lot of sources of pollution. And we look for whether the enforcement areas was (worth) their problem as in those areas and many of them are, the showcase communities are really working with communities to provide grants and help them with their environmental situation. And we're looking at those as opportunities to do enforcement of one aspect. Other opportunities are out there.

We do something we referred to as "core enforcement" and that's basically the day to day enforcement we do that doesn't have a high, special emphasis, yet is a routine. Some of it is statutorily required, other is just your baseline

enforcement. But that's still another opportunity to look for where we can make changes with respect to EJ concerns. We also, in terms of looking for opportunities, coordinate with states and tribes. When we target which facilities that we're going after, one aspect that we looked at is where they are located. What is the community life that they're affecting?

When we go to a facility in an area and do inspections, we pay attention to the characteristics of the area. We document it and communicate our observations, but we developed cases where there are violations. As part of the case development, we also looked at, we make sure that we looked at, what is the affected community. Here, we may use not only who are just at the gate, at the fence line, but also what is the larger community that is surrounding these facilities and how are they affected by the pollution from this.

And in settlement, we look for opportunities in the settlement process to enhance the environmental, your health area of the surrounding communities. Just by way of example, last year we had a settlement with Kansas City in Missouri with respect to their sewer overflows. And as part of the settlement, we were able to save in improvement to the sewer systems to prevent the overflows, and we did it in areas that were very low income and I believe highly minority too. And not only did we want to save it in to those areas but there were also high numbers of overflows in them, so it made sense on a couple of fronts.

In those areas, we're also successful in getting the city to agree to put in green infrastructure. By this, we mean rain gardens and permeable pavement, green roof, and other ways to control rain and when you get high amounts in (inaudible) storms or whatever. Not only did that control the amount of water that would go into the sewage systems and flood out of them again but it also prevent, created a green space for these communities, that we thought that was very significant but that's the civil side of things.

There's a whole second part of enforcement which is the criminal aspect.

Jon?

Jon Jacobs: Good afternoon everybody. My name is Jon Jacobs. I'm an attorney in EPA's Office of Criminal Enforcement, Forensics, and Training and with me is Becky Barnes, our assistant director as well. And we're going to give you a brief overview of EPA's Criminal Enforcement program which many people, even within EPA really don't know much about and we'd like to tell you how we briefly integrating environmental justice considerations into our enforcement program. And if we have time, to highlight two recent investigations and prosecutions that were resolved successfully that have EJ related consideration.

So, Becky and I are going to pinch-hit depending on what portion of the presentation we're in, so please bear with us but EPA's Criminal Enforcement Program was actually established back in 1982. In the Office of Criminal Enforcement, Forensics, and Training has approximately 400 employees across the United States and Federal Division which Becky will describe in a minute but we focused on cases that we consider having the most egregious environmental violations and ones where the violations on what we call knowing, negligent, or willful.

And these types of violations are typically ones where there are a history of repeated violations by the facility or the individual. There's deliberate misconduct resulting in the violation, there's concealment of misconduct or falsification of record, tampering with monitoring equipment or operating without a permit, license manifest or other required document, documentation under the federal statutes. And our office coordinates with other offices within OECA including the Office of Civil Enforcement and the Office of Compliance.

We worked very closely with our media program offices. We coordinate of course with our US Attorney's Offices in the Department of Justice's Environmental Crime section who prosecute our cases and we refer our investigations to them as well as with our state and federal counterparts through what we call environmental crimes task forces. And right now, I'm going to turn the presentation over to Becky to describe OCEFT's composition.

Becky Barnes: Good afternoon folks. I'll just repeat that EPA's Criminal Enforcement Program exist to investigate and bring to justice the most serious environmental crimes committed by individuals and corporate defendants. And of the defendants, about 80 percent of those defendants convicted are individuals and about 20 percent are corporations because we enjoy strong support by the United States Attorney's Offices in prosecuting our cases. We have about 90 percent conviction rate.

Now within OCEFT and particularly in Office of the Criminal Investigation Division, we have about 200 agents, a little more than 200 agents right now. The special agents in EPA are fully authorized law enforcement officers, and they are located in about 40 locations across the country. And we use the traditional law enforcement technique, that is we execute warrants, we make arrests, we use forensic techniques including computer (receivable) and evaluation. And basically, what we tried to do as a partner and as a member of the OECA is that we strive to make a difference where people live and work.

Jon Jacobs: OK. If I talk quick, please bear with me. We have generally criminal enforcement authority in most of EPA's environmental statutes and most of the penalties are what we call felonies where there's imprisonment for more than one year. And the bulk of our investigations involved the Clean Water Act and the Clear Air Act but we do have investigation in nearly every other statute to which EPA is authorized. We also investigate related violations under Title 18 of the US Code, ranging from false statements to mail fraud, to smuggling.

Why does our program build criminal cases? And we have several factors why and the most largest are, we want individuals and corporations to have accountability for criminal conduct. We want to deter future conduct. We want to ensure that noncompliance is simply not a cost of doing business that you can pay with a fine. And we want to ensure program integrity, given EPA's increasing reliance on self-reporting. So, where do we get our cases from? Where do we get our leads from?

And most of them come from concerned citizens like you who are listening to this call and you can either call EPA or send us a tip through the internet. Other sources of information are former employees or current employee of businesses and companies. And then we worked with our EPA partners here, our state, local counterparts to also get information. And we would like getting information as quickly as possible because time is really of the essence in terms of having a successful investigation.

We have a five-year statute of limitations. Many of our investigations do take four to five years, evidence can get lost overtime, witnesses forget as we all do, and witnesses unfortunately disappear at times. So, I think right now we'll quickly transition to highlight two recent prosecutions that we recently did. And do you want to start with your second?

Becky Barnes: Yes, I'll be very quick. The first case, let me just say that committing any crime against environment is wrong. And when that crime jeopardizes human health, it is inexcusable and when that crime is committed by a government official who is in charge to protect the citizens, it's reprehensible. Donald Patterson was employed by the City of Detroit as a lead paint inspector. His job was to ensure that all paint-based lead hazards were safe and removed from the home to be inspected. Instead, which Mr. Patterson used his position, to obtain cash from the owners and renters of homes in exchange for false certification of the homes, that they were free of lead and for providing fraudulent lead removal training.

Mr. Patterson plead guilty. He admitted that he accepted cash in connection with fraudulent abatement of lead hazards of which children were being exposed at four separate locations. He was sentenced on February 8, 2011 to three years and 10 months in prison, and an additional 24 months of supervised release. And this case was investigated by the EPA Investigators in cooperation with the FBI. That's one example. I think we probably—

Jon Jacobs: Do we have time for another or?

Carlos Evans: Sure go ahead.

Jon Jacobs: OK. Just quickly, the second case we want to highlight is called (USC) Southern Union Company. In December, the First Circuit Court of Appeals in Boston upheld a 2008 conviction for illegally storing mercury at its facility in Pawtucket, Rhode Island and also upheld an \$18 million fine and this involved mercury which is as many of us know is an extremely toxic substance, even in very small quantities.

And back in 2001, Southern Union Employees began a program where they remove what they call gas regulators from customers' homes, brought them to their facility by the Seekonk River, and stored many of the regulators there and also began removing mercury from many of these regulators. And by 2004, there was over 140 pounds of mercury stored on the site. The mercury was often stored in unsecured containers, glass jars, plastic jugs in a facility where there was very little security.

The fence surrounding the facility had gaps in it. Many of the buildings were vandalized and in poor condition. And most of all, there were no hazard warning signs posted that mercury was stored in these buildings. In July 2004, (news) broke into the building, took many containers of mercury spilling it throughout the facility as well as nearby apartment buildings. The theft was not known for several weeks but once it was detected, the apartment complex was evacuated. Residents were forced to live elsewhere for several months.

Many were exposed to mercury and had elevated mercury levels, and the cleanup ultimately cost around \$6 million. We investigated and referred the matter to the Department of Justice. It was prosecuted, a jury convicted Southern Union. In that sentencing, the judge imposed a \$6 million fine on the company which was essentially equal to the cost of the cleanup but he also imposed \$12 million in community service payments. Hundreds of thousands of dollars went to the Children's Hospital to treat children exposed to hazardous chemicals. Other hundreds of thousands of dollars went to the Red Cross and an emergency management entities but \$11 million is to be managed by a foundation, where among other things they will engage in environmental education, environmental remediation, conservation, and children's health exposure to hazardous waste and toxins.

And this case was important to EPA because it involves a community that our Environmental Justice Strategic Enforcement Assessment Tool gave a score of 2, so it's in the top 20 percent of EJSEAT scoring. And this area, this community is nearly 31 percent minority, very low income and nearly 11 percent of the population live below the poverty line and we believe that Southern Union's conduct posed a significant risk to the community, particularly because this facility was located in a densely populated neighborhood.

Tenements and apartment buildings were adjacent to the facility. Several schools, including an elementary school within the block, so kids were walking right by this facility and were potentially exposed to mercury. Homeless people slept on the property and emergency workers were never told that hazardous waste would be stored at the facility. So, we're very pleased with the outcome of this trial and the appeal, and we have other cases that we can tell you about in the future. Thank you.

Carlos Evans: Thank you so much Jon. Thanks Melissa, Jon, and Becky for a great overview of the program and examples of actual cases that benefit communities.

Lisa Garcia: I just want to quickly say, one of the most important things that was mentioned is that the EPA gets information, and I guess tips, to use a simple term from communities and even sometimes from workers. So, I think it's just important to, for everybody on the call to remember that. It's important also to hear from the community and to get tips to help sometimes bring this to the level of EPA and to get EPA involved, so thank you.

Carlos Evans: Another topic that came up that people want to talk about are grant opportunities. So, we have Sheila Lewis from the Office of Environmental Justice to talk about EJ Small Grants.

Sheila Lewis: OK, thank you Carlos. Good afternoon everyone. Just to give you a brief overview about the Environmental Justice Small Grants Program, it's a grant program that's designed to support and help impacted in communities, empower themselves as they work on the solutions to the local environmental

and public health issues in their community. The program works to assist the recipients in building partnerships to better understand the issues in their community and oftentimes even address and remediate the issue.

This is a great time for the call because we have an open solicitation. We have an open request for applications. The solicitation period ends March 31st, 2011. We are now open to receive applications from nonprofit organizations to be eligible to receive a grant funded by this program. You have to be and incorporated non-profit to start and there are a number of other requirements in terms of connected to the community and located and working with the community. The assistance provided will be along the lines of working to educate the community, providing training and workshop to focus again as local community grassroots organizations.

So when you apply, you need to talk about how your are connected to the community that is being impacted by the environmental and public health issues. This is a very competitive program. The solicitation this year, we have a million, \$1,200,000, each grant will be in the amount of \$25,000. So needless to say, we get more applications than we can fund, so it's very competitive. So, I suggest that you partner with local academia and other resources, so that you can create the strongest application you can. We anticipate awarding approximately one to four applications in each of the ten EPA regions.

And we have a special focus this year around \$200,000 of the money and we're looking for community-based participatory research. We're looking for a community, nonprofit, grassroots organizations and incorporated-nonprofits that are doing research, who know that there is a gap for environment data, health data at a local level. So if there's something your nonprofit is working on, then that is also an eligible project. We are going to have a series of application assistance calls.

The next one is going to be next week, February 23rd from 3 to 5:30 and the call-in number for that is 1-866-299-3188. The conference code when prompted is 2025640152. So if you're interested, please join the call. I would suggest if you're going to join the call, that you go to our website and

download the application guidance because that is referred to during the call. Our website is website is www.epa.gov/enviromentaljustice and go to the grants page and you will see there's a link there for the new request for applications. Thank you.

Carlos Evans: Thank you Sheila. We want to open it up to questions and answers but we want to make sure that we give the Office of Air and Radiation an opportunity to speak about radon. Are you on the call yet? OK, I think we're having some technical difficulty. OK, so we'll go ahead and open it to questions and answers.

Operator: Thank you. At this time, I would like to remind everyone in order to ask a question, press star, then the number one on your telephone keypad. We'll pause for just a moment to compile the Q and A roster. OK, now our first question comes from Patty Whitney of BISCO.

Patty Whitney: Hi, my name is Patty, can you hear me?

Carlos Evans: Yes we can.

Patty Whitney: OK great. I'm from BISCO down in South Louisiana and my question is about enforcement and I really don't know which division it would be pertinent to but what ability or responsibility does the EPA have in investigating a state or local government who has permitting power regarding allegations of over permitting, in other words, is there any way to investigate whether all permits are granted disproportionately because of an EJ concern?

Carlos Evans: Are the OECA folks still on the line. I'm not sure if they want to respond to that or?

Melissa Marshall: Yes we are.

Carlos Evans: OK.

Melissa Marshall: I guess, just so I understand the question properly, are you saying that there are too many permits being given out or ...

Patty Whitney: ... in a regional area by the permitting agencies, is there any sort of methods for investigating whether there's an over permitting like that?

Melissa Marshall: Just one second.

Lisa Garcia: This is Lisa Garcia. I can answer that I guess just quickly and then I guess if OECA wants to chime in. But there usually are oversight of certain programs. And so I guess it depends on the type of permit and the type of program. Many times, and I'm sorry I don't know Louisiana, but I think for instance in Louisiana for air permits, the state issues the air permit but there is an opportunity for EPA to review the permit, a new permit. It's called the Prevention of Significant Deterioration permit. But generally, that's the relationship that EPA has with the state. Now if it's a local or municipality that is issuing the permits, EPA does not, I guess the word is, regulate or have authority over those. So, OECA did you want to add anything.

Carol Holmes: Hi this is Carol Holmes. While in OECA now, I'd been in other offices of EPA and my response is based on information I know in my pre-OECA life. And that is, we have in the past received petitions from groups asking us to withdraw approval of the programs like the one Lisa mentioned, sometimes in the air program, sometimes in the water program arguing that the state is not properly administering the program and therefore we should withdraw approval of the program.

So, that's for instance maybe the one way to get the concerns that you set forth before the agency and have them address them. But additionally Patty, if you would not mind, we would very much appreciate if you could possibly I don't know, Lisa and Carlos, if they could maybe send an e-mail, if she could send an e-mail to you.

Lisa Garcia: Yes.

Carol Holmes: Perhaps some more information, so that we can follow up and be responsive to questions that you asked of us. Yes.

Lisa Garcia: Yes we can do that. Patty, why don't you, I think you do have my e-mail. And just because Patty is on the phone, so others know, a reminder that EPA

and the other agencies on Gulf Coast Restoration Task Force will be in Louisiana on February 28. I forgot to mention that. But Patty, why don't we, we can either speak on the 28th if you're going to go to that meeting or you can e-mail us, and we'll try to get a better response and figure out which permits you're talking about.

Patty Whitney: OK, we'll do thank you.

Lisa Garcia: Thank you.

Operator: Thank you. Our next question comes from (Norm Relay) of Romeo.

(Norm Relay): Hello, yes, thank you for this conference. My question is actually related to the first one. I'm calling from Cleveland. We're fighting some coal plants and we do have concerns with permitting here by the statewide EPA is not effective. But when I try to escalate it to Region 5, they refused to meet and hear my concerns. Is there somebody at the federal level that communities can go to when they feel that they're not being treated properly at the regional level?

Lisa Garcia: Yes, I believe someone from Region 5 actually maybe listening and so we can, once again if you can get us your name and address and you said you're with the group Romeo? Is that ...

(Norm Relay): Romeo is a media instrument to include one but ...

Lisa Garcia: ... in Cleveland ...

(Norm Relay): I'm a citizen of impoverished area that's got a coal plant in our backyard. We've also got (inaudible) down the street. I mean we've got some serious issues.

Lisa Garcia: OK.

(Norm Relay): We've got monitoring concerns and a lot of significant government oversight issues.

Lisa Garcia: OK, so no that's definitely part of, you know, part of our role is to make sure that we're engaging with communities and trying to figure out where some of their concerns lie. And whether it is something EPA can do or talking to, helping to I guess facilitate other discussion. So, why don't we make sure that Region 5, that we all follow up.

(Norm Relay): But they refused to meet with me, I offer to go to Chicago, so I need to have somebody above that.

Lisa Garcia: OK.

(Norm Relay): Who is the right contact for EJ issues at the Federal EPA?

Lisa Garcia: Yes.

Carlos Evans: You can send an e-mail to me, evans.carlos@epa.gov and that goes along with Patty, can send me her information as well.

(Norm Relay): OK, thank you.

Carlos Evans: And yes, we'll follow up. It maybe, obviously every region deals with emergencies and other stuff, but we'll make sure that they reach out. Thank you.

(Norm Relay): OK, thank you.

Operator: Thank you. Our next question comes from Ann Moss Joyner of Cedar Grove.

Ann Moss Joyner: Hi, I appreciate you all having this conversation today. I do a lot of technical assistance for communities and use EnviroMapper and things like and I was wondering if for instance if you're trying to research CAFOs and some of the specific environmental hazards associated with those, rather than to having to go to something like (inaudible) website and look at the actual original studies.

If EPA has some sort of source of information where you can go to the say, OK, these are our concerns and these are what we are. This are the kind of things we want to know when looking at the particular region for density or

for health outcomes or for environmental exposures. All of those kind of things and that would apply to all of your focus areas and other things as well.

Lisa Garcia: So, well first of all, thank you for providing technical assistance to communities. I know that's one of the things that we also get request for, is communities and (inaudible) work and technical assistance and capacity building. But I know that some CAFOs do have a requirement to report, so that I guess on statement of CAFOs. But generally speaking, one of the things under Plan EJ 2014 that we're looking at is how to create a tool. It's being called a screening tool or some people are calling it like a layer cake, using available data that would enable us to begin to see what some of the burdens are in different communities, and so what is our air data and what is some of the toxic datas, the impaired waterways.

And so this work group under Plan EJ 2014 just kind of came together in the past few months. But that is definitely one of the goals. But not only would we be able to use some of the data from EJView which is also on the website and it's a great tool for communities to look at some of that. But how would EPA begin to create, some people in California called it like green zones or an EJ screening tool. And so how do we enhance and improve that work. So, we are looking at that as you put it as source information and how it would inform our work.

Ann Moss Joyner: Is there any way to contribute to that, as just an ordinary citizen?

Lisa Garcia: So, I mean we definitely are looking for the comments and recommendations and contributions, so this was part of, at the beginning of the call I talked about the implementation plans that will be out in early March under Plan EJ 2014. And if you look at the ones for, I think it's called the tool for environmental justice screening and targeting and that implementation plan, we'll talk about some of the milestones. And definitely the reason that it is going out to the public is to hopefully get some input and recommendations, so we would appreciate that.

Ann Moss Joyner: All right. Thank you.

Operator: Thank you. Our next question comes from Earl Koteen of UULMCA.

Earl Koteen: Thank you. This is Reverend Earl Koteen calling from California. Lots of great information on this call and I'm wondering there's any chance that a summary of the call with some links and e-mail addresses and those sorts of things could be sent out to the list. So, we can pass this information onto other that we are working with.

Carlos Evans: Sure, after the call on our website we'll have available an audio recording of the call and the transcripts and we can also ...

Earl Koteen: ... oh great.

Carlos Evans: I'm sorry?

Earl Koteen: I said oh great, go ahead I'm sorry.

Carlos Evans: Yes and we can also send that information through our ListServ as well.

Earl Koteen: That would be great. I think I'll push through the ListServ, is a very great way to reach us all and I thank you for all this information, especially information about enforcement as we work with communities that are facing major environmental hazards.

Lisa Garcia: This is Lisa Garcia again. Just so you know, we are trying to update the website and certainly, before these calls, get comments on the type of topics. But one of the comments we received also is, how do we engage youth and, I guess, people who can't call in at 3 o'clock in the afternoon or what is it 12 o'clock in California. One of the suggestions was that we consider a Saturday call. So we're going to be looking into that. And we definitely appreciate any of the stakeholders on the call spreading the word and getting people on the ListServ and the word out when the next call is. So, we're going to try to focus one of these calls coming up on either a Saturday or maybe even later on in the afternoon to capture some of the young people who maybe interested and certainly getting involved in this important issue. So, thank you for your time.

Earl Koteen: You're welcome. I might add we are running a young leader's program and we find that Facebook works really well with young adults, better so necessarily leave an e-mail.

Lisa Garcia: All right, well that's a good recommendation and I'll give that to my younger folks. I'm working with, to help on that one, so.

Earl Koteen: I understand.

Lisa Garcia: Thank you, yes exactly.

Earl Koteen: Thank you.

Operator: Thank you. Our next question comes from Bob Gough of (SCC) of Intertribal.

Robert Gough: Hi, this is Bob Gough, Intertribal Council on Utility Policy and question to Lisa. At the EJ White House Meeting, (Pat Spears) asked about the workability of the executive order, meaning the Federal Government, whether or not that included the electricity loads carried by the Federal Power Marketing Administrations. We have an EJ Project that is to build tribal wind, put that out in the grid, and we're wondering whether that WAPA, Western Area Power Administration is obliged under the executive order to comply into greening the grid that it operates.

Lisa Garcia: We've been talking with the Interagency Work Group of the different agencies about how to respond to some of those questions and comments that came out of the White House Forum. What I can do is I can follow up on that specific question. I think we have your contact information right?

Robert Gough: I'm sure that you do but I'm not sure.

Lisa Garcia: Yes, if you could, you want to ...

Carlos Evans: ... yes, if you can just write up a quick summary and send that to me, Carlos Evans, again evans.carlos@epa.gov, that way it will make them easier for Lisa to ask her counterparts.

Lisa Garcia: Yes, we actually have someone else, from I think it was Haskell University, talking about some wind turbines that they were looking into. I don't know if it's the same issue, but we can follow up with all those comments with the Department of Energy and our representative on that because I believe the EO does cover a broad span of obviously alternative energy sources. So, we will definitely follow up with that. Thank you.

Robert Gough: Thank you. We appreciate the EJ Group, DOE but WAPA sort of stands as a quasi independent group as they're (inaudible) and (TBA). So, we thank you for your help.

Lisa Garcia: OK, thank you.

Operator: Our next question comes from Shawna Larson of Chickaloon Village.

Shawna Larson: Hello, can anybody hear me?

Carlos Evans: Yes we can.

Shawna Larson: Thank you. This is Shawna Larson. I work at the Alaska Program Co-Director for Pacific Environment and I'm also a Chickaloon Village Tribal Member. Just for the record, I'd like to state the concerns that I have about tribes, not tribal officials, tribal governments, not necessarily falling under the category and guidelines of being Environmental Justice Communities. Although, we do have low income and minority, we have those categories covered in terms of being tribes.

Our tribal governments are sovereign entities and stand at the same level as, not only the state government but also the, what sometimes, referred to as the supreme sovereign or the United States Government. That being said, our tribe has a very serious issue fighting a coal plant that is going in. We've spent many years restoring since the last time this coal mine was active. We have water restoration. We spent million of dollars not only restoring the river but also bringing back the salmon in our local area and now the permits are going through.

And this question kind of has to do with primacy and the fact that EPA has sort of ceded control over primacy for the state waters to the State of Alaska. And as you may or may not know, currently the State of Alaska does not recognize tribes and so we're really trying to figure out. I think it's similar to a question from before, how do we get a state who doesn't recognize tribes to make sure that they can follow the federal fiduciary responsibility, the trust responsibility of looking out for tribes and our best interest as was said to be the case many, many years ago when the United States sort of took over the trust responsibility for tribes in the US and in Alaska.

We have very specific concerns about the health impact assessment and the culture impacts. The permits that are being given out are based upon information that was done about 15 years ago and so the population has grown substantially and there will be not only water issues but blasting which is the company is saying that if they break our windows when they're doing the blasting, that they'll repair them and those sorts of things. Our main concern as a tribe is that this facility is looking at hauling over 200 loads of coal out per day and it's adjacent to our tribal school.

So, our elders and our children are very active in the school and they're going to be directly exposed to all of the coal dust and all of the pollutions that is coming directly out of the area that the company is going to be active and it's also within what we can consider to be our jurisdiction in terms of cultural, spiritual, and traditional use. And so, I just wondered if there was anybody within EPA that we could be in contact with because as I said the State of Alaska is not recognizing the tribes and they have very little not only respect but really just we have a very hard time getting them to respond or being concern about what our issues are as a federally recognized tribe.

Lisa Garcia: Yes, I think, sorry. So, I'll just try to respond quickly. I mean the issues that you raised are very difficult. From the perspective of the Environment Justice work, we call it Environment Justice work and it is based on the concept that we want to hear from communities. And the communities that we focus on in our Environment Justice work is low-income minority and also tribal. So, we really try to make sure that the voices are being heard at EPA and that we recognize the importance of the native or Indian nations and the sovereign

issues that come along with dealing with the tribes. But that we want to be open to and responsive basically to all stakeholders calling in.

As far as the coal mine or the coal plants that you're talking about, we did, when we were in Alaska, we were there with the regional administrator, Dennis McLerran, and we did hear a lot of concerns from some people there, both on the issue of EPA has now delegated the MPDS, the water program to Alaska. And that's within the statutory authority. Alaska met a lot of the requirements that was needed to have that delegated program. That being said, EPA and Region 10 are closely monitoring the program and ensuring that it's being, I guess, implemented correctly.

So, I hope that Region 10 is on the phone, but I will also encourage you to reach out to Kathy Brown, who is our tribal coordinator in Alaska. And we can make sure that you get that information, because there were a lot of comments just last week. And so, I'm sure the region hasn't put together a response. But we want to make sure that you're part of that dialogue on the coal mine, and how the state is addressing some of the health concerns, some of the subsistence fishing and subsistence living concerns that you raised. But we did hear about it, certainly at the highest level in Region 10 with Dennis McLerran. And we can definitely send you the information for them.

Shawna Larson: Thank you.

Operator: Our next question comes from Arturo Garcia-Costas of New York State Department of Environmental Conservation.

Arturo Garcia-Costas: Thank you, actually my question was addressed, it had to do with our community-based organizations can bring information to OECA's attention. And I think that Lisa addressed already, so thank you.

Lisa Garcia: Thanks Arturo.

Operator: Our next question comes from Brendan Morrison of Duke University.

Brendan Morrison: Hi, I'm interested in hearing your views on House Bill 5820 which proposes to amend the Toxic Substances Control Act. Specific to that bill, it

contains a section on Environmental Justice hotspot. So, I was hoping to get your thoughts on this bill and perhaps the definition of what might constitute an Environmental Justice hotspot.

Lisa Garcia: So on the TSCA Bill. We actually received a lot of comments on the TSCA Bill. Obviously, right now, neither the House nor Senate is focused on that bill. We did support, I'm not sure if the number that you read off is the (inaudible) Bill. But we had supported the TSCA Reform. And so, what we have decided to do was, for the next call, make sure that we have our TSCA and our legislative folks talk about that.

My understanding is that there are still some community engagement, or I guess engagement, with some of the environmental groups that are interested and continuing to have that portion of the hotspots be maintained in that bill. And I'm not sure if you've been part of those outreach calls or meetings, but we can make sure that you get on that. And just for everyone on the phone, we recognized that it's a big issue and we hope to have it as one of the topics to talk about on the next community outreach call.

Operator: Thank you. Our next question comes from (Debra Rothschild) of Bennington (inaudible).

(Debra Rothschild): Thank you. On January 12, 2011, the EPA gave the biomass power generating industry a three-year exemption from new emission regulation. The EPA increased emission standards for most energy sources industries but the EPA allowed major source biomass burners to emit eight times more particulate matter than coal. Sixty-six times more acid gases than coal, 80 times more carbon monoxide than coal, 233 times more dioxins than coal, so the EPA acknowledges burning biomass is dirtier than coal and yet gives an industry a pass.

I want to know why our taxpayers paying subsidies to energy that is dirtier than coal and non-renewable. And further, why is the EPA is allowing these three years to study, whether burning biomass emits carbon dioxide and is not (interested) at least that time to see if carbon dioxide is emitted, shouldn't also

hold off on permitting new biomass facilities until the science is in. It's not doing that and about 200 new biomass plants are being planned.

Lisa Garcia: So, I'm not an expert on this, but I know that we did, EPA did exempt for three years. And I know that this administration and certainly the administrator is always interested in basing any decision on sound science and staying within our legal authority and continuing to be transparent with any decisions we made. So while we know that some people were not happy with that decision, I think it was, as I said before, based on the need to figure out what the sound science is and how we continue to ensure that.

We're protecting public health, and we based it on what those potential impacts maybe. But if you want to speak to someone from our air division to get more of the specifics; it seems like you have a lot of statistics and detail. We would be happy to get you in touch with someone from our air office who has a little bit more, a better understanding of, what the next steps are and how we plan to ensure that the three-year exemption is not, I guess, going towards what you're talking about as being dirtier air for certainly the public.

(Debra Rothschild): It's not only dirtier air, it's also adding to climate warming through carbon emissions ...

Lisa Garcia: ... yes ...

(Debra Rothschild): ... which are much higher than the coal or natural gas.

Lisa Garcia: Yes, so that's fine yes.

(Debra Rothschild): I would like to talk to somebody from air quality but also I don't understand if you're having this three-year moratorium, it should also be against having new biomass facilities built since we don't have the facts according to the EPA.

Lisa Garcia: Yes, I mean we'll definitely take that recommendation back. But I think for the greenhouse gases, we are now requiring certain reporting and requirements. And so, I know that biomass was exempted for a short amount

of time but, like I said, it's best if we get you in touch with someone who is more of an expert. So, you're (Debra Rothschild)? Right?

(Debra Rothschild): I am.

Lisa Garcia: OK, so we'll make sure to get someone, if you could e-mail or contact Carlos Evans.

Carlos Evans: Yes, again if you can provide a quick, brief summary of the issue at least I can find the right people, evans.carlos@epa.gov.

(Debra Rothschild): Thank you.

Lisa Garcia: OK.

Operator: Our next question comes from (Crystal Lake) of Environmental Justice.

(Crystal Lake): Good afternoon everyone. I live in Long Beach, New York in the North Park Area. My concerns (before) the permitting process, how and why are permits issued without having the affected community's inputs, our concerns are always bypassed. The permitting normally pertains to the majority residence within the Long Beach Area; however, there are various and many facilities that are in the condensed area to our neighborhood and some of my research, I read something that pertains to a categorical exclusion due to the upgrades and the modification to (that) facility.

And unfortunately the upgrade and modifications were done without the knowledge of the community nor inputs, nor any information was given, nor any outreach that pertains to our community which is only approximately a block away. And this just pertains to one facility, how can the EJ Community flag or some type of note when the permitting process is long gone and put it into placed.

Lisa Garcia: Hello (Crystal). This is Lisa ...

(Crystal Lake): ... hi ...

Lisa Garcia: ... how are you?

(Crystal Lake): I'm well.

Lisa Garcia: So, just so you know. Once again, under Plan EJ 2014, the priority to focus on EJ and permitting was definitely from many of the concerns that we heard from communities like where you come from. And I remember the area well and the issues that you're faced with. And throughout their comment period, there was some really good recommendations about how to engage communities early, how to bring them into the process. That is some of the procedural stuff and what you'll see is in the implementation plan, where EPA is trying to improve some of those, I guess, outreach and engagement pieces throughout the work that we do.

Now that being said, the permitting and EJ portion from Plan EJ 2014 does focus on, for the first few rounds, EPA permits. And I know that you're dealing more with a local permit, but we think that it will be informative. And then the other part, just so people on the phone also know the other parts that we heard from communities on Plan EJ 2014, was that, not only for the community to be involved in the process, but how are we going to enhance some of the EJ analysis looking at some of the cumulative impacts, looking at potential health assessments, and other issues.

So, those are definitely the issues that we're grappling with. And hoping to come up with ways that EPA can improve incorporating Environmental Justice concerns like the one that you raised through our permitting process. So, unfortunately I don't have a specific answer for your concern right now, but stay tuned because I think the real goal is to make sure that we do that.

(Crystal Lake): OK, may I just ask one other question, will that also include the municipalities, towns, cities when you're applying for these permits?

Lisa Garcia: Yes the answer ...

(Crystal Lake): ... how are applications going to be flagged and also a collective process.

Lisa Garcia: The answer to that is, for the first round of what we're looking at, the answer is no. We're solely focusing on EPA permits. The hope is that we continue to

engage the state and municipal stakeholders throughout the process and figure out ways that, if there is a combined EPA or local permit, how do we all work to really engage in the community to be a part of that permitting process. But like I said, the answer for the first round under this review that we're doing is that we're solely focused on EPA Federal permits.

(Crystal Lake): OK, thank you for your time. I'm hoping that you and Lisa Jackson will come in, do a walk-through.

Lisa Garcia: OK, only in the summer if we get to go to the beach.

(Crystal Lake): OK.

Lisa Garcia: All right. So, I think we've gone about 10 minutes over and I just want to repeat two things quickly. One is, once again on February 28, starting at about 8 a.m., the Gulf Coast Restoration Task Force, chaired by Administrator Lisa Jackson, will be in New Orleans. And I'm hoping that you, well certainly interested stakeholders, have received invitations. If not, we'll try to post that on our general Environmental Justice Listserve because we want to make sure that there's probably going to be, that we're still hearing from people on how they want to see restoration go forward. And we're also engaging the NEJAC on helping us with the work group to also submit recommendations on the restoration plans for the Gulf Coast from the BP oil spill.

And then one other quick thing I did not mention is that, on the Federal Register, you'll see a request for an Environmental Justice Technical Panel for our Science Advisory Board. Once again under Plan EJ 2014, we're also looking at incorporating Environmental Justice into rulemaking. And part of that is going to be a peer review, external peer review of the technical guidance. And so if there's a scientist or technical, or epidemiologist that wants to help us out through the Science Advisory Board on our Environmental Justice Technical Panel, please consider the nominations. And the due date is March 7, 2011. Is that out on our EJ Listserve? We'll make sure to get something out. OK, it did go out on the EJ Listserve, sorry. OK,

so thank you again everyone for joining us. The next community outreach call will be in ...

Carlos Evans: ... around three months.

Lisa Garcia: In three months and we'll make sure that we're continuing to respond to some of the comments and for folks who we did say that we would get back to you. Don't forget to write in and remind us of your issue and we'll try to get the right answers to you. Thank you.

Operator: Thank you. This concludes today's conference call. You may now disconnect.

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