



NATIONAL  
ENVIRONMENTAL JUSTICE  
ADVISORY COUNCIL

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**REPORT  
OF THE  
ENVIRONMENTAL JUSTICE  
ENFORCEMENT AND COMPLIANCE  
ASSURANCE ROUNDTABLE**

**Sponsored  
by the  
Enforcement Subcommittee of the  
National Environmental Justice Advisory Council (NEJAC)**

**in conjunction with the  
U.S. Environmental Protection Agency**

**San Antonio Municipal Auditorium  
San Antonio, Texas  
October 17 through 19, 1996**

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## INTRODUCTION

The first regional Enforcement and Compliance Assurance Roundtable, sponsored jointly by the U.S. Environmental Protection Agency (EPA) and the Enforcement Subcommittee of the National Environmental Justice Advisory Council (NEJAC), was held October 17 through 19, 1996 at the Municipal Auditorium in San Antonio, Texas. The roundtable brought together environmental justice stakeholders to exchange ideas on how communities can play a more active role in environmental enforcement and compliance activities. The meeting also provided community grassroots organizations and government agencies an opportunity to share strategies for responding to environmental justice concerns.

The NEJAC was formed to advise EPA on ways to achieve its environmental justice mission. The Enforcement Subcommittee, which is one of six subcommittees of the NEJAC, studies issues related to enforcement of, and compliance with, environmental statutes and regulations and provides recommendations to EPA on such issues. One of the subcommittee's recent reports to EPA included a recommendation that EPA conduct a series of regional roundtable meetings to discuss community and other stakeholder points of view with respect to enforcement and compliance assurance; the roundtable meeting in San Antonio was a result of EPA's endorsement of that recommendation.

More than 180 individuals and representatives of local community grassroots organizations; business and industry; federal, state, tribal, and local agencies; and members of the NEJAC, as well as other key stakeholders, participated in the roundtable meeting, which consisted of a training session that provided an overview of the enforcement and compliance process, a plenary session that included panel discussions and open discussions of various topics, 14 breakout sessions focusing on specific topics related to 9 main areas of enforcement and compliance assurance activities, and bus tour of environmental justice sites.

### **Purpose of the Roundtable Meeting**

***The regional roundtable meeting is an important milestone in EPA's efforts to provide opportunities for environmental justice stakeholders to*** provide recommendations to the EPA and state environmental agencies for the development of policies to enhance public participation and involvement in enforcement and compliance activities. Although most government staff who were present primarily represented EPA, the forum was considered by many participants to be a force to encourage participation and action by state and local officials. In addition, the roundtable served as a model and framework for similar roundtables to be held in other regions of the country. EPA plans to work with states, local municipalities, tribes, representatives of communities, and other stakeholders to review and implement the recommendations from the roundtable.

The roundtable gave the participants the opportunity to:

- Focus on the education of all participants, through the use of case studies, an overview of enforcement and compliance assurance activities, and a tour of selected environmental justice sites
- Review the effectiveness of existing opportunities for community involvement in the enforcement process and develop recommendations for improvement
- Identify new opportunities for communities to participate in enforcement and compliance assurance activities and develop recommendations for improvement in community involvement

## **ACTIVITIES AT THE ROUNDTABLE**

Following is a summary of the activities that took place during the roundtable.

### **Training Session on Community Involvement in the Enforcement Process**

A training session was held the evening of Thursday, October 17, 1996. The session provided participants, particularly representatives of the community, an overview of the enforcement and compliance process. Conducted jointly by representatives of EPA headquarters and EPA Region 6, the training session featured discussions of the role of federal and state agencies in enforcement and existing opportunities for community involvement. The training provided participants an overview of the NEJAC.

The training session also included information on Executive Order 12898 on environmental justice, as well as fact sheets and other material on community involvement in environmental enforcement activities. Detailed information was provided on actual cases in which citizens successfully have used the information tools available through existing regulations and programs to bring considerations of environmental justice to bear on decision-making processes in local communities. A detailed summary of answers to commonly asked questions about enforcement issues also provided.

### **Plenary Sessions**

Panel discussions focused on the role of state agencies in environmental enforcement and compliance assurance, as well as challenges for community involvement in enforcement and compliance assurance activities. Presentations featured the perspectives of representatives of federal, state, tribal, and local agencies; the community; and business and industry. An open forum with EPA officials provided participants with an opportunity to discuss specific concerns about community involvement in enforcement

activities. In addition, a breakout session was conducted to provide an opportunity for a one-to-one dialogue between community members and representatives of government agencies about environmental justice issues in general.

### **Concurrent Breakout Sessions**

On Friday, October 18, 1996 and Saturday, October 19, 1996, 14 breakout sessions were conducted to provide participants an opportunity to discuss issues related to enforcement and compliance activities. During the sessions, representatives of communities shared their knowledge and experience and identified ways to improve community involvement in various aspects of enforcement and compliance assurance. The participants discussed issues and made recommendations that were presented during the plenary session.

The breakout sessions, held concurrently over the two days, focused on nine topics (some of which were repeated to allow additional discussion):

- Inspections, screening, and targeting;
- Community monitoring;
- Community notification and the resolution of complaints;
- Environmental restoration and cleanup;
- Supplemental environmental projects and consent decrees;
- Enforcement of Title VI of the Civil Rights Act of 1964;
- Performance partnership agreements and memorandums of agreements;
- Coordination of enforcement and compliance activities among tribal, state and federal agencies;
- Environmental impact statements and cultural and social analysis.

## **San Antonio Environmental Justice Bus**

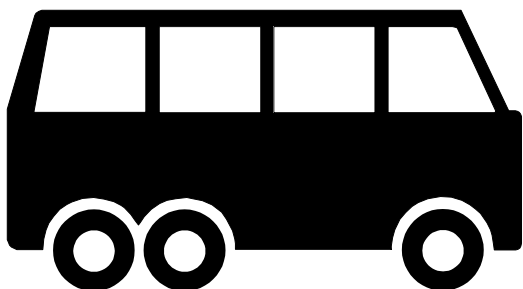
On the afternoon of October 17, 1996, approximately 95 people participated in a three-hour bus tour of several environmental justice sites in the San Antonio metropolitan area. The tour was sponsored by a coalition of local community organizations. Mr. Ruben Solis and Mr. Chavel Lopez of the Southwest Public Workers' Union (SWPWU) served as moderators and hosts for the tour.

The purposes of the bus tour were to (1) provide representatives of EPA's Office of Enforcement and Compliance Assurance, EPA Region 6, and the Texas Natural Resource Conservation Commission (TNRCC), among others, a glimpse of the concerns and conditions of citizens living near environmental justice sites; (2) educate government representatives and provide examples of environmental racism in such communities which stem from a failure to enforce environmental regulations; (3) allow community grassroots organizations the opportunity to share strategies for responding to environmental injustice; and (4) strengthen the environmental justice movement.

En route to the first stop on the tour, the moderators noted that east San Antonio, whose residents are predominately African-American, is the most industrialized area of the city. Several fuel storage tank farms, railroads, warehouses, and industries were seen from the highway. Several industrial enterprise zones, designated by the city, are located in this area.

The tour first stopped at St. Jerome's Catholic Church in the community of Martinez, Texas, nine miles east of San Antonio. This rural community of approximately 200 people is predominately German-American, Mexican-American, and African-American. Most of the residents live on family farms and ranches that have remained in the same families for several generations. Martinez also is home to a Browning-Ferris Industries (BFI) Class 1 municipal solid waste landfill that is located adjacent to the main roadway into the community. In 1995, residents organized Save Our Martinez Environment (S.O.M.E) to oppose the expansion of the landfill and to bring attention to problems with dust, odors, windblown trash, and truck traffic that they associate with the proximity of the landfill to their homes. Many residents expressed concern about contaminated runoff water, releases of methane gas, disposal of hazardous waste, an apparent lack of regulatory enforcement by TNRCC, and the recent amendment of BFI's permit which will increase the capacity of the landfill. An unfulfilled promise of jobs at BFI for the community also was mentioned.

The bus tour stopped briefly at the Aztec Tile site, a ceramic tile factory that was abandoned more than 10 years ago. The site is currently a state of Texas Superfund site because of high levels of contamination with lead, cadmium, and chromium in the soil. A representative from the San Antonio Coalition for Environmental and Economic Justice (SACEEJ), a community grassroots and neighborhood organization, expressed frustration with the failure of TNRCC to address the concerns of the local citizens to have the site cleaned. Other concerns focused on the close proximity of the site to an elementary school and the exposure of school children to dust blown from the site. Until recently, the site had not been secured to prevent children from playing in the old warehouse.



The tour also passed the G.M. Trading Company, a facility that processes animal hides to produce leather products. A representative of the Southwest Community Empowerment Center, Inc. (SWCEI), a community-based, nonprofit technical research organization, told the group that local citizens have complained for years about the odor of dead animals and chemicals coming from this facility. They noted that similar industries located in east San Antonio also have a negative effect on the local quality of life.

The tour made its third stop at the Koch Petroleum Corporation Fuel Storage Facility, one of the 60 percent of the city's major fuel storage facilities that are located on the east side of the city. According to a representative of SACEEJ, the community of 20,000 residents is very concerned about the effect of fuel tanks on their health and that of the 2,000 school children who attend schools located less than 300 yards from the tanks. Parents and residents organized People Against Corruption (PAC) to petition the school board, the city, and Koch Petroleum to address community fears about explosions, fuel spills, and health problems. According to SACEEJ, surveys of local residents indicate there are health problems related to environmental contamination. PAC is also concerned about the lack of adequate escape routes from the neighborhood in the event of a fire or an explosion and the lack of proper firefighting equipment at the nearby fire station.

En route to the last site, the tour moderators discussed efforts by the Residents Organized for a Safe Environment (ROSE) and the Eastside Environmental Leadership Coalition (EELC) to meet with the city to discuss concerns about approximately 22 sites at which soil contaminated with lead slag had been dumped. According to representatives of the community, very little progress has been made in addressing the contaminated soil that was excavated during the construction of the Alamodome, which was built on the site of a former smelting plant. One dump site that has received attention is located in the Highlands area. In 1994, more than 100,000 cubic yards of soil from the site was dumped near the high school in the predominately African-American and Mexican-American community. Despite the attention the site received in the local media as a result of a previous environmental justice bus tour, nothing has been done to remove the contaminated soil, said community representatives.

The last stop on the tour was at North Kelly Gardens, a predominately Mexican-American neighborhood north of Kelly Air Force Base (AFB) and which is located about 200 feet from the base's jet fuel storage tanks. Local citizens formed the Committee for Environmental Justice Action (CEJA) to voice their concerns about the inadequacy of base cleanup plans, health problems caused by contamination coming from the base, and declines in property values. Citizens spoke about petroleum fumes and shallow groundwater contaminated with solvents and petroleum and such health problems as respiratory illnesses and kidney disease. CEJA conducted two environmental health surveys to document that local residents have been disproportionately effected by environmental factors. The community have asked to be relocated if their property and health can not be restored.

The bus tour concluded at the Municipal Auditorium, where several community organizations offered additional statements. The Hondo, Texas Empowerment Committee highlighted problems that its African-American and Mexican-American residents are experiencing with the abandoned Spatz Air Base, municipal sewage spills, and the location of fertilizer storage sites and grain elevators next to residential areas. The Chosen Generation, a community-based Baptist Church discussed its support of community organizations fighting for environmental justice in east San Antonio. Members also expressed concern about the cumulative effects on their health of a high concentration of industrial sites in their neighborhoods. The Southwest Public Workers' Union discussed its role in organizing and mobilizing people of color, workers, and grassroots community organizations to work for environmental justice and worker rights.

## **SUMMARY OF ISSUES**

The roundtable offered stakeholders the opportunity to exchange information and initiate dialogues. Participants focused on many issues related to enforcement of environmental laws and regulations and underscored the importance of addressing environmental justice and tribal issues in the delegation of enforcement authority to state agencies. During the three-day meeting, several themes and concerns were repeated during the general discussion period and the 14 breakout sessions. The issues are identified below.

### **General Issues**

During the plenary sessions, several panel discussions focused on community involvement in enforcement and compliance activities. Perspectives from industry, state government, the local community, and local government were offered.

A member of industry stressed that all stakeholders play a role in the enforcement and compliance process. He noted that the "regulated community" does not only refer to industry, but also to cities and municipalities. The regulated community, he added, is responsible for knowing the requirements and meeting the requirements. He noted that the majority of companies fall in the middle of a continuum that ranges from "extremely responsive" to "not so responsive" to communities.

The industry representative also mentioned that citizen advisory panels are an important component of the public participation process, adding that there should be more mechanisms like citizen advisory panels that promote the inclusion of community members in decision-making processes. A participant disagreed, noting that citizen advisory panels tend not to be effective for non-industry stakeholders. With respect to the role of state agencies, the industry representative noted that state agencies administer most of the environmental laws with federal agency oversight, and that state agencies are

usually the closest level of government to the communities; therefore, they are obligated to be responsive to community concerns. He added that the "real power" lies in mandated corrections and the adverse publicity that companies receive as a result, although the public's involvement is limited during the judicial process.

Another source of power for communities, he added, lies in the public's role with respect to communicating one-on-one with facilities, asking questions, demanding responses. Citizen suits are another tool that communities can use to bring about enforcement, he stated, although they can be expensive.

The representative from industry pointed out that the government decides how enforcement tools will be used, and if community members are not happy with the process then they should lobby for the laws to be changed. He added that if state and local agencies are not doing their jobs, EPA can withdraw its authority to implement environmental programs. This "power," he cautioned, is not utilized often even though it is an option; usually, the threat from EPA works just as well.

A representative from the state of Texas commented that although "citizens may not always agree with TNRCC actions, they have a right to know what's going on." He pointed out that TNRCC is underfunded and, therefore, tends to operate in a crisis mode. He noted that the enforcement staff are often overwhelmed by the large number of issues demanding their attention. He also mentioned that TNRCC reports to elected officials, and that TNRCC is more likely to take action when residents complain to elected officials and the elected officials communicate those complaints to TNRCC.

A representative of the State of Louisiana stated that the state had conducted an assessment of opportunities for community involvement in the enforcement process. He summarized the

findings of the assessment, pointing out that community involvement opportunities do exist; however, the state recognizes the need to do more in the way of publicizing those opportunities. He explained that Louisiana is doing more than simply "meeting the legal requirements" for community involvement. For example, an Office of the Ombudsman was created about five years ago, and a Community and Industry Relations group was formed to work on environmental justice issues.

A representative of a community organization commented that "we're here to get concrete things done and to right the wrongs." She expressed grave concern about the "callousness and indifference" of industry and the "lack of inertia" on the part of government. She stressed that common sense must be factored into decisions. In response to a statement that "EPA simply implements the statutes," she disagreed, explaining that, in fact, EPA has the ability to involve citizens in the rule-making process.

A representative of a tribal organization, expressed concern that trust agreements have not been upheld and that "genocide has been committed against native people." He pointed out that one study conducted by the U.S. Department of Interior states that 38 percent of all natural resources in the United States is contained on tribal land, while only one percent of EPA's budget was set aside specifically to address tribal issues; that, he said, is not justice or equity.

The tribal representative discussed the issues faced daily by tribal environmental offices. Pointing to his office as an example, he explained that his one-person office is responsible for addressing water quality, hazardous waste, quality assurance, water monitoring, and all other environmental issues. He added that he spends time writing grant applications to get funding for things that "should be given to any state;" instead, he exclaimed, "we have to compete with over 500 tribes in the country."

He declared that EPA should create a separate regional office to deal specifically with issues

related to Indian tribes and minorities. This regional office, he said, should receive full funding from Congress in the same manner as other regions. He continued that although a separate region should be created, it will not be created because of the prevailing attitude in Congress that there is "too much regulation." The problem, Mr. Lujan explained, does not lie in EPA or other agencies overseeing programs, but in Congress being too influenced by industry. He concluded that "justice means being treated fairly and treating others in a manner that you would want to be treated."

### **General Community Concerns**

On Friday evening, October 18, 1996, an extensive dialogue took place among the community members on the subject of noncompliance with environmental regulations by industry and the lack of effective regulatory enforcement. Specifically, the community members expressed that enforcement policies are subjective and do not necessarily protect human health and the environment. In addition, the community is concerned that state regulators are not maintaining federal standards and is concerned further about EPA's perceived inability to take action since delegating enforcement authority to the states.

Another concern expressed by the community members was that regulators are unable to communicate adequately and educate communities about environmental and health hazards and proposed actions. In response to that concern, Steven Herman, EPA's Assistant Administrator for Enforcement and Compliance Assurance, responded to the concerns by saying that EPA's Administrator Carol Browner is committed to increasing public involvement and participation in the decision-making process, as well as to complying effectively with a community's "right-to-know" by ensuring access to all existing information about the environment and public health.

Another concern expressed by community representatives concerned financial grants from regulators to local governments. The community participants commented that the



grants benefit the communities for which they are intended. The cities do not inform the community about the grants received or the purposes of such grants, community members stated. In addition, the cities use grants for purposes other than improving the environmental conditions in the community. Further, there are no established guidelines that specify the process and criteria by which communities request grants directly from regulators. Therefore, the affected community does not benefit from grants given to the cities.

The new Superfund Reform Initiative that requires the approval of the governor of the state for the listing of a site as a Superfund site was strongly criticized by community members. They expressed the belief that approval does not protect public health and the environment.

Representatives of EPA agreed to provide answers to the questions and concerns of community participants about the proposed nuclear disposal facility in Sierra Blanca near El Paso, Texas.

### **Environmental Restoration and Cleanup**

This session focused on the role of state agencies in the environmental restoration and cleanup process and the effect of those projects on local communities along with the challenge to become involved in the process.

Participants described the failure of regulators and regulated industry to involve local communities early in the cleanup process. They added that, often, community members have limited time to review “massive” amounts of information before the cleanup process moves to the next stage in a fast-paced schedule. One participant described efforts by his community organization to expand public participation in the cleanup activities at Kelly Air Force Base in San Antonio. Many participants also expressed frustration that, under the cleanup process, problems and cleanup priorities are identified by the regulators and the facility managers without meaningful public participation. They asked that the public receive early notification of decisions to pursue cleanup negotiations at a site and that

related documents be made available. Local communities also should be able to decide who will represent the views of the community on the local advisory boards, members of the group stated. State agencies should rely on information from the community to define the problems and needs for cleanup, participants added.

Local community groups have difficulties in understanding the roles and responsibilities of the various federal government agencies in environmental restoration and cleanup projects, some participants pointed out. Dealing with federal agencies as separate entities often is frustrating for local communities that are attempting to determine which agency is responsible for dealing with their problems and questions. Participants cited several frustrating experiences in which representatives from a number of agencies, such as EPA, ATSDR, local military installations, and the state, were involved in the cleanup of a single site.

Participants commented that if local community groups are to participate effectively in the cleanup and restoration process, the regulatory agency and the facility must provide them with support. Local community groups need grants for technical assistance support and for organizational maintenance to allow long-term involvement in the process, they explained, suggesting that, in situations that involve long-term cleanup efforts, such as those at Kelly Air Force Base, facilities and regulatory agency should fund a position in which a local citizen serves in an oversight role. Support can also be provided through workshops and other educational assistance to the community, some participants suggested.

Communication by the state agencies and the facilities with the local community was another major area of frustration identified by the discussion group. Participants commented that in addition to the lack of early involvement by communities, regulatory agencies frequently do not provide periodic updates to affected communities. When information is shared with the community, that effort often is carried out without regard to cultural sensitivities, language

differences or educational level of the target audience. One participant shared an example involving an inspection of a dump in New Orleans, Louisiana. When the results of the site inspection were available, representatives of EPA and the Agency for Toxic Substances and Disease Registry (ATSDR) went to the homes of each of the 35 affected families to explain the results of the inspection and the risk assessment.

However, the participant explained, the information was not tailored effectively to meet the needs of the target audience. Community leaders eventually took the information to the local university to obtain an explanation that the homeowners could understand.

Other examples of communication problems included a lack of bilingual documents and the failure of agencies to consider cultural differences when dealing with affected communities.

The group also discussed the need for compensating communities affected by environmental contamination. In particular, participants stated that affected communities should be relocated and compensated for the replacement value of their homes if their community cannot be restored to a "clean" level.

The need for continuous community health monitoring for those communities also was discussed. The group proposed that elected officials could be held responsible for serving as advocates of the community and effecting change in legislation. EPA, they stated, also should be accountable for spending federal money to restore contaminated property that cannot be addressed through local or state funding.

Several members of the group expressed confusion about the process of cleanup and restoration of property owned by the U.S. Department of Defense (DoD). Most questions centered on the reasons why properties are being sold or transferred before cleanup has been completed and the clarification of the roles of EPA and the state in the process. Concerns were expressed that sites were not being put on the National Priorities List (NPL) and that a partnership between the state and DOD would

allow the application of state cleanup standards that are less stringent than federal standards.

Use of federal funds should also be directed towards the restoration of the natural resources, the participants noted. A member representing an Indian tribe in New Mexico commented that the restoration of Indian lands often is overlooked because of the overwhelming problems posed by hazardous waste sites. The health of the rivers and wetlands on Indian lands have been affected by sewage and solid waste, the participant added, stating that federal funds should be made directly to tribal governments, with a matching requirement to restore natural resources.

Participants suggested that NEJAC initiate a marketing campaign to promote the need for, and benefits of, environmental restoration. Polluting business practices should be attacked on the financial front by putting companies on a pollution fee schedule, some suggested. Bankruptcy laws should be changed to provide financial safeguards against the abandonment of sites by bankrupt

### **Inspection, Screening, and Targeting**

This session focused on the role of state agencies in the inspection, screening, and targeting process and the challenge to communities to become involved in that process. In addition, participants discussed the effects of various federal mechanisms for inspections, screening, and targeting on the community and ways to identify situations in which communities are not involved.

Participants expressed frustration about the failure of the states to conduct annual inspections correctly. Many had obtained copies of inspection reports on facilities in their communities that incorrectly indicated no complaints had been filed by the public. Such occurrences have led local citizens to believe that their complaints are not being recorded and followed up with an inspection or inquiry by state inspectors. Another concern is that complaints are not being made a part of the public record and therefore will not be available

for consideration during hearings on permit renewals. The group suggested that EPA conduct oversight of the state inspectors and establish a system, possibly an on-line computer system, that will allow citizens access for reporting complaints directly to EPA.

Participants questioned the practice of notifying facilities before an conducting an inspection could compromise the effectiveness of the inspection. Community members expressed frustration at the reliance of state inspectors to use operators of facilities to verify a citizen's complaint about a suspected violation. Many participants believed that there is a lack of checks and balances in the current system for conducting inspections.

Participants cited the apparent lack of formal processes in state inspection programs for targeting facilities for inspection. The perception that only the most chronic offenders attract the attention of inspectors while other violators are ignored, is prevalent among community groups, they said. Community groups should have an opportunity to suggest to state and EPA inspectors specific sites or industries to target, some participants suggested.

Participants expressed frustration over their inability to obtain the results of inspections conducted by the state. They asked that state regulators disclose the findings of inspections and actions taken in response to any violations by facilities. Participants also expressed an interest in obtaining the raw data, as well as summary reports that support the findings of the inspection. Public access to this information should be provided in a timely manner to allow public comment before decisions are made and the process moves to the next stage, participants noted. Obtaining copies of inspection reports through the Freedom of Information Act process takes too much time, and traveling to the state capitals to review files is cost prohibitive, they explained, adding that local public repositories frequently are not updated regularly.

A representative of EPA indicated that the Agency has made the states aware of problems in their inspection processes but added that

communities should realize that the states; resources are limited resources and that management systems and styles vary between the states. It was also explained that, while some complaints “fall between the cracks of the regulations,” inspectors still want and need the help of local citizens. EPA provides the states money for inspection programs through memorandums of understanding (MOU). The states determine how the funding is distributed and used.

Participants discussed the involvement of local community groups in the negotiations of MOUs. Many participants stated that EPA should use the MOU as a tool to encourage states to improve standards. It was suggested that the MOU should be an agreement between local grassroots organizations and EPA, since the community lives with the problems and should be empowered to deal with those problems.

Participants also stated that community groups must be involved in helping the state screen and target inspections because “the local community knows where the problems are,” and thus could assist states to focus limited resources on problem sites. Participants noted that to be more effective, citizens require training in how inspections are conducted, what regulations govern facilities in their communities, and which regulatory agency is responsible for enforcement.

### **Community Notification and Resolution of Complaints**

This session focused on identifying issues related to the mechanisms by which the state and federal regulatory agencies notify the community about enforcement actions and to identify methods of resolving community complaints.

The discussion began with an overview of specific effects of industries on the health of communities in the state of Louisiana. Concern was expressed about the lack of effective regulatory enforcement against industries that continue to pollute the environment. Participants explained that, in many cases, regulatory agencies have granted industry

extensions to bring facilities into compliance without providing for any comment from the affected community. Consequently, many community members believe that changes in environmental regulations favor industry and override concerns for the protection of human health and the environment.

Participants emphasized that mechanisms, such as newspapers and radio currently used by regulatory agencies to notify communities of enforcement actions, are not being used effectively. The majority of affected communities are poor; their members often do not read the newspaper or listen to the radio. In addition to suggesting alternative means of communication, participants stated that community involvement should be stimulated. People in the community should be made aware of their rights under the Community Right-To-Know act and that they have power through community involvement.

Participants commented that economic development initiatives promote industries without considering the views of the community. Communities, in turn, are concerned about new facilities moving into their neighborhoods without public comment or the identification of the beneficiaries of such initiatives. Participants suggested that, while economic development is important to the community, the siting of facilities should be planned in a manner that eliminates adverse effects to human health and the environment.

Participants also expressed concern about the lack of responsiveness on the part of state regulators to complaints from the community. One participant noted that approximately 600 such complaints have been directed to the TNRCC of which the agency made efforts to investigate 44 of those complaints. In addition, community members complained that industries and regulators do not inform the community about industrial chemical spills, fires, explosions or other incidents which may occur in their neighborhoods.

Participants in the working session concluded that regulatory agencies remain far from

providing effective public notification to the community and that effective public policy should be developed to ensure that the community plays an important role in the decision-making process.

### **Supplemental Environmental Projects and Consent Decrees**

This session focused on identifying the concerns communities have about Supplemental Environmental Projects (SEP) and looking for viable mechanisms by which the community can influence the selection and implementation of SEPs.

Discussion focused on improving public information and public involvement in the decision process about SEPs. Community members expressed concern about the lack of public information or public notices about existing settlements and those currently being considered by regulators. Specifically, participants were very concerned about the regulators' policy on the confidentiality of enforcement settlements which precludes the community from becoming informed about cases currently undergoing settlement negotiations and those that already have been settled.

Participants commented that the lack of public involvement has resulted in the failure of affected communities to benefit from SEPs. In many cases, participants said, financial resources available under SEPs are given to community organizations that are not involved with the affected community. In other cases, SEPs are used to address the priorities of regulators and industry, not necessarily to address the environmental priorities of the neighborhoods affected.

### **Environmental Impact Statements under the National Environmental Policy Act and Cultural and Social Analysis**

The session focused on identifying ways to include considerations of environmental justice during the performance of environmental impact statements (EIS) under the National Environmental Policy Act (NEPA).

A representative of EPA explained that under the Presidential Executive Order on environmental justice, federal agencies are challenged to assess whether there are different, better ways of doing things, including involving communities during the assessment and evaluation of cleanup alternatives. The representative added that environmental justice is a relatively new concept; it has been somewhat difficult, he added, to identify "communities" as not simply "places on a map," but in terms of how communities define themselves. EPA also recognizes that EIS documents are only as good as the processes undertaken to prepare them, he added. Finally, NEPA requires that all federal agencies conduct EISs to determine the effects of federal activities on the environment; historically, however, social and cultural impact assessments have not been a part of that process, he explained. He stated that EPA recognizes that social and cultural factors must be taken into account and that the agency is attempting to "feel its way" in addressing environmental justice in the EIS process.

One participant commented that the original intent of NEPA has been weakened by the advent of different levels of implementation, such as "do nothing," "categorical exclusions," "environmental assessment," and "EIS" response categories. Agencies are required to examine all alternatives, including the "do nothing" alternative, the participant said. Other participants noted that "categorical exclusions" typically occur when public outcry is minimal. Participants also noted that no opportunities for public involvement exist at the environmental assessment level, and only when an EIS is required are opportunities for public involvement offered. Further, social and cultural assessments are not considered unless an EIS is required, they stated.

Participants agreed that, in order for decision makers to make informed decisions, greater community involvement such as allowing the community to comment on draft documents, is needed. Participants noted that existing regulations provide for limited community involvement and that EPA is not required to conduct additional community involvement activities, such as additional public hearings,

even when a community makes a specific request for such activities.

Participants stated that their concerns are not addressed in an initial EIS, and that "fast-track" cleanups, by their very nature, exacerbate that problem. They explained that community members often feel at a disadvantage because it takes time for a layperson to interpret and "digest" technical information, but the regulatory process continues at its usual pace. Participants suggested that time be allotted, before the EIS process begins, for community members to educate themselves on the technical aspects of a site or facility and the various components of the EIS. Additionally, participants noted that more systematic effort is needed to inform communities, such as door-to-door efforts and early mailings, and that public hearings before the EIS begins should be mandatory.

Participants also noted that community members are not always aware of their civil rights and that education in that area are needed. Participants suggested a community advocacy framework for helping residents who participate on RABs to "shape their thinking" before they participate in the process. Participants commented that EPA and other entities that participate in RABs and other advisory boards have the luxury of learning technical concepts and terminology as part of their the job; community members, however, have full-time jobs and have to learn about environmental issues "on their own time."

Participants commented about the lack of access to raw data. Specifically, some participants expressed concern that decisions are based on "average" numbers (such as risk factors and sampling data), even though some data may indicate that contaminants exist in some areas at levels far higher than the average. Historically, they explained, communities have been told that raw data cannot be released because of factors associated with "trade secrets." An example was cited in which the Air Force would not release data because of an agreement with a contractor that "trade secret" information would be kept confidential. An EPA representative noted that the appeals process under the FOIA can be used when communities are told they

cannot have data, and that communities "should not take no for an answer."

### **Performance Partnership Agreements and Memoranda of Agreement**

Participants noted that memoranda of agreement (MOA) govern the conduct of business between state and federal agencies and that MOAs are "one of the few devices for holding states accountable." Participants also noted that a mechanism for public participation should be built into the MOA process, allowing community members an opportunity to review and comment on MOAs. Participants agreed that legislative hearings do not involve communities adequately, and that comment must be solicited up front from the community.

Participants noted that community involvement should be a part of the process for implementing performance partnership agreements (PPA) and that EPA should carefully scrutinize the implementation of PPAs and MOAs to ensure that the state complies with established criteria.

There was some discussion about whether the process used for PPAs and MOAs is "fatally flawed," because states are exempted from requirements under NEPA for public participation. Participants stated that the public hearing process set forth under NEPA does not work (particularly in Texas), that political appointees make decisions without community involvement, and that delegation of authority to the state has resulted in less protection on the part of the federal government. One participant commented that the EPA's use of PPAs and MOAs demonstrate that EPA is "backing down" in response to industry complaints and requests for deregulation. EPA should stand firm because it has a mandate to protect public health and the environment, the participant stated. The states of Texas, Louisiana, Georgia, and Alabama also were mentioned as examples of cases in which there is a trend in industry to "get EPA off of our backs so we can get back to business as usual." A request was made that EPA review the PPA and MOA processes and evaluate their validity and effectiveness and determine whether the processes should be

revised to allow for greater community involvement.

Participants agreed that states that have problems in the area of environmental justice should not be delegated additional authority; rather, EPA should review a state's record before granting an MOA. One participant recommended that a "sunset" process be implemented for MOAs, explaining that under such a process, states would be required to "prove themselves" each time that delegation was to be renewed, rather than assuming that delegation is "a sure thing."

An representative of EPA noted that although environmental justice is a national priority for EPA, it may not be a priority for the states, many of whom do not believe that environmental justice problems exist. Participants stated that there is not enough "force" behind EPA documents. For example, they explained that many documents state that EPA "should" do this or that, rather than stating that EPA "will" do this or that.

Participants agreed that more should be done to evaluate the performance of states related to enforcing environmental regulations and statutes. They recommended that a "green index or report card system" be included in the evaluation criteria.

### **Coordination Among Tribal, State, and Federal Agencies**

This section summarizes concerns voiced about issues related to coal mining and the consequences of operating gas and oil facilities on tribal lands.

Participants expressed an underlying tone of distrust with regard to Federal, state, and tribal agencies. In relating their experiences with addressing environmental problems, participants expressed frustration with what they termed the government's "divide and conquer" approach to residents questions about the continued leasing without community comment of land with sacred or historical significance, and the operations of industry on tribal lands.

The federal government also came under heavy criticism for not making a “single source” available to which violations of laws could be reported to protect the community. The authority to enforce legislation had been delegated to so many agencies that locating the appropriate agency for specific concerns requires a great deal of resourcefulness on the community’s part, participants stated. In many communities, there simply are not enough people who can dedicate the time it would take to follow up on complaints filed, they added.

Participants added that the relationship between states and industry was “too close.” State-run oversight agencies often forewarn sites of an upcoming inspection or test, a practice that, participants complained, nullifies any data obtained. Participants expressed the conviction that facilities use the time between the notification of the impending inspection and the date of inspection, to alter their books to conceal violations.

Participants commented that, at the tribal government level, their frustration stems from encounters with poorly trained and underfunded staff. Without much-needed training in monitoring and sampling procedure and adequate funding to conduct the independent investigations, there is little hope of obtaining accurate reports on site activities, participants reported. It is very difficult to substantiate claims of environmental injustice without concrete evidence, they added.

In addition, participants stated that residents are slighted on returns from resources taken from their land. They explained that of the profit pie, industry receives the largest slice with each level of government also taking portions, leaving residents (the true owners of the property) with very little compensation--even monies generated from federal leases are distributed to tribal governments where the majority of funds is used for overhead expenses associated with managing the tribal agency. Participants suggested that a more responsible use of returns from government leases would be to feed those dollars directly to the communities affected by daily mining operations.

Participants also expressed concern that mining companies eventually would exhaust the water supply in local aquifers, leaving communities without a source of pure water. Participants also wondered to what extent human health is being compromised by the exposure of layers of coal to the atmosphere, with the resultant release of high levels of toxics (such as lead, mercury, nitrous oxide and sulfur dioxide) and threat of spontaneous fires. Even after mining companies complete their operations, participants expressed uncertainty that the land would be returned to its original state.

Participants commented that, because the companies that contaminate tribal lands are often the only source of employment, many residents believe that if they challenge the company on environmental issues their employment would be terminated. Residents believe that they must choose between being unhealthy with a job or being unemployed, participants added.

Participants also expressed concern about the relocation of residents whose drinking water may be contaminated. They explained that, unfortunately when tribal residents accept relocation, the choice can leave them vulnerable to other issues, including being forced to occupy land deemed unfit for its intended purpose or being confined to a fixed specific land base with an increasing population.

#### **Enforcement of Title VI of the Civil Rights Act of 1964**

Participants noted that the challenge related to enforcement under the provisions of Title VI of the Civil Rights Act of 1964, lies in the fact that it is legislation that is both broad and limited in possible applications. While there are specific criteria for filing a complaint, the circumstances surrounding of each case are examined independently. There is no standard to apply, which is confusing and frustrating for communities trying to file complaints, participants noted.

Many participants expressed confusion about the role of the U.S. Department of Justice (DOJ) in enforcing Title VI. A representative of the U.S.

Department of Transportation explained that DOJ serves as the coordinating agency while the responsibility for enforcement is delegated to agencies that fund federal activities either directly or indirectly through grants and other financial assistance. DOJ can step in only if the agency attempting to enforce a claim is unable to secure voluntary compliance. It is important to remember that the criteria for filing a complaint under Title VI varies among federal agencies, she added.

### **Community Monitoring**

In the this session, representatives of various entities shared their experiences related to community monitoring and suggested resources for community monitoring which fell into three categories, including establishing networks, community-based initiatives, and government resources.

Before discussing in great detail the most effective way to address community monitoring, it was necessary to reach consensus on the definition of community monitoring.

Participants agreed that community monitoring involves a number of factors, including a bottom-up assessment, comprehensive case studies, and such tools as citizens watchdog groups or monitors selected by the community. Community monitoring also consists of collaborative efforts between the community and the local health department to evaluate community health and review and comment on legislation, permits and government activities.

Participants also added that community monitoring requires the education of the community in health surveys, the differences between long- and short-term monitoring, the evaluation and understanding of environmental effects, and methods for gathering evidence of wrongdoing.

Participants suggested that community groups view one another as resources and form networks amongst themselves. Through such networks, they explained, community groups can benefit from lessons learned to conserve time, effort and funds. Communities can also

partner with colleges and universities or request their assistance.

Participants also suggested that the media is a resource through which communities can tell their stories. The importance of follow-up with the press was mentioned as critical to fostering long-term relationships. Many communities had not used the media for fear their story would not be heard or would be reported inaccurately. Several participants expressed dissatisfaction with the coverage by from mainstream media; in response, they learned to create their own press releases. They also produced and distributed a community newsletter, which aided in disseminating information throughout the community.

The discussion then turned to funding, an overwhelming concern for many community groups. Participants called for modifications to guidelines for use of grant monies, as well as the development of training on environment and health issues to help residents participate more effectively.

Participants commented that anti-defamation law suits often are brought by large corporations to deter community groups from pursuing action. They added that many national environmental groups have provided valuable assistance and continue to help where possible. Some states have also begun passing legislation against these suits, known as "slap suits," but communities still need financial support.

Participants expressed concern over the assistance they have received from government agencies. They explained that local governments appear hesitant to get involved with issues related to federal facilities unless the local entity is affected directly. In one case, the community used data to secure the involvement of local government by implying that property values had been affected adversely by industry activity and which prompted an evaluation of real estate assessments.

Participants suggested that communities use such government agencies as local health departments, the Centers for Disease Control



(CDC), or the ATSDR, which perform health assessments. Many community representatives also commented that often it is difficult to contact these agencies and the quality of data received is often questionable. Participants agreed that persistent follow-up was the best means of obtaining a response from these agencies; regulators then should be given the opportunity to respond to the data.

## **SUMMARY OF RECOMMENDATIONS**

The recommendations agreed upon by participants in the roundtable focused on examining the public policy process for ensuring enforcement of and compliance with environmental laws and regulations. Participants asked that agencies follow up promptly on community concerns, involve communities when making decisions and setting priorities, and enforce regulations fairly and evenly.

Specific recommendations are described below.

### **Addressing Accountability During the Delegation of Enforcement Authority to the States**

Many participants expressed concern about who is being held accountable for enforcing the environmental laws and regulations, particularly when several parties are involved. Several participants said they were confused about "who does what" in the multitiered system that has been developed for addressing environmental issues. Participants pointed out situations in which such confusion resulted in the inability of communities to participate in decisions to site a facility before a permit was issued.

Participants called for EPA to take back the authority it delegated to a state if the state does not enforce environmental laws and regulations. The participants commented that it should not be "business as usual -- if the federal government has to step on a state's toes, so be it!"

Participants called for state and federal agencies to enforce the law strictly, asking agencies to make fines stiff and nonnegotiable, to execute all mandated orders, and to disallow continuances that allow violators to continue polluting while review is underway. They asked that public officials and "the law" not back down from business and industry. In addition, they asked that federal and state agencies implement a "3-strikes and you're out" law for environmental violators. Participants also called for strong incentives for industries that reduce pollutants.

### **Ensuring Community Involvement and Participation in Environmental Programs**

Participants reiterated the common theme of expanding community involvement in the implementation, evaluation, and modification of environmental programs. Participants called for funding, public advocates, and other resources to assist them in this process. In addition, participants asserted that communities must be allowed to pick their own representatives on community advisory boards and have the power of recall if a representative is not properly serving the community.

Participants reminded government officials to include communities in the design and implementation of contingency and emergency plans. They demanded that communities not be left behind in emergencies.

Participants noted that they must help themselves through education and getting out the vote--many recognize that "in order for their voice to be heard, they must get out and use it." As part of that effort, participants asked that federal and state agencies share information with the community so that it can make better and more informed decisions.

### **Encouraging Public Officials to be Accountable**

Participants complained that government officials and agencies too often "set up blinders and false walls" that prevent them from seeing the full picture. Officials then deny responsibility for taking or enforcing action, they commented. Participants called for a reorganization of the decision structure, in which officials at the bottom of the decision hierarchy, as well as at the top, are held accountable for taking action.

Participants asked that elected officials be held accountable for representing community members and taking prompt action on issues of concern to the community. They urged local officials provide communities with more and better information related to planning and

development activities; communities need "full and complete" information in the early stages of planning, rather than being informed after decisions are made, participants stated.

### **Increasing State Participation in Future Roundtable Meetings**

Many participants commented that the low level of participation by state agencies at the roundtable reflected the overall attitude of the agencies about community involvement. They asked, "How can problems be solved if the state agencies are not even here?" The participants recognized that representatives of some state agencies do respond to community concerns; it is those people, not the agency, who are trusted by the community, they said. Participants agreed that they are not asking the states to solve problems. Rather, they are simply asking the states to "come to the table," they added.

Several participants challenged state agencies to "display their sincerity to involve communities" by continuing to be involved in ongoing and future efforts at dialogue.

### **Issuing Moratoriums on the Siting of New Facilities and the Permitting of Existing Facilities**

Participants called for state agencies to stop issuing permits to facilities that are in violation until those facilities come into compliance. In addition, participants asked that federal and state agencies declare a moratorium on the siting of new facilities or the expansion of existing facilities until changes have been made in the enforcement and compliance assurance processes.

Participants noted that, although relocation of residents from a contaminated community may not be the best option, it may be the only option available to protect human health.

### **Enhancing Supplemental Environmental Projects and Consent Decrees**

Recommendations stemming from breakout session discussions of this topic include:

- Educating communities about SEPs through various media (such as the Internet)
- Notifying communities when a Notice of Violation is issued to a facility
- Creation of lists of potential SEPs developed by communities which should be used to compare SEP activities with actual environmental situations

### **Improving Enforcement of Title VI Of the Civil Rights Act of 1964**

Recommendations suggested during breakout session discussions of this topic include:

- Recognition of the concept of continuing discrimination
- Provision to communities of data about citizen complaints
- Creation of a legal directory of attorneys with Title VI expertise
- Development of resources to process Title VI complaints in a timely and proactive manner
- Make Title VI enforcement a priority
- Reexamine the factors that trigger enforcement actions
- Provide clear information to communities about "what it takes to get a response"

### **Enhancing Environmental Restoration and Cleanup Projects**

Recommendations suggested during breakout session discussions on this topic include:

- All federal agencies should follow the process established under the Superfund program for citizen review boards
- Communicate information in languages that all communities can understand (such as "easily understandable" Spanish)
- Continue the use of citizen advisory panels throughout the life of a project, not just at the time of base or project closures
- Make information more readily accessible to the public at the state and local levels
- Address how "fast track" cleanups circumvent the community involvement process
- Provision of additional funds for community involvement activities
- Use information and training to empower communities
- Provide communities access to the same information to which government agencies have access
- Creation of additional partnerships and cooperative efforts with communities
- Requiring companies to set money aside, for site cleanup costs so that they cannot use bankruptcy as an excuse for not taking action
- EPA, TNRCC, and other agencies should expend funds to "market" safe environments and clean air, in a manner similar to how private companies market their products
- Design health risk studies specifically toward women and children

### **Enhancing Inspection, Screening, and Targeting**

Recommendations suggested during breakout session discussions on this topic include:

- Establish community agreements with facilities that allow citizen inspections and make the agreements conditions of the operating permits

- Follow up on problems identified by local citizens instead of allowing the state to rely on the facility to verify whether or not a problem exists
- Provide local citizen groups with the funding, training, and equipment to independently monitor the environment in their community
- Funding of local community efforts should come from the facilities as a condition of the operating permit or through a SEP
- Provide local community groups with copies of all inspection notices, notice of violations, permit renewals, inspection data and other related reports as they become available
- Notify communities "before-the-fact" about the nature and amounts of contaminants found during investigations, regardless of issues related to "trade secrets"
- Consolidate information about inspections in one place that is readily accessible to the public, even if numerous inspections are conducted at different times and by different agencies; communities should not have find it necessary to gather pieces of information to form a complete picture
- Allow communities to have a physical, on-site presence during inspections
- Examine the statistical accuracy and validity of data before the information is reported to communities or used in decision-making processes
- Develop appropriate methods by which communities can readily access information
- Coordinate responses to citizen complaints so that sites about which many complaints are registered can be "flagged"
- Educate communities about screening and inspection techniques
- Make both raw data and printed summaries available to the public
- Designate a community ombudsman or liaison to whom communities can turn
- Add community contacts to distribution lists for site inspection and site activity reports
- Implement a unified interagency approach to site screening and targeting, replacing the existing fragmented, agency-by-agency approach

### **Enhancing Community Notification and Complaint Resolution**

Recommendations suggested during breakout session discussions on this topic include:

- Improve the dialogue between citizens and agencies
- Allocate more funding for community involvement activities
- Reevaluate methods for conducting cost-benefit analysis (citizen protection should be the priority, and not the anticipated costs to industry)
- Place notices of permits and noncompliance in the communities that are affected and in places where local residents will see them, such as in schools, libraries, and churches
- Provide better and early information about meetings to communities
- Consider literacy levels and cultural issues when written information is prepared for distribution to communities
- Investigate the use of international laws to aid in enforcement cases
- Hold companies responsible and accountable to communities
- Do not hold "secret" meetings between government and industry

### **Strengthening Community Monitoring**

Recommendations suggested during breakout session discussions in this topic include:

- Develop a "bottom-up" approach for site assessments, which should include the use of "citizens' watch dogs and monitors"
- Clarify for communities issues about short-term versus long-term monitoring and, specifically, how the determination is made as to which approach should be used in specific cases
- Conduct more comprehensive studies to investigate cumulative health risks in people of color and low-income communities
- Foster better networks across community groups, including connections between community groups and universities, to facilitate the sharing of technical data

- Educate public officials about issues that community members are concerned
- Conduct more data quality control reviews, specifically on reports generated by ATSDR
- Increase access for communities to information in general and raw data in particular
- Identify additional sources of grants for community involvement from private entities and non-profit organizations; grants should include funds for training and technical assistance to communities
- Communities should take a more active role in publicizing the issues of concern to residents (for example, communities could publish newsletters that discuss issues of concern to residents)
- Involve all community organizations in the community monitoring process, including schools and churches
- Train communities to monitor air, land, and water pollution problems
- Improve procedures for taking action to address community concerns and facility violations
- Hold facilities responsible for proving that they are not creating environmental problems
- Use MOUs to require more citizen involvement in inspections and oversight activities, including implementing MOUs between EPA and communities

### **Enhancing Environmental Impact Statements under the National Environmental Policy Act**

Recommendations suggested during breakout session discussions on this topic include:

- Creation of a user-friendly guide to NEPA to replace the outdated one
- Appoint a community representative on the Council for Environmental Quality, which reports directly to the President and is the ultimate authority on NEPA
- Provide funding for communities to procure technical services, such as independent consultants to conduct studies that communities could compare to those studies conducted by government agencies.

- Educate communities about NEPA and the EIS process
- Involve communities in the early stages to define project activities
- Notify communities early of impending EISs and other facility activities
- Create a community advocacy function for Restoration Advisory Boards

### **Improving Coordination Among Tribal, State, and Federal Agencies**

The discussion lead to the recommendation that grassroot organizations on tribal lands should be funded to perform monitoring and other studies rather than fees from leases being sent to tribal headquarters which assists individuals not affected by facility operations. Other recommendations include:

- industry activities be monitored regularly and frequently
- regulatory agencies visit sites "off the beaten path
- agency representatives not announce visits in advance
- communities establish their own documentation process with logs and pictures.

### **Improving Performance Partnership Agreements and Memorandas of Understanding**

Recommendations suggested during breakout session discussions on this topic include:

- Build into the MOA process, a mechanism for public participation that will allow community members an opportunity to review and comment on MOAs
- Solicit comments from the community early in the process, including before legislative hearings
- Ensure that community involvement is a part of the process for implementing performance partnership agreements (PPA)
- Scrutinize the implementation of PPAs and MOAs to ensure that the state complies with established criteria
- Include a "green index or report card system" in the criteria for evaluating the performance of states related to enforcement and compliance assurance activities
- Require states to "prove themselves" each time delegation of authority is to be renewed, rather than assuming that delegation is "a sure thing."

**BREAKOUT SESSION FLIP CHARTS**

## PLENARY SESSIONS

### NEJAC ROLE

- Advise EPA - How to achieve environmental justice

### RECs:

- Agency conduct series of roundtables with communities
  - Identify community priorities

Get beyond listening" to action

### QUESTIONS ... WHY CAN'T WE ...

- Focus on the reports
- About health issues that are out there and begin to take action?
- Know who to call/contact?
- Get people to come out and see what were going through?
- Train grassroots citizens in the community in how to know what's happening in public hearings?
- Get the regulations that are developed to be applied to the Indian reservations?
- Make our local ... city, county, etc. officials accountable for the environmental injustices in our community
- Close the gap between government, industry & the common people?
- Always consider the people who live in the community and involve them in the process/decision of what comes into the community
- Get better communication from city officials about the planned developments? We need clear descriptions of these projects so people can make informed decisions?

### Recommendations

- Accountability
- Community must have referendum OP's
- Create electronic access for citizens, (availability) WWW.EPA.GOV
- (EPA ) "Requirement" work to provide oversight to states, to include public participation
  - NEJAC, should take the responsibility to: invite state leaders to regional meeting, based on lack of representation at Reale Conference
- Write your congressman
- NEJAC should send letter to states leadership, referring to lack of participation on this issue or conference
- Get feedback from EPA on recommendations made at this conference.
- EPA, will respond within 60 days to NEJAC

## CONCERNS

- City officials need to be held accountable to represent "you"
- Government gives Big Business Permission .... without consulting "People"
- EPA form "RoughRiders" to create action reforms
- Corporations have rights individuals don't have
- Match grants to communities when industry is given EPA grants
- Despite health survey results - need EPA to visit community
- EPA needs to monitor Texas Legislation Re: public participation
- Get tools to deal with State Agency issues (EPA seems to have relinquished control)
- Generally no decision makers
- Lack frame to address Social control of corporate behavior
- Need someone - talk/action/visit
- Mining (New Mexico) creating health problems and regulations don't apply on Indian Reservations

- Get full disclosure from the beginning?
- Get fully informed of notification procedures?
- Get action? We need immediate and effective change with the EPA and the state agencies
- Address the issue of government grants being given to industry to bring them up-to-speed on technology?
- Match grants given to industry and give the same amount of money to community organizations to deal with their problems?
- Address the influences of industry on our state officials?
- Get an immediate response to emergency calls?
- Have independent monitoring consistently at the sources of pollution?
- Be trained to understand all of the effects of the pollutants on our health?
- Get answers now?
- Have EPA come out & walk around our communities to see first-hand what's happening?
- Get tools to enhance what we already know to move the process of alternating these problems?
- Have the EPA closely monitor the legislation being passed in Texas?
- Have EPA enhance its present along the broader?

### NEXT STEP

- Get city and state officials to come to meetings, conferences
- Give EPA teeth to enforce rules
- Environmental Democracy is necessary
- Media , can take message of communities to Big Business
- EPA, get act together invite community in
- No backdoor meetings, community must be involved from beginning
- Local leadership must serve as vehicle for community participation with EPA and State agency.



## ENVIRONMENTAL RESTORATION AND CLEAN-UP PROJECTS

### Issues

- MOAs - states can't sue feds RE: "Clean"
- "Fast Tracking: back fires leaves out community input"
- Restoration strategies after 1st tier cleanup
  
- Abandoned Tesco site next to school Houston

## FEDERAL CLEANUP RECOMMENDATIONS

- Fast Tracking re-defined to include communities in process to establish clean up standards and binding voice in final decision
- Funding source for community involvement
- Community education on environmental protection
- Actual data accessible
- Site contact known and accessible - sign on site? With phone number
- Restoration money for environment
- NEJAC "market" restoration "only attack" polluting business practices
- Risk standards applied to females, children, elderly, too

## FEDERAL ROLE IN CLEANUP

- Federal left hand doesn't know what right doing - DoD funding TNRCC/base closings
- Focus on human health - Environment left out
- Overwhelmed with contacts or don't have a contact
- Community
  - Lack of knowledge/accountable
  - Accuracy of information
  - Formerly used defense sites "where are tanks buried"
- Keeping current "who is responsible"
- Shift of jurisdiction
  - Federal facilities OFF Superfund list, therefore can be sold
  - Faster cleanup versus Federal money

## Recommendations

- Agency use clear, understandable language
- ID local community members to assist in communication
- Involve 50% of community in the process/CAB (community action boards) from the beginning
- Recognize cultural sensitivities in the involvement process
- Create citizens information and access office on the state level
- EPA & DoD fund a position at the base for a citizen to do technical oversight
- Expansion of tag concept for funding citizen involvement at federal facilities
- Citizen involvement in policing effort in environmental protection (provision for funding)
- Direct "tag" money to community and to support restoration advisory board
- Early notification of restoration remedy documents
- Relocate population located in identified hot spots (replacement value)
- Continuous community health monitoring
- Create new legislation that addresses gaps in the restoration/cleanup process
- Develop community education team
- Hold elected officials accountable to be advocates and experts
- Assure state/federal money is spent appropriately
- On abandoned hazardous waste sites
- Continue "tag" funding during the entire duration of a Superfund Cleanup
- Communicate risk management discussions to community in Laymans terms

## Coordination Among Tribal State, and Federal Agencies

Concerns: Mining

- What will happen when “ultra pure” water supply is depleted?
- Federal intervention in thrive is dispute
  - Divide and conquer
- Loss of burial sites and other cultural and historic sites
- Inadequate compensation for resources mined on Navajo lands
- State and industry relationship “too close”
- Enforcement authority delegated to different agencies -- no single source
- Inadequate testing, inspections by oversight agencies
- Failure to consider returning land to natural state
  - use of non-local grasses for reseeding
  - exposing coal layers to surface results in spontaneous fires
  - exposed coal brings toxic substances to surface

Recommend: EPA should monitor industry activities regularly and frequently

- go to the sites off the beaten path
- do not announce visits in advance

Recommend: Communities should document practices with pictures and logs

Question:

How do local tribal grassroots organizations interact in the enforcement/compliance process?

Recommend: Identify sources with BIA for technical assistance

Recommend: NM portion Navajo Nation from Region 9 to Region

Recommend: fund grass roots organizations on tribal lands to perform monitoring and other studies rather than sending fees form leases to tribal headquarters which assists individuals not affected by moving operations

- Tribal environmental staff poorly trained and underfunded

## Gas and Oil

- No inspection and monitoring activities by oversight agencies
- Different standards for off-reservation sites
- Drinking water does not meet “human consumption” but barely adequate for livestock. Residents cannot afford to bring in water (distance, cost, etc)
- Residents for having to choose between health and jobs

## Irrigation Concerns:

- Agricultural runoff into river that is source for drinking water
- relocated residents face other issues
  - high water table causing damage to homes
  - cannot use land for intended purpose
  - increasing population on land base that cannot change “Feel they were lied to”
- Fear desecration of graves if burial sites identified
- Conflict with tribal government over how monies allocated “They take a cat for administrative expenses”

## INSPECTION, SCREENING AND TARGETING AND COMMUNITY MONITORING

### Issues

- Inadequate investigations and reports
- States are not doing their inspections. Is EPA doing adequate oversight?
- Community experience with the facility not in the inspection report
- Complaints not resulting in violations and not resulting in inspections
- On-line computer access to EPA for complaints. EPA offices can monitor the complaints

- Communities need money for experts equipment, training. This money should come from facilities
- Provide on-line computer access to EPA complaints. EPA offices should monitor these complaints. Use for targeting, oversight and permitting especially renewals/expansions
- Use the MOU to bring up the standards of State Inspections
- All PPAs should have environmental justice representation
- MOUs should be between the EPA and communities. Involvement from the grassroots activists in the community. Grassroots choose who will be involved. This should happen at all points in the process. (including permitting). Community members should go on inspections and be notified immediately by the agency of any spills, accidents, releases

- Educate public on violations screening and inspection techniques
- Revisions to checks and balances (i.e Alama Dome)
- Mandatory community involvement in memorandum-of-understanding (MOU) between state and EPA Regional Office (report cards to all levels of interest community city state federal (health agencies)
- User and reader friendly guide on screening and targeting process
- Don't notify community
- Let community know what is found
- Inspector duties stretched too far
- Technical problem/civil rights problem
- Multiple unrelated inspections in a different time and place
- Physical presence at inspection (immediate access)
- Data validity
- Modeling sample

- Community agreements with the plants/facilities to do inspections. Condition of the permit which is revocable if denied
- When facilities are closed it is difficult to track violators. Sometimes inspectors are denied access
- Public access to air monitoring data community operated monitors dollars by agencies or facilities. Train citizens to monitor land, air and water.
- There is no formal process for targeting facilities for inspections. Violations are being ignored by state
- Inspectors should believe the citizens complaints. Shift the burden of proof to facilities to show that are not polluting
- Close gaps in jurisdiction between agencies and states. Provide resources and training to end power communities. Communities have incentives to remain involved because they live there
- Mechanism for communities to communicate with regions. EPA and facilities should carbon copy communities with information such as inspections, violations, permit renewals and expansions

### HOW TO EMPOWER COMMUNITY

- Make disclosures to community and raw data in a timely manner in addition to a crunched summary
- Utilize freedom of information act provisions
- Designated community ombudsman, liaison, clearinghouse mechanism
- CC: Copies of report (e.g., NOV's inspection reports) to recognized community contact at time of eventor decision
- Notification of inspections conducted (newspaper, other media)
- Community based involvement in screening/targeting both methods (e.g., health overlays) and decisions in whom to target
- Focus on when inspections are done
- Coordination of agency data for public access umbrella information accessible data banks
- Contact local community when inspections are done on advice for appropriate sites to conduct inspections (i.e., target sites with most complaints

## COMMUNITY MONITORING

- Gathering evidence
  - Aware of surroundings
  - Bottom up assessment
  - Evaluation and understand environment impact
  - Citizens watchdog
  - Selection of monitors
  - Controlled by community
  - Community health survey
  - Review and comment of Legislation , Permits/Governments, Activities
  - Short term vs long term monitoring
  - Community collaborate with public health
  - Department to evaluate community health
  - Comprehensive case study
- 
- Lack of local government involvement with federal facilities issues (i.e Real Estates Assessment)
  - Community use of raw data (i.e Respiratory survey use for leverage for further testing i.e. for other needs)
  - Trust built at all levels to do survey community needs to be
  - In touch with press
  - Do own press releases
  - Local news
  - Need financial help to support communities in suits
  - Use of National Environment Groups for Citizens Suits
  - SLAPSUITS
  - Some states are passing legislation again SLAP SUITS
  - Give regulators the opportunity to respond to the data
  - Should have local community monitoring awareness workshop
  - Setup community monitoring committees
  - Put resources so communities can form their own committees
  - Have the community monitoring process inclusive of all agencies, churches, schools, etc.
  - Keep data easily accessible and in appropriate languages
  - Do community newsletters

## Community Monitoring Resources

- Need to network with other community groups
- Need epidemiologists and toxicologists as part of the health department
- Community connect with university colleges for assistance
- Educate public officials on Environment and health issues
- ATSDR - health assessment
- Followup with ATSDR Contact EPA to engage ATSDR
- CDC, ATSDR - Quality of data/evaluation
- More grants for community from EPA
- Video - "Gorilla Media"
- Grants - Need to provide training to community
- Meet to partner with colleges, universities
- Identify private foundations with grant money available
- Federal government - polluters
- No replacement value for homesKAFB Kelly
- Appropriate monitoring to hold up in court
- Community ensures they obtain Raw Data (need resources to get data) hire technical person to evaluate

## NEPA - SOCIAL AND CULTURAL IMPACT

- Use of "Categorical Exclusion," "Environmental Assessment" - does not allow public input
- Major federal projects require EIS. (Permits, federal funding, or provide approval) (Potential significant environmental impact)

### Discussion of Process

Need: Community Education based upon Community region.

- Entire process - before it begins (Kelly AFB fast track example)
- Public scoping - must come at the beginning of the entire process
- Involve citizens in initiating scoping meetings systemic efforts to inform community (mail). Early protect automatically move it to EIS.
- Alternative Mitigation and Agencies required to consider

- Conflict re: participation on RAB/challenging the process civil rights issue?
- (Training/education - prior to involvement needed)
- Create community advocacy function for RAB
- Will EIS address generational illness?

Should be addressed

- Concern about use of "trade secret" explanation to protect data specified utilized freedom of information act?
- NEPA should be written by Laymans terms raw data probably will not be included
- Minutes/note: of meetings not completely available to community members
- Use a "reporter" to access information
- Create a user friendly guide for NEPA
- Address "Conflict of Interest" on boards
- Citizen presence on CEQ Washington, D.C
- Existing Health outcomes, to citizens group to conduct look at existing level, provide dollar T.A.
- Kelly Gardens Jet fuel storage tanks other chemicals, for former open pit, rain runoff. Community concern re: future develop - will Title V process address these issues? Current EIS will address past/current usages and consider scenario's projecting future usage EIS will look at cumulative impact
- Document available for base closure procedures
- RAB Functioning ??
- Kelly AFB personnel chair/facilitate RAB

## COMMUNITY NOTIFICATION AND COMPLAINT RESOLUTION

False Premise:

Justice when allowed to sit on CAP  
Justice when allowed to make comment

### SUGGESTIONS

1. Notification - put in affected community in a facility open beyond 5 pm and on weekends (REAL ACCESS) (library, school, fire station, newspapers people read radio people listen to.)
2. Enforcement - 3 strike law/for violators
3. Air Monitoring - problems with air monitors serve interest of industry not of community  
Not a panacea
4. Environmental Audit Legislation - Be aware of them  
Say not to Environmental Audits

Cities Need to Change their attitudes about neighborhoods

### Community Notification/Complaint Resolution

#### Recommendations

1. EPA to take delegated authority granted to Texas and force a reorganization
2. Reliance on Cost-Benefit Analysis to be Reevaluated
3. Get all the politicians together in one place
4. Be clear about what you are notifying about and who will benefit and who will not
5. Decisions about facility siting: What are options
7. Consider local events, etc when scheduling public comments (i.e. scheduling on holidays, during revival meetings)
8. Reorganize decision - structure hold those at bottom responsible for actions
9. Money for communities
10. Consider local information resources
11. Include local communities in contingency plans -- don't leave them behind in emergencies

20. Examine public policy process
  - Develop alternatives to public notification process
  - Follow-up promptly on citizen concerns
  - Enforce the regulations
21. EPA report analyzing violations of international law regarding US/Mexico border
22. Relocation of affected people may not be the best option but if may be the only option
23. Stop licensing facilities until enforcement occurs
24. Its all about ethics, morals, and greed

## Notification Process

- Consider cultural aspects of residents
- Go to where the people are
  - local churches
  - Local newspaper
- Do not allow economic development initiatives to by pass notification process
- Agencies need to establish credibility be consistent with application of "rules"
- Don't put polluting industries all in the same place
- Use independent studies
- Be open about public hearings
- Be honest about subject matter - Be a neutral and honest mediator in the process
- Involve local health entities
- EPA should not delegate their responsibilities
- Make public a list of grant recipients

12. Execute mandated order -- don't allow continuances
13. Communities deserves to be involved and considered
  - need money
  - public advocate
  - other resources
14. Make community advisory committees for the community -- let them pick their representatives
15. Field investigation should document their test
16. Economic concerns versus environmental concerns
17. Public officials and the law" should not back down against business/industry
18. Be honest  
Build credibility  
Remove the "Blinders" and "wall"
19. Educate ourselves  
Get out the vote

**PERFORMANCE PARTNERSHIP AGREEMENTS/  
MEMORANDAS OF AGREEMENT**

**I. Information Disclosure**

- Information by neutral party
  - Information not adequate "verbal"
- Meeting notification (clear messages)
- Information re: permits disclosed to public
- Strategy planning includes public input

**II. Notification Procedures**

- Cultural/literacy appropriate
- Adequate of notification of meetings
  - Timely manner with two weeks

**III. Approval Procedures**

- Public participants within a hundred square miles

**IV. Ethical Considerations**

- Illegal solicitations

**RECs**

- Set of national criteria by which the state is made state acceptable.

Key - do not delegate until this settled (enforcement personnel

- 1) title
- 2) ratio permit personnel/enforcement
- 3) adequate funding of state environmental agency
- 4) revoke delegation

- Moratorium of any further delegation
- Involve NEJAC, or other in process
- Sunset process for MOA
- Information flow from state to the community (must be improved)

**DOCUMENT: MOA STATES-EPA (FEDERAL)**

- Build mechanism for public participation
- Must be done local level grassroots
- Relationship of MOA and MOU community needs information on this

**RECOMMENDATIONS**

- EPA Oversight: Do something
- Appropriate language when providing information
- Review PPA/MOA process. Evaluate for effectiveness (community must be involved)
- EPA involvement in community groups at local level. How do we do that?
- EPA look at state environment record (as criteria/community should be involved in evaluation)
- MOAs be provided to public

**PPA COMMUNITY RECOMMENDATIONS TO:**

- EPA inform community about the process
- Community representation across the board
- EP scrutinize state process
- Adopt "NEJAC public participation program" for community involvement - impacted deals with all involvement issues
- Education on performance agreements
- EPA needs to enforce the process
- Public participation in MOA in order to affect PPA (community does not understand)
- Pilots - in regions on ? is parceled out. Bring community on the beginning
- Performance partnerships grant, community must understand how this works and where money is focused or diverted
- Example of the green index - booklet, method to evaluate [Institute for Southern Studies (NC)]

Education!

## “SUPPLEMENTAL” ENVIRONMENTAL PROJECTS

### Compliance +

- Notebook
- Limits
  - Can be part of citizen suits
  - EPA looks for opportunities in Federal Settlement
  - Need user friendly guide for citizens
  - Internet access
  - Need access points in state cases (+ education)

Need “How to” Access guides and guidelines to follow.

- At what point can we get access.

Need to Re-assess What is “Confidential” in settlement negotiation

What do we want? How can the SEPs Serve E.J. goals.

### What/How should the community be involved?

1. Develop a formal process that solicits community input.
2. Clearinghouse/Roster
  - Cases filed
  - Communities affected
  - Who to call - How to input, create a mailing list
3. Publish Nov/Enf. Acts in paper
4. Eliminate Nexus (or make it more flexible)
5. State - EPA MOA
  - EPA should require public input meetings (for SEPs)
  - State should use SEPs
6. State/Feds - Educate public about SEPs
  - including city government
7. Ask Co's to solicit public ideas.
8. Gather input into SEP ideas from Law Schools.
9. Must be an integral part of the decision process.

### SEPS and Consent to Decrees

Supplemental Environmental Projects

Overview of What a SEP is and is not

- Meaningful involvement by community in SEPs
- State level - require that community be involve
- Involve grassroots organizations and SEPs
- Community election to assign members to advisory board to assist with SEPs
- Standing committee of community to participate in SEPs
  - i.e. State Level, Local Level, and Regional Level.

### SEPs and CDS

- TNRCC - CAPs eliminate or involve active environment members of community
- Represent a diverse group on panels which advise on SEPs or CDS
- Community- Right-to-Know- SEPs- connection
- Post signs and adequate warnings near contamination

LEPC Contact : Carl Mixon - 978-0300  
Bexar Co. 828-3939  
Emergency #

Smith Co.  
Emergency # - 903-535-0900  
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- SEPs and CD

- Public access to raw data form TNRCC monitoring Sec. 323



### Value of Title VI?

DOJ is a coordinating agency -- it does not enforce the provisions of Title VI. Enforcement is delegated to agencies who give financial assistance. If they can't secure a voluntary compliance, then DOJ can step in.

#### Factors Affecting Implementation of Title VI

##### Jurisdiction :

- 1) Does the entity receive dollars from a federal agency? (Such as a private railroad, a state highway department)
- 2) Does the entity receive dollars from another agency that receives federal funds?

8. Make Title VI enforcement a priority
9. Reexamine the factors that spur action on part of governments
  - What triggers the actions
  - What are the "pressure points"
10. Reorganize EPA process for responding to complaints
  - Look to DOT and other agencies that have "successful" programs
11. What is yardstick to prove discrimination? EPA needs a clear and "public" policy ReL Title VI
12. EPA should take a proactive approach to educating communities about their options under Title VI
  - How to select buyers

### Title VI and Enforcement

"Confidential" barriers public hearing resident criteria lack of AG and EPA response Recipient of public funds or a permit holder

#### Filing a complaint

- Technical assistance

### Title VI Recommendations

1. Concept of "Continuing Discrimination" is a viable alternative
2. Access to data for documenting complaint
3. Develop a strategy that encompasses multiple issues (such as relocation, cleanup, public health, property, etc)
4. Develop a directory of legal providers who can offer communities assistance or serve as a resource -- guidance on the approach to take
5. EPA should develop the "will and resources" process Title VI complaints in a timely manner
6. EPA should be more proactive in finding incidences of Title VI violations (such as through compliance reviews of states)
7. Separate "EPA as a bureaucracy" vs "EPA in the local community". Put a representative in the community

### EQUAL PROTECTION" CASES ARE LOSERS

- CLER and public policy from EPA on what is a Title VI case
- Community must be involved in development policy
- Citizen = those impacted train them
- Educate local people

### Enforcement or Change EPA/DOJ Respond Within Deadlines

3 attorneys/16 cases

- More EPA/OCR Attorneys
- Educate Citizens to file own complaints
- Train/educate EPA/OCR Staff/attorneys
- Due Dates for Action on Roundtable recommendations
- Mail roundtable minutes to participants
- EPA fund travel to meetings like this one
- Increase daylight between EPA and industry

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SAN ANTONIO, TEXAS  
October 17 through 19, 1996**

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**San Antonio, Texas. October 17 - 19, 1996**

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**San Antonio, Texas. October 17 - 19, 1996**

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