

1 PUBLIC MEETING FOR COMMENTS ON THE REPORT:
2 RECOMMENDATIONS FOR
3 THE NYSDEC ENVIRONMENTAL JUSTICE PROGRAM

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8 DATE: January 30, 2002

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10 LOCATION: Arbor Hill Environmental Justice

11 Corp.

12 Albany, New York

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1 MS. DELOAYZA: Can we begin to
2 gather in; gather and take chairs.

3 MS. CONLEY: Welcome. And thank
4 you for coming tonight.

5 We held some public meetings here
6 about a-year-and-a-half ago now, and I recognize some
7 of the faces back again.

8 So, I thank you again for coming
9 and following through with this program that we are
10 trying to develop. I just want to -- I want to
11 introduce myself, give you a little bit of
12 background, the purpose of this meeting and then we
13 will introduce some of the other people that have
14 contributed to the report that we have developed.

15 My name is Monica Abreu Conley. I
16 am the Environmental Justice Coordinator for the New
17 York State DEC. And that is a position that was
18 created about two years ago. It was initiated by
19 some envi -- environmentalists and environmental
20 justice advocates, coming to the Department and
21 asking for them to start looking into environmental
22 justice issues, recognizing that there was a serious
23 problem there and that the Department should start
24 focusing on those issues.

1 As a result of those meetings with
2 community activists the Department did create a
3 program, an Environmental Justice Program and since
4 that program has been -- had been developed about two
5 years ago now, we have been trying to enhance the
6 program, build it up into something that is going to
7 work for the communities.

8 My position was created and as I
9 mentioned the Environmental Justice Coordinator along
10 with that, there were two positions that were added
11 to our permits division; one in New York City and one
12 here in Albany.

13 The New York City person focuses
14 mainly on New York City issues and the one located in
15 Albany, which is Jeff Gregg, sitting right here next
16 to me, he focuses on upstate New York on all E.J.
17 related things dealing with permits.

18 In addition, we have recently added
19 a -- an en -- environmental justice program aide and
20 a secretary. So, we are moving in the right
21 direction and the office is growing. Just to show a
22 little bit of the commitment to actually getting this
23 program off the ground.

24 When the position was created, we

1 also looked to E.P.A., the Federal environmental
2 agency, to help us out with a grant and they did
3 award us a grant, and that money has been helping us
4 develop this -- this entire program.

5 As part of the grant application
6 we -- we told E.P.A. that we would do a few certain
7 things. We would put together an advisory group and
8 that advisory group would give us the -- us, the
9 D.E.C., some advise on how the program should work,
10 what the program should do, what it should focus on
11 and that report -- that group developed a report over
12 the past two years and that is going to be the
13 subject of tonight's meeting.

14 There are copies of that report,
15 for anyone who has not seen it yet, out on the front
16 table. And, I am going to take you a little bit
17 through that report, as we go on this evening and
18 welcome your comments and feedback. And any
19 additional things you think the D.E.C. should
20 consider in its policies.

21 As I mentioned, we held public
22 meetings about a-year-and-a-half ago and the report
23 is actually a result of the information we got from
24 many of you during those meetings, information that

1 the advisory group got from the D.E.C. and the
2 Department of Health, and information that each of
3 the advisory group members themselves were able to
4 contribute to -- to the report.

5 And the advisory group, just for
6 your information, is made up of many different
7 stakeholders. It is made up of community activists,
8 environmentalists, state government, local
9 government, federal government, business
10 representatives.

11 Did I leave anybody out, there is
12 an academic on there, as well. So, we had people
13 coming from, you know, all different backgrounds, all
14 different knowledge, everyone interested in
15 environmental justice and achieving the goal of
16 environmental justice.

17 So, it was a very dynamic group. I
18 certainly learned a lot over the past two years and
19 hopefully you will see, you know, all of our hard
20 work in the report that we put together. Let's see.

21 MS. DELOAYZA: Monica?

22 MS. CONLEY: Yes.

23 MS. DELOAYZA: Maybe you want to
24 introduce have the members of the Board here stand up

1 and identify themselves.

2 MS. CONLEY: Okay. That sounds
3 like a great idea. Why don't we start over here and
4 I would just like the members and the advisors to the
5 group to introduce themselves.

6 MR. DAVIS: Rodney Davis, Arbor
7 Hill Environmental Justice Corporation.

8 MR. MAIR: Aaron Mair, Arbor Hill
9 Environmental Justice Corporation.

10 MR. POKALSKY: Kim Pokalsky, I am
11 with the Business Council of New York State here in
12 Albany.

13 MS. HINCHCLIFF: I am Diana
14 Hinchcliff with the Chemical Industries Trade
15 Association, in Albany.

16 MR. SHAW: Jim Shaw, with Alcoa in
17 Massena, New York.

18 MR. ALEXANDER: Lou Alexander, with
19 the law firm of Bond, Schoeneck & King.

20 MR. YUE: U.S., E.P.A. New York
21 City.

22 MR. WESLEY: Terry Wesley, E.P.A.,
23 Region II, New York.

24 MS. CONLEY: Pete, you --- you want

1 to introduce yourself.

2 MR. SHEEHAN: Pete Sheehan, W.
3 Haywood Burns Environmental Education Center.

4 MS. CONLEY: And --?

5 MR. GREGG: Jeff Gregg with the
6 Department of -- excuse me -- Department of
7 Environmental Conservation, Division of Environmental
8 Permits.

9 MS. CONLEY: And there is a --
10 thank you, all very much for joining us tonight. And
11 there is a complete list of the advisory group in one
12 of the appendices of the report.

13 So, if you grab a copy of that you
14 can see all the different people that were also
15 involved.

16 The report -- the report focuses
17 primarily on addressing environmental justice through
18 the D.E.C.'s permitting process. So, as you look
19 through the report, you will see that the large part
20 of it focuses on some very specific enhancements to
21 our permitting process, and then a few general, broad
22 enhancements that will apply to our permitting
23 procedures, as well as touch on some other programs
24 that we do have.

1 At the end of the report there is a
2 separate section that addresses some concerns
3 unrelated to permitting, that some of the advisory
4 group members felt were very important to be included
5 in the report. Those are not so fleshed out but
6 there are some ideas, some goals that -- that the
7 advisory group would like the D.E.C. to take into
8 account when it is developing its policies.

9 But, as I mentioned the bulk of the
10 report focuses on permitting and that was the group's
11 primary charge, when we -- as I mentioned we got
12 the -- the E.P.A. grant and when we said we would put
13 together the advisory group and put together a
14 report.

15 The focus of that we said would be
16 on permitting. But as I mentioned E.J. focuses on a
17 lot of different areas, permitting is only one of
18 them. This -- the meeting that we are having tonight
19 is a little different from the meetings that we held
20 a year and a half ago. Those meetings were conducted
21 to get your feedback for the advisory group to listen
22 to you and get some of your input and feedback, so
23 that they could put that information in the report
24 that they have created. And they went ahead and did

1 that, considered your information and other

2 information and -- and drafted the report.

3 Now, this meeting is a little bit

4 different. This is a -- this meeting is actually a

5 D.E.C. meeting. And, we are looking to get your

6 comments on the report and any additional suggestions

7 you think might be important, that -- that were not

8 included in the -- in the report, but that you would

9 like the D.E.C. to consider when it starts making its

10 policies.

11 Let's see. We would ask that you

12 don't talk about specific projects related -- you

13 know, just get up and talk about specific projects in

14 your communities. What we are really looking for is,

15 how your experience in your communities relate to the

16 programs that we are trying to put together, so that

17 we can make a solid program for you. That is the

18 focus.

19 If you have individual concerns and

20 if you want to, you know, if you want to use some

21 examples from your -- your personal experiences and

22 relate them to the things that are in the -- in the

23 report, that would really be very helpful.

24 If you have specific concerns that

1 you would like the D.E.C. to address with respect to
2 environmental justice, things in your community, I
3 encourage you to call me directly. And out on the --
4 out on the table there is a -- a flier that has
5 our -- our new one eight hundred number, that you can
6 call me directly and I can help you get -- get your
7 problems and concerns addressed.

8 So, we are going to structure this
9 by going through the -- the -- going through the
10 recommendations report section by section. And I am
11 just very briefly going to discuss what is in those
12 particular sections and then open it up to the
13 audience and ask for any, you know, guidance from
14 you, any thoughts you might have.

15 I suspect we can move through that
16 pretty quickly and then towards the end of the
17 meeting, we are just going to open it up and let
18 people make statements and add any additional
19 information that was not added earlier.

20 I think that is about all I have
21 right now. So, let's -- I thank you very much
22 because it is your -- your input is going to be very
23 helpful to us. Oh, just, when we are going with
24 this? Our first policy that we are going to write is

1 going to be focused on permitting. And, that -- we
2 are -- we suspect that -- we are hoping that the
3 policy will be effective sometime this summer.

4 So, the input that you give us will
5 be turned around very quickly and then put into
6 D.E.C. policy.

7 And, when it is put into policy it
8 will again be put out for public review and we will
9 solicit your comments once again and then revise it.

10 And then it will become final policy. So, I -- I
11 thank you very much and I look forward to a
12 productive meeting.

13 MS. DELOAYZA: I am Winnie Deloayza
14 and I will be acting as the facilitator this evening.

15 And, as I see my role, is to hopefully keep the
16 meeting going, to recognize people in some sort of
17 semblance of order, and to make sure that we are able
18 to keep on the topic that we have been called here to
19 discuss, which is a response to this report.

20 So, you will find me, in a sense,
21 inviting you to speak and also acting in some way to
22 guide -- to guide the participation, either in length
23 of time or on topic.

24 So, as much as possible we want

1 everybody to be heard, whether they are heard with
2 speaking out or calling Monica at the eight hundred
3 number or writing some note on a piece of paper. In
4 anyway we want to welcome all comments that might
5 come from you.

6 All right. With no further ado --
7 any questions on how we are going to be
8 participating?

9 She is going to do a section, so if
10 we keep our memories intact, we are going to have
11 some questions to discuss right after a section.

12 Then we will go to the next section
13 and then whatever time we have at the end will be an
14 open discussion. All right? Monica?

15 FROM THE FLOOR: May I ask a
16 question?

17 MS. DELOAYZA: Sure.

18 FROM THE FLOOR: This section, is
19 it -- is it -- to this point I am not clear whether,
20 is this meeting to get permits on -- okay, let me
21 start over.

22 Is this the department's
23 recommended program or are we just here to comment on
24 the report of the advisory committee? I was reading

1 again the preamble and it sounds -- you are stating
2 that this will be used for developing your
3 departmental policy, but --

4 MS. CONLEY: Right.

5 FROM THE FLOOR: -- is -- is -- are
6 we there yet? Has -- has the department -- you are
7 not there at a point where you are accepting this
8 report, that -- would you clarify that --

9 MS. CONLEY: Certainly --
10 certainly. Thank you.

11 The report was submitted to D.E.C.
12 Commissioner, Erin Crotty on January 2nd, by the
13 Advisory Group.

14 She accepted the report and has
15 asked that we hold public meetings to solicit
16 additional public comment. And what she wants to do
17 is take this report and take the public comments that
18 we get throughout these series of public meetings
19 that we are having and consider everything as a whole
20 and then adopt what we can from the report and the
21 comments into policy.

22 And, you know, our goal is to try
23 and incorporate as much as possible. So, you know
24 any information you can give us would be very

1 helpful. Does that clarify some? Okay.

2 MS. DELOAYZA: Is that clear?

3 Okay.

4 MS. CONLEY: Okay. If -- your

5 agenda breaks up the different parts of the report.

6 The first part of the report are

7 just some general recommendations the -- focusing on

8 permitting, but it may also have applications

9 elsewhere.

10 Initial give -- the first one,

11 which permits would be applicable? The Advisory

12 Group sat down and received information from D.E.C.

13 on D.E.C.'s different permits. D.E.C. issues many

14 permits and we were trying to figure out which ones

15 would be subject to an environmental justice review,

16 which ones are important to low income and minority

17 communities.

18 And, I will just ask Jeff briefly

19 to mention, you know, what type -- just give you an

20 idea of what types of permits we decided to include

21 and that we, you know, we would look at as far as

22 environmental justice.

23 MR. GREGG: And a -- in -- in doing

24 so I would refer you, if you have the recommendations

1 in front of you, to turn to page three of the
2 recommendations.

3 The Department of Environmental
4 Conservation is unique -- or rather unique amongst a
5 lot of states. Within the department is a
6 division -- the division that I am in, the Division
7 of Environmental Permits, that is basically a
8 one-stop shopping location for a -- a whole range of
9 permits that the department is authorized to issue.

10 These range from natural resource
11 type permits like fresh water wetlands, wild scenic
12 rivers, tidal wetlands and what have you, to the
13 quality programs such as air and water, hazardous
14 waste and what have you.

15 So, the -- the whole list of
16 permits that the Division of Environ -- of
17 Environmental Permits is responsible for -- for
18 reviewing and permitting is -- is basically
19 encompassed within these recommendations and are
20 listed on that page three at the bo -- at the bottom.

21 So it, you know, it begins with the
22 air -- air -- this is rather a -- it jumps around
23 quite a bit, but it starts with the air pollution
24 control program, coastal erosion management program,

1 fresh water wetlands, hazardous waste management
2 facilities, liquefied natural gas and petroleum gas
3 facilities, mine land reclamation, siting of
4 industrial hazardous waste facilities, solid waste
5 management facilities, the State pollutant discharge
6 elimination system which is for discharges of -- of
7 from facilities usually coming out of a pipe and what
8 have you, tidal wetlands, transportation of water by
9 vessel which is not to appropriate to here. Use and
10 protection of waters, waste transporter permits,
11 water quality certifications, water supply and wild
12 scenic and recreational rivers.

13 MS. CONLEY: Okay. Initially the
14 department felt that we would only include a few -- a
15 few permits that we definitely saw would effect low
16 income minority communities. But, there was concern
17 in the advisory group that those -- that they did not
18 want to limit at all. They wanted to be able to
19 catch any problems that might occur, related to
20 environmental justice. So, that is why you -- as you
21 see here, the advisory group recommended to include
22 all of these different permits.

23 Let's see -- the -- the next one
24 is, very general educating D.E.C. staff. Two years

1 ago, when I took this -- this position, environmental
2 justice was just starting to come into my agency.

3 There were not many people who knew
4 what it was and I suspect there still aren't a lot of
5 people who know what it is. And one of the
6 recommendations from the advisory group is that we
7 educate D.E.C. staff, so that they can recognize
8 environmental justice issues as they come across
9 their desk.

10 And know to go the second step, to
11 go to the communities to get more information, to
12 look in -- in different places for additional
13 information, make sure that they have everything they
14 need in order to make decisions when it comes to, you
15 know, environmental permits.

16 Let's see. Another concern was
17 making information more widely available to the
18 public. One of the concerns that we heard many times
19 throughout our -- our public meetings that we held a
20 year and a half ago was, we don't get the information
21 and if we get it we get it too late, there is never
22 enough time to review it. So, one of these
23 recommendations was to go ahead and try and figure
24 out -- have the D.E.C. try and figure out, with input

1 from -- from the public and -- and other parties,
2 what information the public would need in order to
3 make -- to make some decisions on their own, to
4 advise the department on how they should be making
5 decisions and acting.

6 And, some -- some of the things we
7 heard that work are using written public notices and
8 making sure they are put in newspapers, make sure
9 they are mailed directly to people who are
10 interested, make sure that they are written not in
11 legal mumbo jumbo, but rather in plain language. So
12 everyone can understand and -- and be able to use the
13 information.

14 Another thing was using
15 repositories and a repository is just an area for
16 anyone who may not be familiar, it is just an area in
17 a community or somewhere accessible to a community,
18 where people can go and get information and all the
19 information is kept in this one place and it is
20 easily accessible and you can go and get that
21 information.

22 Using mailing lists and keeping
23 them up to date, our D.E.C. Web site -- making sure
24 that we try and get as much information out on the

1 web site as possible.

2 One of the concerns was that not
3 everyone has access to web sites. So, you know, we
4 grappled with that a little bit, but we still felt --
5 the advisory group still felt that it was a good idea
6 to try and get as much information out there as
7 possible.

8 Holding workshops and also having
9 our toll free number. So that people can call
10 without incurring long distance charges and, you
11 know, let us know what problems they are having in
12 their communities. So, these were just a few of the
13 things that we came up with.

14 In your experience, is there
15 anything else that -- that has worked, that might be
16 helpful. One mention was per -- perhaps using
17 faith-based organizations, churches and such gens --
18 and sending the information there because that is a
19 big gathering place for people.

20 Does anyone -- does anyone have any
21 thoughts on what works best in your communities?

22 No? Okay.

23 Okay. Well, these are just a few
24 and, you know, we welcome your -- your comments. We

1 are accepting written comment until February 22nd.

2 So, if you don't have comments
3 today we encourage you to send in written comment.

4 Our public notice procedures -- a
5 lot of -- some of our regulations require the D.E.C.
6 or a permit applicant to put out notices to the
7 public about what they are doing, explain the
8 project, where it is, when it will begin, what type
9 of environmental impacts it might have and there was
10 a suggestion that the D.E.C. review their procedures
11 for doing that and make sure that they are really
12 working and they are really getting the information
13 out.

14 Let's see. One of -- one of these
15 suggestions in relation to getting information out
16 to -- as early as possible, was sending out notice of
17 receipt of permit applications.

18 Currently, the way that the D.E.C.
19 works is we will have this very long permitting
20 pro -- well, no I will not say long -- we have a
21 permitting process, it varies in all different
22 situations. And, we will not send out -- we are not
23 required by regulation to send out information to the
24 public, until a permit application is rendered

1 complete. Sometimes that happens very quickly, other
2 times it takes a long time for that to happen and by
3 that time, you know, many months have gone by and the
4 community may not have heard about the project.

5 So, one of the ideas we had was
6 to -- rather than waiting all that time till the
7 application is complete, getting out a notice to the
8 public as soon as we know about the project, as soon
9 as the -- the first piece of paper is submitted, you
10 know, formal piece of paper is submitted by the
11 applicant.

12 This way the community has, you
13 know, in some case additional weeks, additional
14 months, however long it might be, to review all the
15 information that is submitted by the applicant or by
16 the D.E.C., related to a particular project.

17 Encouraging applicants to conduct
18 meaningful and effective public participation. The
19 applicant when they apply for a permit, they are
20 required to do certain things to get information out
21 to the -- to the public and, you know, we -- the
22 advisory group just would like D.E.C. to take a look
23 at -- at what applicants are doing now, and is there
24 anything that D.E.C. could assist the applicants in

1 doing, any additional information D.E.C. might be
2 able to give the applicant, information on ways the
3 applicant might be able to get better information
4 out.

5 So, that is -- let's see --
6 technical assistance grants. That is another area we
7 are looking -- we don't -- it is an area that we
8 thought is a good idea. It is something that we
9 should look into -- we did not flesh it out too much
10 in the report except to say that -- to use technical
11 assistance grants, which would be money going to
12 maybe a community organization, perhaps a municipi --
13 somebody who needs some financial assistance in order
14 to play a role in the whole permitting process.

15 One of the concerns was that, okay,
16 there are community groups who -- okay, now we have
17 the information -- the community group has the
18 information on a project. But the -- there aren't
19 the resources, no money to hire an attorney or to
20 hire a technical person to review the documents, so
21 that the community can really get their voices heard
22 and submit, you know, whatever information the
23 department might need to make its decisions.

24 So the -- the advisory group

1 thought that D.E.C. should investigate some type of
2 an -- a -- a technical monetary assistance to
3 community groups and -- and others that may need
4 that.

5 And, the last one in this section
6 relates to alterna -- alternative dispute
7 resolutions. And many of you, you know, probably
8 know the whole litigation, going to court and -- that
9 a lot of times that drags processes out. It does not
10 necessarily help a community or an applicant or, you
11 know, any of the parties related to a -- a particular
12 conflict.

13 So, what the advisory group is
14 suggesting is that rather than taking matters to
15 court, that both applicants and community groups or
16 environmental groups or whoever is involved in a
17 particular problem, encourage them to get together
18 and do some type of alternative dispute resolut --
19 resolution, either mediation, where you just kind of
20 sit with a third party, some neutral person who has
21 no outcome -- no stake in the outcome and try and
22 work out and resolve something, a -- a resolution
23 that will work for everyone involved; the applicant,
24 the community, just a way to -- for everyone to get

1 their ideas and goals and -- out on the table and
2 figure out a way that works. It exists. I guess and
3 that is -- that is it for this section. This is --
4 this is very different type of -- of public meeting
5 than I am sure you are most -- you are -- most of you
6 are used to.

7 So, you know, I -- I welcome your
8 comments on the structure of the meeting as well. I
9 don't want to just sit up here and lecture, I --
10 it -- I was hoping for more of a --.

11 MR. MAIR: I guess folks are
12 waiting because of the -- I guess, the way this thing
13 is written that you guys go on for this whole period.

14 Are you asking that we interact
15 right now?

16 MS. CONLEY: Yeah -- yeah -- yeah.

17 MR. MAIR: Okay, because that --

18 MS. CONLEY: Thank you.

19 MR. MAIR: -- you have issued --
20 you have -- you have -- the things.

21 MS. DELOAYZA: Aaron, and -- and I
22 think I tried to correct that before. After each
23 session we are -- section, give a period of time that
24 we can talk, maybe even ten minutes, just questions,

1 clarifications, comments.

2 MS. CONLEY: Yeah. Thank you.

3 MS. DELOAYZA: So, I would like
4 the -- you know, at this point that -- that is open
5 at this point.

6 MR. MAIR: One of the things
7 that -- and perhaps somehow you can -- because we
8 just found out -- Aaron Mair, Arbor Hill
9 Environmental Justice.

10 The way we just got recent
11 notification that there actually was an environmental
12 justice impact section in the per -- permit
13 application or what have you, was actually from a
14 sister community across the river Rensselaer. We did
15 not know that BESICORP actually in their application
16 I guess, for the site, actually did an E.J. analysis
17 and said that there was no impact.

18 Our organization got no notice from
19 BESICORP, either surveying or requesting our input in
20 an E.J. analysis, or even can we be of assistance to
21 them. Empirical fact number one, we are south end
22 community of Albany, within about a quarter of a mile
23 on the other side of the river, so if -- I guess we
24 have a -- an easterly wind that blows west. So they

1 are within wind blowing distance of odors or
2 whatever, there is also the currents in the Hudson --

3 MS. CONLEY: Right.

4 MR. MAIR: -- Hudson's which flow
5 past our community, but in short, E.J. communities
6 are well within a quarter mile --

7 MS. CONLEY: Right.

8 MR. MAIR: -- of either the tide or
9 the wind as to fluids or mediums that may impact our
10 communities.

11 And so -- and not to mention the
12 south end, the air quality is pretty bad. So they
13 are actually adding -- there would be an additive or
14 cumulative impact on their contribution to the local,
15 you know, I guess air quality. And for their
16 application to go in and say it -- it has actually
17 done an E.J. analysis, saying no impact. I find that
18 a little bit interesting. But I just want to -- at
19 least want to -- just right now, even if they are
20 doing that, they are making declarations in my
21 opinion that are empirically inaccurate.

22 MS. CONLEY: So -- so is your
23 suggestion then that applicant -- the permit
24 applicants seek input from the communities when they

1 are doing their environmental justice analysis
2 because at this point -- I mean we have to say for
3 a -- a company to be doing an E.J. analysis without
4 there being even any requirements at this point is --

5 MR. MAIR: Right, maybe I --

6 MS. CONLEY: -- a good thing.

7 MR. MAIR: -- I am -- I want to

8 applaud them --

9 MS. CONLEY: Yeah.

10 MR. MAIR: -- for doing it, but
11 that -- if they are going to do the analysis, you
12 know, because now you -- the -- the thing is that at,
13 you know, to -- to at least, if they need assistance,
14 you know, I am not going to put the burden on them
15 for -- but perhaps maybe in your review of that
16 section -- perhaps maybe D.E.C. can say, we have
17 received this analysis. However I guess, they have
18 got to validate whether any section or part thereof
19 may be accurate or inaccurate. You might give them
20 guidance to perhaps include those community's of
21 concern.

22 So this way we do not have to get
23 down the road of a dispute mediation or a fight in
24 court. So this way you are helping them. I am proud

1 that they took that step, but -- but taking the step
2 is different from thumbing your nose at a step -- I
3 mean do not -- just don't take it and say you -- you
4 did it for the sake of a -- so, I think that it is
5 important that they took it. I want to give them
6 credit for it, but the other piece of it is -- is
7 actually doing it. So, you know -- so I guess moving
8 them from talking to walking, you know.

9 So, it is nice to talk the talk,
10 but walking the walk will actually help them and --
11 and I think that the community of concern over in
12 Rensselaer County, is predominantly albeit white but
13 a very low income community and that is who brought
14 it to me since you know, from an E.J. perspective on
15 an income side, you know, we are concerned that they
16 did not reach out to us.

17 So, if the economic E.J. community
18 can reach out over the river and say what do you
19 think of this. So, that is how we got notified -- we
20 got wind, you know, so to say --

21 MS. CONLEY: Okay.

22 MR. MAIR: --of -- of -- of their
23 efforts.

24 MS. CONLEY: And thank you.

1 MR. MAIR: Absolutely. It still

2 blows across the water.

3 MS. DELOAYZA: Okay --

4 MS. CONLEY: Thank you.

5 MS. DELOAYZA: -- other comments,

6 other questions about this segment?

7 Yes?

8 MR. DAILLIE: Yes.

9 MS. DELOAYZA: And would you give

10 your name and --?

11 MR. DAILLIE: My name is Eric

12 Daillie, I am here with the --.

13 MS. DELOAYZA: Can you spell your

14 last name?

15 MR. DAILLIE: That is

16 D-A-I-L-L-I-E.

17 MS. DELOAYZA: Do you want to come

18 forward to get it on the record? Do you mind doing

19 that?

20 Appreciate that.

21 MR. DAILLIE: Again, my name is --

22 can I take this off? I hate looking at a wall --

23 MS. CONLEY: Yeah.

24 MR. DAILLIE: -- I am not sure who

1 I am -- I am going to speak to here, but --

2 MS. CONLEY: We will get it -- we
3 can all here you.

4 MR. DAILLIE: -- my name is Eric
5 Daillie, I am with the Rensselaer County Greens. It
6 is a little confusing process, but we will go I guess
7 chapter by chapter.

8 So, in this one I would like to
9 talk in favor of the Technical Assistance Grants, I
10 think -- I think this is probably the most -- the
11 biggest issue really for communities. This -- this
12 is an assistant that is available through the Article
13 X of the Public Service Commission. Right now, in
14 fact, talking about BESICORP, we have a situation,
15 very complex where you have an Article X and an
16 environmental impact statement going on at the same
17 time. And we could get money -- intervener funds
18 to -- to look at the power plant issue, but we could
19 not use that money to look at issue connected to the
20 recycling plant.

21 And, so, there is a lot of
22 confusion in which foundations are which and this
23 really clearly show, you know, how it can be unfair,
24 this process where, you know, they are giving

1 assistant grants for power plant but not for other
2 projects, you know, to community groups like us, we
3 do not have money, we do not even have a staff, we do
4 not even have an office. We are in the trenches that
5 is why you did not get comments in writing from us
6 because we are just overwhelmed and -- and certainly
7 those -- those grants would help us hire consultants
8 for the -- for example in the case of BESICORP there
9 are a lot of issues. And -- and they need to be
10 really researched, like dioxin issue, you know, we
11 really need specialists in -- in -- in issues like
12 dioxin.

13 The -- the -- the suggestion that
14 this fund should be -- funded by taxpayer's money is
15 ludicrous. And -- and even more ludicrous the idea
16 that the money should not be limited only to
17 community groups.

18 So, I can see where the already
19 limited funds coming for -- for this -- this TAGS and
20 then part of the money is going to be claimed by
21 groups like the Chamber of Commerce or other business
22 group that are going to claim, hey, I am also -- I
23 have rights to this money.

24 So, I think that -- there were

1 suggestions like that done by business groups at the
2 end in this report. I do not think that makes sense.
3 This money should be only for community groups,
4 because those are the groups who need it.

5 In -- in the Article X Intervener
6 Fund, other government agency can -- can also request
7 those funds, for example the Rensselaer County
8 Environmental -- Environmental Management Council
9 will get a good chunk of -- of -- of this fund.

10 Now, if the remaining money that go
11 to community groups is -- then half of that goes to
12 business groups, that -- that really -- but again,
13 those TAGS are -- are so important I will probably
14 will talk about them again.

15 In fact, there is a -- almost a
16 grass root effort now to have an environmental legal
17 aide because of -- in this intervener funds through
18 the Article X you can hire a consultant, but you
19 cannot hire lawyers from my understanding. And,
20 there again, you know, they are really expensive, we
21 have litigation now in Lansingburgh, you know, --
22 this is five thousand dollars every time. So, I
23 think that I will just stop there. I think TAGS
24 are -- are -- are very important and for -- for all

1 applications. Thank you.

2 MS. DELOAYZA: Any other comments
3 or thoughts on this section. Anybody else like to
4 speak on this section? All right. I think that is
5 it, Monica?

6 MS. CONLEY: Okay. They are just
7 going to have to listen to me talk some more.

8 MS. DELOAYZA: Yeah.

9 MS. CONLEY: Okay. Now we start
10 getting into the meat of -- of these recommendations
11 and some of them might get a little technical. I
12 might confuse myself up here, so I will try and take
13 it slow and not get too detailed.

14 One of the things that the Advisory
15 Group initially recommends is that the D.E.C. needs a
16 way to find out where these low income or minority
17 communities are, how can we possibly address
18 environmental justice issues if we don't know where
19 they are happening. And, in doing so, the Advisory
20 Group looked at ways that is being done around the
21 nation and we looked -- we focused on what is being
22 done right here in our state, actually by U.S.E.P.A.,
23 they developed a G.I.S., which is a Geographic
24 Information System. A computer application that uses

1 maps and uses other demographic information, percent
2 minorities and low -- low income information to
3 pinpoint where these neighborhoods are. They -- the
4 information that they use is based on census
5 information. And, to date, we have been using --
6 they have been using 1990 information. That
7 information will hopefully be updated this summer so
8 the 2000 information will then be used.

9 So, the tool is a good tool it is
10 not, you know, one hundred percent. It is using, you
11 know, information that might be a little outdated,
12 but it is a start it -- it gives us an area where the
13 D.E.C. can look and -- and, you know, kind of set up
14 a red flag for the D.E.C. saying, wait a minute, you
15 know, this action is occurring in a low income
16 minority community, it deserves a -- a better look, a
17 harder look.

18 So the Advisory Group recommends
19 that D.E.C. look into using either this system that
20 E.P.A. is using or something very similar in order to
21 help it with its -- its permitting projects. In --
22 in using that -- that system, we had to define a few
23 terms. What is considered minority. What is
24 considered low income. And, then, when we find a

1 particular area, how do we know -- how do we know
2 that a particular area being affected by a -- a
3 project is a low income minority area. And, I won't
4 get too far into those definitions, they are in the
5 report and, you know, I -- I-- starting on page ten.
6 So I welcome you to check those out.

7 The way the program works is,
8 D.E.C. would get an application for a permit and we
9 would take this -- this computer software and figure
10 out what type of environmental impacts might occur
11 from the -- this application that we get. Let's say
12 it is something -- it is an application that is
13 emitting some type of -- of an air pollutant, we
14 would use information that we know and some type --
15 and modeling information to find out how the air
16 would be impacted by whatever the -- the ap -- the
17 proposed facility is emitting. What type of air
18 patterns, where that -- that -- those pollutants
19 might be dispersed in a particular area. And based
20 on that information we would kind of draw a line
21 around those impacts and to define a -- a community
22 that -- the community of concern is what we define it
23 as. And, then, within that community of concern we
24 look to the demographics. We look to see if there

1 are low income minority communities that are going to
2 be significantly burdened by this proposed project.
3 And, then, that, you know, like I said, gives the
4 D.E.C. the heads up that we need to give it a little
5 closer look.

6 When the D.E.C. reviews a permit
7 application we have to make a determination as to
8 whether any environmental impacts that are occurring
9 rise to the level of significant adverse impacts.

10 And, in order to do that we gather
11 a lot of information that we use in order to make
12 those determinations. One source of information is
13 information we get from the applicant. They submit
14 very detailed, large applications, they give a lot of
15 information about -- about the project.

16 One of the forms that is filled out
17 by the applicant initially is the environmental
18 assessment form. We have several different types
19 of -- of permits, and each of them kind of rise to a
20 different level of -- of environmental concern, we'll
21 say.

22 We do a -- an environmental review
23 on essentially two types, what is called unlisted
24 actions and type one actions.

1 Type one actions automatically get
2 a, you know, very in-depth review. Unlisted actions,
3 which could be very small actions or could be, you
4 know, rise to the level of almost type one, but they
5 are not quite type one. They can get the -- the
6 expanded review, or they could get a smaller type of
7 review. And this is all in the regulations. What
8 the advisory group decided was that if we find a low
9 income or minority area, the D.E.C. should require
10 that the applicant give us the large amount of
11 information, so that we have more information to base
12 our determination of significance. So, the
13 suggestion was that rather than allowing the
14 applicant to fill out the -- a short environmental
15 assessment form, we ask them to fill out a lengthier
16 form.

17 Another suggestion was that, that
18 form in itself, while it is a -- it is a good form,
19 and it is -- it is several pages long and -- and gets
20 a lot of information, there may be some additional
21 information that the D.E.C. might want to require.

22 So, one of the things that the
23 department is going to undertake is to take a hard
24 look at that form, revise it, see if there is any

1 additional information we might be able to get,
2 whether it be demographic information or, you know,
3 any other information that just might not be in
4 there, maybe some additional health information, just
5 a little more detail than what is on that -- that
6 form currently.

7 That form -- that form is submitted
8 as part of the application, and all application
9 material is submitted to the D.E.C., and it is
10 available for -- for the public to review. And what
11 that entails is the public knowing that we have it --
12 asking us for particular information.

13 So one of the suggestions was well,
14 you know, we do not always know what information you
15 have, and why don't you just put as much as you can
16 on the web site, so that people can just go and
17 access it, and one of the suggestions was to put this
18 Initial Environmental Assessment Form out on our
19 D.E.C. Web site.

20 Let's see. Require a minimum time
21 frame prior to making a significance determination.

22 Currently there is no specific --
23 well, can you explain that --

24 MR. GREGG: Uh-huh. Not very well.

1 MS. CONLEY: I do not want to make
2 any statements that are completely inaccurate. We do
3 not have our -- our ex -- our permit guru here with
4 us.

5 I will just say, the advisory group
6 put in a general recommendation that perhaps the --
7 the D.E.C. should not be allowed to make any
8 determination of significance, until a certain amount
9 of time has passed. And that time would be given to
10 the -- would allow the community to get information
11 about the particular project. The significance
12 determination is -- is the determination that says
13 the applicant has to do an in-depth environmental
14 review, or does not have to do an in depth
15 environmental review. So there were many concerns
16 that, that it -- there should be some time to allow
17 the community to give significant input before that
18 decision is made.

19 Utilize our environmental
20 navigator. I mentioned that -- that E.P.A. has this
21 geographic information system, and the D.E.C. itself
22 is trying to come up with something similar. And it
23 is actually available on our web site, and I
24 encourage anyone who has Internet access to check

1 that out.

2 It is a map of New York State, and
3 it allows you to zero in on different sections of the
4 state; your neighborhood, a particular facility, and
5 find out what information there is about that area --
6 what pollutants there are in that area, what
7 facilities there are. And, we are slowly but surely
8 trying to get as much information out there as
9 possible, so that -- you know, you have this -- you
10 don't have to do a FOIL request, you do not have to
11 call the department for it. It is right there -- you
12 just, you know, at the click of a -- click of a
13 button.

14 And the department, this -- this
15 type of a system would also be helpful to the
16 department, and -- you know, the applicants, giving
17 them the information they need about other things in
18 the area, so that they can determine whether this new
19 proposal should in fact go forth. Any questions at
20 this point?

21 MS. BADGETT: Yes.

22 MS. CONLEY: Yes.

23 MS. BADGETT: You keep, using
24 interchangeably, your web site and low income

1 communities, is there any other way that low income
2 communities can get this information, is it going to
3 be required by the person that is putting out the
4 permit or are you going to give them the information.
5 How would we know?

6 MS. CONLEY: You -- you are saying
7 for people who do not have Internet access -- yeah,
8 and as I mentioned that was a large concern because
9 there are many low-income, minority communities who
10 do not have access to the Internet.

11 One of the suggestions was that
12 there are a lot of community organizations that do
13 have access or libraries have access -- that is one
14 way that you might be able to get it. Another way is
15 by using the one eight hundred number and calling my
16 office. I could very easily, you know, print things
17 off the -- off the Internet site for any -- anyone
18 who wants it, and send that to them. So -- you know,
19 that is kind of a way we are trying to --.

20 MR. BADGETT: But how are we going
21 to know that these people put out these permits or
22 are trying to get a permit, if we -- we cannot get to
23 you to know that you have it. We cannot call every
24 day and say has such and such asked for an

1 application. How would we know? Will the people
2 that want -- want this permit give -- make it public
3 knowledge that they are applying for it, from the
4 beginning, so we will have time to respond?

5 MS. CONLEY: Well, one of the --
6 one of the methods of notifying the community that
7 was suggested in the report, was using mailing lists.

8 So -- and throughout these public
9 meetings, we are collecting addresses and trying to
10 solicit addressees, you know, everyday I am getting a
11 new address to add to that. Anybody who is
12 interested in environmental justice goes onto that
13 data base, and applicants can use that data base,
14 applicants themselves hire consultants that would be
15 able to help them get the word out to the
16 communities. So, there -- there are, you know,
17 suggestions in there that something go directly to
18 the community residents, something in writing or
19 something in the newspaper, there was a suggestion
20 that sometimes notices are put very small in the
21 newspaper. There was a suggestion that larger
22 notices get put in -- and maybe colorful inserts in
23 the -- in the newspaper that -- you know, kind of
24 fall out and very, very visible. So, that is in

1 there as just suggestion, does that help at all?

2 MS. BADGETT: Yes.

3 MS. CONLEY: If you have any

4 other -- you know, ideas that you think are even

5 better, you know, I welcome you to give me your

6 thoughts. Thank you.

7 MS. DELOAYZA: Can you give us your

8 name -- your name, for the record.

9 MS. BADGETT: My name is Beverly

10 Badgett.

11 MS. DELOAYZA: B-A-I-G-E-T?

12 MS. BADGETT: B-A-D-G-E-T-T --

13 Badgett.

14 MS. DELOAYZA: Okay. Thank you.

15 Any other questions? Yes. And would you give your

16 name and --

17 MR. CULLER: My name is Jerome

18 Culler.

19 MS. DELOAYZA: Okay. You have to

20 come forward.

21 MS. DELOAYZA: Okay. Would you

22 mind coming forward -- speaking?

23 MR. CULLER: Again, my name is

24 Jerome Culler. I am at the New Charter School PTO, I

1 am currently the vice president, and I am also here
2 as a parent of a student of New Chart -- New Charter
3 Covenant School. One of the things that came to our
4 attention during one of our meetings is with the
5 inception of the school in the Arbor Hill community,
6 it has had a drastic impact on this community, as far
7 as environment is concerned.

8 I have had the pleasure of meeting
9 the Albany Chapter and going over some things with
10 them. But I am still at a loss as to what steps we
11 as the PTO -- as parents, though I am representing
12 the parents, would have to do in order to find out if
13 an Environmental Impact Statement has been
14 pro-offered, for the traffic flow, for the gas
15 emissions.

16 One of the things that I found out
17 about the -- in this particular meeting was, during
18 the construction of this school, there was a
19 community center that was torn down, and from my
20 understanding those walls were filled with asbestos,
21 and the new construction went up. So, we are
22 wondering if there is actually asbestos in the soil,
23 asbestos in the water.

24 There is a lot of questions that we

1 have, and I am sure there are community members here
2 tonight who I have spoken to about the impact of
3 traffic in this community.

4 It is horrendous, and there is also
5 a safety concern for the students, as well as the
6 people that live in the community due to the
7 increased traffic flow. And I --.

8 MS. DELOAYZA: Monica we --

9 MS. CONLEY: Yeah. Thank you --

10 MS. DELOAYZA: We will take that
11 information and get back to you.

12 MS. CONLEY: Yeah.

13 MS. DELOAYZA: Since that is on a
14 particular project. Thank you, so much.

15 MS. CONLEY: You are -- first of
16 all, thank you very much for your comments.

17 Traffic -- things like traffic
18 analyses and environmental impact analyses are
19 required if they -- if they produce significant
20 impacts, the applicant is required to do the traffic
21 analysis, do a health analysis, and all of that
22 information is submitted to the D.E.C. and that is
23 what the D.E.C. bases its decision to issue the
24 permit on.

1 So, the information, if it affects
2 traffic, it will -- it will be in our office.
3 Perhaps it is just that the -- that communities don't
4 know that this information is at the D.E.C., and
5 maybe we need to do a better job at maybe workshops,
6 and letting the communities know what type of
7 information we actually hold. So then you will know
8 that you can just, you know, call up the agency and
9 say, you know, there is a particular project going
10 on, I want all the information related to traffic.
11 Or do you think that might assist parents and -- and
12 people who are not necessarily engaged in
13 environmental issues all the time, but, you know,
14 have this one issue that comes up, maybe if -- if we
15 are -- if they are aware that this information
16 exists, it can help them out.

17 MR. CULLER: I think from my
18 standpoint I can access that information, but as far
19 as the community is concerned I do not think that
20 information has been forwarded to them, and as far as
21 I know, there was an Environmental Impact Statement
22 done during the construction of the school, that was
23 the information that I --.

24 MS. CONLEY: Yeah. If -- an

1 Environmental Impact Statement is not done on all
2 projects. It is only required to be done on projects
3 that raise a significant level of environmental
4 impact. And that is all spelled out in the
5 regulations. I -- I would be welcome to discuss that
6 a little further with you. I don't know what else I
7 can offer at this point. If -- if it is required by
8 the -- I am sorry, yes. If it is required by the
9 regulations, it is submitted to the D.E.C. and we
10 hold that if. If something is required and we have
11 not received it, we will hold up the permit
12 application, until we get that information, you know,
13 but if it is required, the information is there and
14 it is just a matter of getting the information out to
15 the public.

16 Perhaps this is a situation where
17 an Environmental Impact Statement was not required,
18 because it did not rise to the level.

19 MS. BADGETT: Beverly Badgett, do I
20 understand -- his statement this affects thousands of
21 people in one area. Okay? How do we know when
22 something is done and when it is not, and this has a
23 horrendous, a significant impact for this community.
24 All right? The traffic, the emissions from the cars

1 and stuff, the health of the children. How do you
2 assess what is significant?

3 Do you actually come out physically
4 see this. Do you go by a report. How do you know
5 what is going to impact all of us?

6 MS. CONLEY: Well, we go by the
7 information that is submitted to the D.E.C. and part
8 of the recommendations is that the D.E.C. needs to
9 collect additional information that it has in the
10 past, and not make decisions based on just what we
11 receive on paper. You know, so, in the D.E.C.'s
12 effort to collect additional information, hopefully
13 we will pick up the situations that you are -- that
14 you are talking about, and with the G.I.S. system
15 that we want to use, hopefully we will have -- we
16 will know if it is a low income minority community,
17 and be able to take a harder look, and not
18 necessarily say automatically that it -- it has no
19 environmental impact.

20 MS. DELORYZA: But in this
21 particular case, if they call your office, you can
22 check out what is available for them?

23 MS. CONLEY: Yeah, sure.

24 MS. BADGETT: Well, can -- can

1 anything be done to, you know, rect -- rectify this

2 situation?

3 We have got hundreds of kids' lives

4 at stake and community residents too --

5 MS. CONLEY: Yeah.

6 MS. BADGETT: -- and this is going

7 on a daily basis, everyday -- six days a week,

8 sometimes seven.

9 MS. CONLEY: I can -- I can

10 definitely take your names and get back to you. I am

11 not the person that can answer your -- your questions

12 on that particular project I apologize but, I want to

13 get you the correct information.

14 MS. DELOAYZA: Kind of help you,

15 yes? And would you give -- why don't you come on up

16 and give your name? So, we know who you are.

17 MR. GREGG: While she is doing

18 that, I would -- I would also like to say to Beverly

19 and Jerome that my own experience in most cases for

20 educational buildings and what have you, they

21 typically are handled by the State Education

22 Department. They handle the E.I.S. review, whether

23 an E.I.S. is needed or not. And I am not even sure

24 in this particular case, whether the Charter School

1 needed any permits from the D.E.C. The D.E.C. might
2 not have even been involved with the permitting of
3 this particular facility, I am not sure. But
4 typically State Ed is for education facilities. And
5 really the only way you can really stay on top of
6 that kind of thing is -- is through this
7 environmental notice bullet -- bulletin we were
8 talking about, which is on the Web, and all that.

9 MS. CONLEY: Yes.

10 MR. GREGG: But we will talk
11 more --.

12 MS. CONLEY: Yes. We hold on there
13 and -- yes.

14 MS. STUTZ: My name is Susan Stutz,
15 S-T-U-T-Z, and I want to talk about the same
16 situation because during the construction, there was
17 absolutely -- we live -- the soil in our
18 neighborhood, which you probably know, is clay. And
19 once they stripped away all the grass, and killed all
20 of the trees, and just had that clay field out there.
21 They did nothing to wet anything down at the end of
22 the day. And, you know, it was a very dry, windy
23 summer.

24 When we listened to what the -- is

1 going on at the World Trade Center, the symptoms of
2 the people there, breathing in that particulate
3 matter, I was really distressed because that is
4 exactly what our symptoms have been ever since they
5 did the construction of the school; even now.

6 I know myself, I incurred a fifteen
7 hundred dollar bill, because I had to be carted by
8 A.L.S. to the hospital because I was dying and I
9 could not breath at all. I do not know even how I
10 got to the phone, but I could not even talk on the
11 phone to tell them what was wrong. They just sent
12 somebody because they figured, you know, it was -- it
13 was wrong.

14 If something like this had been
15 done ahead of time -- and see, we did not even know
16 until we started talking to each other, that we were
17 all getting sick. And we did not know what was going
18 on and on top of that because of it being clay, I
19 think -- I am not an engineer, but because of it
20 being clay with thought -- they -- they pounded
21 everything in there, and the dishes came off of our
22 cabinets, and fell onto the floor. Our doors do not
23 shut properly anymore.

24 The -- the building that they took

1 down, we understand has asbestos in it. There was
2 absolutely nothing to protect anybody; the workers,
3 there was no plastic -- there was nothing about
4 asbestos. And we have been to four common counsel
5 meetings asking for an explanation -- we have been
6 ignored.

7 There has not been not even a
8 denial. So we -- we have been totally ignored -- we
9 have asked for a soil and air samples; nothing, no
10 response from our city government at all. And this
11 frightens me. This is like out of a movie -- almost,
12 because -- I mean, we were -- we were all sick, and
13 we live right across the street from the school, our
14 streets are cracking up, literally crumbling from the
15 heavy traffic that is going over it.

16 MS. CONLEY: I -- I thank you for
17 your comments on this. And as a Jeff, we would need
18 to know, like who was the lead on this particular
19 project in order to give you additional information.
20 But, please, before you leave, if you can leave your
21 names and number with Darcy outside, maybe we could,
22 you know, I can find out some additional information
23 and perhaps we can meet separately on -- on this
24 project.

1 MS. STUTZ: But a hearing like this

2 would have prevented it at all?

3 MS. DELOAYZA: No. No.

4 MS. STUTZ: It would have come

5 out --

6 MS. DELOAYZA: -- this -- this

7 hearing?

8 MS. STUTZ: No -- no -- I mean you

9 are talking about doing at the permit hearings, this

10 sort of thing would have come up.

11 MS. CONLEY: Well, quite possibly

12 and that is what we are hoping. So, yeah, I thank

13 you for your examples.

14 MS. DELOAYZA: So -- yes?

15 MR. THOMAS: My name is Randal

16 Thomas and live at 141 3rd Street -- and just to back

17 up what Ms. Stutz has just said. During the year

18 2001 the -- the then Arbor Hill Community Center was

19 demolished, and I see previously stated, THIS sign

20 that asbestos was in the building. It was put on it.

21 So, I normally was expecting people to come by at

22 night because that is when they usually remove

23 asbestos, and like in suit, more or less like they

24 are going to the moon. That did not happen. The

1 next thing that happened was that heavy-duty
2 equipment came in and started ripping this building
3 apart. Dust was all over the place. In spite that
4 water was on the -- the property, they could just
5 attach a hose to that and hose the place down during
6 the time they were tearing it -- nothing like that
7 happened.

8 The dust, it affect people's
9 respiratory system, people's cars, people's house,
10 and what happened after that? The city sent a crew
11 to just wash the outside -- the front portion of the
12 house -- just the outside front portion. After that
13 happened, then came a construction project. Again,
14 six days per week, five o'clock in the morning, heavy
15 equipments were out there pounding the ground. You
16 are in your bed and your house is shaking. Glassware
17 in a cabinet shaking against each other, that is
18 the -- that is the experience we had. The effect of
19 that -- the house, the ceilings cracked, the doors
20 aren't aligned. Again, the city sent a crew, they
21 came by with a Band-Aid effect, removed the catch for
22 the door lock.

23 So, now, the door close, but it has
24 a -- is like a inverted 'V' -- the top is together,

1 the bottom is down, you know, is -- is apart. We in
2 that vicinity, our health has been ruined, our
3 property has been damaged. The people who are
4 responsible for that, they are educated, intelligent
5 people. They all know better. They did not do
6 better -- I think they should be held accountable.

7 Thank you.

8 MS. CONLEY: Thank you. Would
9 it -- just in response to that. Would it help at all
10 if you had more information about what was going to
11 be done. For instance, what times they might be
12 working, what -- what -- what level of asbestos is in
13 the building, how they plan to remove that. If
14 something -- like a written document went to your
15 community, and notifying you of the specifics that
16 were going to go on; would that help make you aware
17 and be able to -- I guess --?

18 MR. THOMAS: That definitely would
19 have been a plus because at least we could respond.
20 We in the community would get together and say, this
21 is what they would be doing, let -- let's probably
22 even get more information and see if this would be
23 good for us, for our health, for the property, what
24 have you, but noth -- nothing, we -- we had no say in

1 anything. All we have now is the ill effect, and

2 that is why we feel bad -- we are upset.

3 MS. CONLEY: Thank you.

4 MS. DELOAYZA: Thank you. I -- I

5 want to, before we continue with this particular

6 project, to invite you to -- to first of all, it

7 seems like there are things that you need to do and

8 you need places to go -- I think a good place to

9 start is getting more information from Monica. But I

10 would like you to confine your comments when you are

11 using this example, as to recommendations of what

12 this report can do in the future because we cannot

13 ameliorate this problem through this meeting.

14 So with that, Joe --?

15 MR. GARDNER: Yeah, Joe Gardener of

16 Appalachian Mountain Club. I -- I feel very

17 sensitive to these comments about the -- I guess it

18 was pile-driving, driving piles, which is -- you

19 know, a major construction activity. And it did a

20 lot of damage evidently to the homes and the

21 vicinity, and there -- there are ways to drill holes

22 instead of just driving a steel piling into the

23 ground and cause a lot damage. It -- it is an

24 environmental impact that needs to be clearly

1 identified and -- and considered in -- in creating a
2 Environmental Impact Statement because, you know, you
3 are not only damaging property, but you are damaging
4 the health of the residents -- it is a major item
5 that needs to be considered.

6 MR. THOMAS: Just to back up what
7 you have said. This past Sunday I went in my attic,
8 I was in there for about five minutes at the most,
9 and that is why my voice is like this now, inhaling
10 that dust from there. I -- I started coughing, and
11 that is why my voice is like this at this time.

12 MR. GARDENER: In your lungs.

13 MS. CONLEY: Thank you. So perhaps
14 the D.E.C. could suggest if there is construction
15 going on, perhaps the D.E.C. could suggest to -- the
16 person doing the construction, that less severe
17 methods be used when there are houses very close by
18 or populations very close by, that they take that
19 into account with the hours that they are doing work,
20 the type of work that they are doing, and get
21 information out to the communities. That would help?

22 MS. DELOAYZA: Are there any other
23 thoughts around this particular section on the --
24 that we just discussed, not on -- necessarily on this

1 situation which is an egregious situation, but on

2 this section before we go on?

3 Yes, you want to come up again?

4 Thanks.

5 MR. DAILLIE: My name is Eric

6 Daille, Rensselaer County Greens, in Troy. I have

7 somewhat of a problem about defining what low -- low

8 income communities are. And, I have had to look at

9 the numbers. And I -- I think that the thresholds

10 are really low -- very, very low. And I am very

11 concerned that in some case like in BESICORP, if we

12 just don't make the cut, even though those

13 communities are definitely low income, you know -- it

14 is just will be pushed aside as an issue because they

15 will be just by the numbers. And is it just -- just

16 a thousand dollar off or a percent -- a percentage

17 point off.

18 So, maybe actually we should not

19 only include those communities of concern, but one

20 adjacent to them, that -- that is something that you

21 might want to look at because clearly environmental

22 justice is -- is a perception. It -- it should

23 address issues of inequalities between communities

24 within a larger context -- say, a city like Troy. I

1 assume that most of Lansingburgh will not qualify as
2 a low income community.

3 But what do you call an ugly big
4 bucks pharmacy with a one hundred car parking lot,
5 ripping through a historic village of Lansingburgh
6 but a monumental injustice considering that such
7 horror would never be built in a downtown area or in
8 more affluent neighborhood in east Troy.

9 So I -- I really have some problem
10 about the definition of low income communities. Also
11 you say the advisory group recommend that a full
12 E.A.F. be required for all unlisted actions occurring
13 in or likely to significantly affect a minority or a
14 low-income community. Now, that does not make sense.

15 This is reverse discrimination, and
16 in fact it could be detrimental to low income and
17 minority neighborhood because now every time one
18 wants to build an addition to a garage, open a
19 business or put a fence in these neighborhoods, one
20 would have to go through much more regulation than
21 one senseless drive down the road. Therefore,
22 chasing away businesses from this community who need
23 it most.

24 I think that the solution to any

1 discrimination is that all community demand the
2 highest standards. And therefore, I suggest that all
3 enlisted actions be subject to a full E.A.F.

4 And this is not just a fix to
5 reverse -- reverse discrimination. This is really a
6 solution for bad planning, public participation, and
7 public participation or the lack thereof. I think
8 that too often, we have seen those short form
9 including for project which has a huge big bucks.
10 pharmacy in Lansingburgh again, demolishing
11 historic -- what we in the community consider
12 historic building even though they may not be on a
13 register. But the perception in the community that
14 they are historic -- that they are part of the
15 community, in fact the Freihoffer's Bakery has been
16 there for a long time. And a lot of people in Troy
17 remember the -- the carriages going throughout the.
18 city.

19 They -- they filed out a short
20 E.A.F, and we in fact -- we had to sue them, and we
21 are still in litigation. And -- and out of our own
22 pocket, of course. And -- and, so, there again, you
23 know, it is too easy to have those short form E.A.F
24 and probably this school may have -- they did not

1 need any E.I.S., so they probably went through an
2 E.A.F. and even if they did the full, it was
3 obviously not enough. I think that in term of -- of
4 the E.A.F., I think there should actually be a
5 scoping session before this period of determination
6 of significance. I -- I do agree that there should
7 be a longer period for that and that scoping should
8 be part of that even for a full E.A.F. Right now,
9 scoping is not mandatory, it is only for an E.I.S.

10 Well, I think it would be very
11 important that whoever applicant come in committee
12 say C.V.A. is coming to Lansingburgh, that, you know,
13 they put their thing they -- they give that thing to
14 the planning commission or whatever agency is going
15 to take care of that. And that -- then the agency
16 organize a scoping session, so that they can, you
17 know, come back with a -- a better -- would have an
18 idea of what to expect. And at that point the whole
19 tag issue comes in because, you know, the applicant
20 can work with the community and -- and -- and right
21 away address their issue so that in fact the money
22 that is available through those TAGS would not even
23 be used. And, therefore, it goes back to the
24 applicant.

1 So, I do not think that all
2 applicant would have, you know, if they do their own
3 work and the preparation work, they can really avoid
4 major problems down the road and that is really what
5 we are trying to get here.

6 Yes. There is real confusion here
7 because I am hearing that this only applies when
8 D.E.C. is -- is involved but there are lot of issues
9 that never really make it through the D.E.C.

10 I mean, you know, right now for
11 example the planning commission of Troy, the Troy
12 Planning Commission is the -- is the lead agency in
13 the generic -- generic environmental impact statement
14 for the south campus expansion. And, you know, I am
15 very concerned that the language used throughout this
16 text only applies to D.E.C. and not to other
17 reviewing agency. And very often the problem are
18 that the planning commission -- I mean in Troy -- we
19 have the worst planning commission you can think of.

20 They are so pro-business that, they
21 are all they -- that -- that they are the one who
22 will, you know, allow this short E.A.F. to go through
23 and they are they one we are suing. So, you know,
24 what happened, you know, when the -- the -- the, you

1 know, what are going to -- how this recommendation
2 are going to be, not just applies to D.E.C. but to
3 all agency that are involved in planning. Thank you.

4 MS. CONLEY: Great, you have
5 had --.

6 MS. DELOAYZA: Yes. And then we
7 are going to have leave this and we can go back at
8 the end for greater discussion because we have more
9 topics that -- that -- so we are going to take this
10 as the last comment --

11 MS. CONLEY: Bef -- before you --

12 MS. DELOAYZA: -- and we will have
13 comments after the whole.

14 MS. CONLEY: Before you start I
15 just wanted to address some of the comments that --
16 some of the -- the concerns that he had here because
17 I think a lot of them are addressed in the report and
18 we just have not talked about them yet.

19 You mentioned the problem with the
20 low income definition and if -- if a particular
21 community does not meet that percentage that then you
22 know then it does not looked at. The system that
23 E.P.A. set up, it uses specific cut off points but in
24 their policy and with -- with respect to how they use

1 that process they state that that is only -- that is
2 the first look. They look to see if the community
3 meets the cut off. If the cut off -- if the cut off
4 in New York for low income is the community must be
5 at least twenty-four point eight percent low income
6 in order to be considered a low income community.

7 Let's the say the community is only
8 twenty percent low income, it is close it -- it will
9 tell the E.P.A. or it will tell the D.E.C., okay you
10 know it -- it's in the range maybe it is still worth
11 looking. So, even though they -- they have cut offs
12 but they -- but they are guidance in how they use it
13 says, you know, just because it does not meet that --
14 that cut off does not mean it is the end of the road.

15 You -- you need to still do a
16 little more work and look a little further.

17 MR. MAIR: (Off mike) Just a
18 little add to the conversation on the reverse
19 discrimination and, the, you know, in short the
20 policies while looking at, you know, communities of
21 color because of recognizing a phenomenon whereby
22 communities of color, and low income communities are
23 adversely impacted -- is not to try to ask the State
24 to correct or -- as they deal with a problem that is

1 now quite significant as Aaron Mair -- Arbor Hill

2 Environmental Justice.

3 Specifically, it is in response to

4 as I say the adverse impact that you are -- that we

5 are now trying -- and nationwide to -- as I say make

6 sure that these impacts or these peaks start to, as

7 they say, be eradicated or somehow be dealt with.

8 And it is not at the expense of other folks and

9 other, you know, people being treated equally before

10 the law. In fact we are trying to deal with these

11 special populations. And more importantly this is

12 not an affirmative action issue, so the concept of

13 reverse discrimination is just totally and

14 empirically not the case.

15 Communities of color do not control

16 corporations. They do not control the -- in fact if

17 you look at the number of -- control the number of

18 minorities doing businesses and their ability to site

19 them in white communities, the science that would

20 bear that kind of analysis out, which is totally --

21 totally wrong. So, in short this is like dealing

22 with communities that are burdened and if anything by

23 looking out by the weakest link in the environmental

24 community you actually improve the regulation to all

1 communities because not only are you putting a new or
2 lowering the threshold bar by which you are taking an
3 additional load and scrutinizing the regulations, as
4 well as permanence and what have you. But this
5 becomes a tool of empowerment for all communities and
6 all of New Yorkers. So it, actuality by dealing with
7 environmental justice, D.E.C. is going for a much
8 more rigorous review of permits in general. So I
9 just want to make that -- make sure that is clear on
10 the record.

11 MS. CONLEY: Yes. And that comment
12 is in with respect to the suggestion that we do full
13 E.A.F.s for every -- all unlisted actions which was
14 the suggestion.

15 MR. DAILLIE: (Off mike) That is
16 right. That is were I have a problem because if you
17 limit the -- let's say that it is only for an
18 interaction that are occurring in those communities.

19 MS. CONLEY: All right. So you
20 would like to see them everywhere?

21 MR. DAILLIE: We want to include it
22 everywhere.

23 MS. CONLEY: For everyone.

24 MR. MAIR: But I -- I want to say

1 that is fine -- I guess that, what they call it

2 reverse discrimination --

3 MS. CONLEY: Right -- right.

4 MR. MAIR: -- I want to correct

5 that. I think that it is good to call for a

6 broadening of the policy, but it is not that you are

7 treating one community differently.

8 In fact, my opinion is that once

9 D.E.C. goes down that path it will look at this tool

10 in general. So, if the -- if -- if the -- if the

11 commentor is suggesting that they need to go further,

12 then I can support that. But I just want to get away

13 from the rhetoric which is in my opinion racist

14 rhetoric which goes back to affirmative action when

15 they start playing the game of reverse

16 discrimination.

17 It is not applicable here.

18 MS. CONLEY: Okay. Another --

19 another comment that you mentioned was holding

20 scoping processes before the significance

21 determination. And, I guess the purpose is just to

22 get information out to the community like public

23 meeting type things. In our recommendations on page

24 seven, we talk about encouraging -- the D.E.C.

1 encouraging applicants to conduct meaningful and
2 effective public participation. And one of the --
3 the census suggest that the applicants use tools such
4 as notices, project newsletters, presentations to the
5 community, facility tours, news conferences. So, you
6 know we -- we are suggesting somewhat in there
7 that -- that some of these introductory public
8 meetings do occur. So, hopefully, that will -- will
9 help your concerns.

10 MR. GREGG: Much like the public
11 information programs you have mentioned about Article
12 X and the energy facilities, implementing those kind
13 of HIP programs now.

14 MS. CONLEY: And, then just lastly
15 with respect to these recommendations replying --
16 applying only to the D.E.C. and the fact that there
17 are still so many other agencies out there that
18 review and take the lead on these -- these -- these
19 actions. The advisory groups charge was to develop
20 recommendations for the D.E.C. and that is what was
21 done here.

22 And we did recognize -- many of the
23 advisory group members recognized that perhaps it
24 can't stop there and one of the suggestions --

1 towards the end is the suggestion that the D.E.C.
2 encourage either the legislature or the governor to
3 require other local or -- or other agencies other
4 that the D.E.C. or local agencies or what have you,
5 to actually start their own -- start doing their own
6 environmental justice programs and perhaps adopt some
7 of the recommendations that we have here.

8 MS. DELOAYZA: Thank you.

9 FROM THE FLOOR: Could I ask one
10 process question.

11 MS. DELOAYZA: Yes.

12 FROM THE FLOOR: Is it okay if we
13 just -- several things, you know, throughout -- are
14 of -- at least they are things that I would like to
15 address but I prefer till wait to the end and --

16 MS. CONLEY: Absolutely. Yeah that
17 is fine.

18 MS. DELOAYZA: But, the way what we
19 are doing here is allowing after each section --

20 MS. CONLEY: Right.

21 MS. DELOAYZA: -- and there will
22 also be time at the end.

23 MS. CONLEY: Yeah.

24 MR. DAVIS: My name is Nathaniel

1 Davis. I am an Arbor Hill resident and with all due
2 respect to the gentleman who just left the podium, I
3 am not really sure where you live but I do know where
4 I live.

5 Arbor Hill is a dumping ground,
6 okay. And --and when the D.E.C. puts this policy
7 together, yes, they should make special emphasis for
8 African and low in -- for African-American low income
9 communities because that is where a lot of the damage
10 is being done.

11 The fact of the matter is what
12 happened to the Temple of Condominium Association's
13 property, what happened to their health, does not
14 happen, you know in communities other than low income
15 communities as often as it does.

16 You know, this is a common place
17 here for us. You know, we are not, you know, out
18 here at these meetings because it is fashionable to
19 be here, but we have general health concerns. We
20 have concerns about our very lives. Okay. Now, if a
21 business wants to come in our community in the
22 process of building its business, or its business
23 operating is going to kill us and our families, then
24 we quite frankly do not want them here. And I think,

1 you know, your comment about the D.E.C. not -- you
2 know, not showing any -- any interest in these things
3 before is really irrelevant at this point because now
4 under Commissioner Crotty, they are showing interest
5 and -- and we want to make sure, you know, while they
6 are out here trying to get out input that we should
7 tell these guys our concern. Now, I -- I understand
8 this and this country is here for everybody --
9 everybody, and it is supposed to be equal for
10 everybody -- but the African-American communities,
11 the low income communities, are not represented when
12 it comes to environmental justice.

13 They are not represented when it
14 comes to being respected by municipalities. Okay?
15 And the municipalities here in Albany do not even
16 follow their own laws. Okay? So, the D.E.C. needs
17 to clamp down, they need to make it tougher, you
18 know, for our communities, because we are the ones
19 that are dying, we are the ones that are suffering
20 here and we do not have the dollars, we do not have
21 the money to throw at these folks, you know to -- to
22 halt their projects and sometimes we do not even have
23 the know-how, you know. Thanks to -- thanks to
24 groups like Arbor Hill Environmental Justice and W.

1 Haywood Burns Environmental Education Center, you
2 know, we have righted some of the wrongs. We have
3 put a temporary Band-Aid on some of the wounds but we
4 need more than that, you know, we need to be in
5 these -- in this policy and it needs to be, you know
6 strictly enforced. It needs to come down heavy on
7 folks who try to kill us because that is what they
8 are doing. Thanks.

9 MS. CONLEY: Thank you we are -- we
10 are getting a lot of very good comments and I
11 appreciate everyone's comments very much.

12 MS. DELOAYZA: I would like to go
13 on to the next section. Let us go on to the next
14 session, so we have we time at the end for general
15 comments. Thank you.

16 MS. CONLEY: Talking about the
17 Environmental Impact Statement; once a determination
18 has been made that there is a significant -- there is
19 a potential for significant environmental impact,
20 there is a requirement that the applicant perform an
21 analysis to see how these impacts will affect
22 surrounding areas. One of the -- the regulations say
23 that a scoping, they recommend that a scoping section
24 be done and that that scoping section include public

1 input, public comments.

2 The advisory group -- it is not
3 mandatory it is a suggestion, often times the
4 Department of Environmental Conservation does use
5 scoping sessions and I think pretty regularly uses
6 them but other agencies may not.

7 The advisory group suggested that
8 if a low income or a minority community is
9 identified, that scoping should not be discretionary
10 that it should be mandatory. It should be done and,
11 there should be extra effort to make sure that the
12 community participates in that scoping section --
13 session.

14 The -- public comments on the
15 Environmental Impact Statement. Right now the
16 regulations state that the lead agency must have a
17 public comments on the Environmental Impact Statement
18 for no less than thirty days. It can be longer but
19 it can be no less than thirty days. The advisory
20 group suggests in their report that that be expanded
21 to a minimum of sixty days again giving the community
22 or other parties additional time to review the
23 information in an application and comment if -- if
24 necessary.

1 Public hearings, one of the
2 suggestions, as well as, that if a low income or a
3 minority community is identified that a public
4 hearing be required. That is another area that it --
5 it's discretionary, it does not necessarily need to
6 occur.

7 But we are suggesting that when
8 there is a low income minority community that there
9 definitely be a hearing. The advisory group goes on
10 to talk about the -- the environmental impact review
11 and suggests that perhaps the D.E.C. should have
12 better guidance on how these environmental reviews
13 should be done; have maybe fliers with some specific
14 examples just -- just be a little more detailed on
15 the things that should go into an Environmental
16 Impact Statement.

17 And that there also be some type of
18 an environmental justice analysis to find out whether
19 the impacts that may occur from this facility, will
20 in fact adversely and disproportionately affect a low
21 income or minority community.

22 So that be part of -- of the
23 Environmental Impact Statement. If the determination
24 is that there -- there is a disproportionate adverse

1 impact on a low income minority community, then we
2 need to find out whether there are any ways to -- to
3 mitigate to -- to erase those -- those impacts or --
4 or to -- to lessen them. And, you know, perhaps use
5 some type of -- of technology or other mitigating
6 methods in order to lessen those impacts.

7 Page seventeen; one of the -- one
8 of the small recommendations or -- one of the
9 recommendations we touched on but did not flesh out
10 is talking about traffic generating facilities.

11 In New York City primarily this
12 is -- this is a case and they want to make sure that
13 any large, any traffic, any project that may generate
14 a lot of traffic that -- we make sure that that gets
15 an Environmental Impact Statement.

16 So, the suggestion is that D.E.C.
17 look at the standards that it has right now for
18 traffic generating facilities. And, perhaps I think
19 it is -- it is currently at the threshold is -- let's
20 see, an environmental impact statement has to be done
21 for traffic generating facilities with a threshold of
22 a thousand vehicles or more. And the suggestion is
23 perhaps that needs to be lowered, so that we are
24 looking at -- at, you know, there may be, you know,

1 traffic generating facilities that are -- that have
2 five hundred cars but -- but still impact
3 communities -- communities of color and -- and low
4 income communities. So there is -- there is a
5 suggestion to take a look at that.

6 When we talk about all the
7 recommendations in -- with respect to permitting, we
8 are looking at what are categorized as new
9 applications and major modifications. We dealt with
10 renewals a little se -- a little differently and Jeff
11 is just going to briefly talk about how we handle
12 renewals.

13 MR. GREGG: Renewals general --
14 generally apply to the programs like air and water,
15 what have you, they are required to come in on a five
16 year or ten year cycle and renew their permits and
17 this -- this is really -- this is not for any
18 modifications or whatever. It is just a process that
19 they are required to go through.

20 The advisory group spent a lot of
21 time on this issue. We realize that this is not an
22 area that -- that there is lot of room for change but
23 that there is a lot of opportunity for education of
24 community groups and the public that -- that the

1 opportunity is to have impact, have change on a
2 facility, arise out of the regulations that exist
3 currently at this point in time in Uniform Procedures
4 Article 70.

5 And if -- if you have the
6 recommendations in front of you, what we have done on
7 page eighteen, is articulated all of the things that
8 the public can use as a way to address concerns they
9 might have with a facility, if they have discovered
10 something new about a facility, a new -- a mission
11 coming out or whatever and it has not been publi --
12 publicly notified or whatever. The -- the list of --
13 of opportunities for addressing those concerns are
14 listed here and I will read those to you.

15 The application involves a material
16 change in existing permit conditions or the scope of
17 the permitted actions. There are newly discovered
18 material information or there has been a material
19 change in environmental conditions, relevant
20 technology or applicable law or regulations since the
21 issuance of the existing permit.

22 This is a case of your making the
23 de -- you know, this is where the department actually
24 has a -- an opportunity to do something but

1 sometimes, you know, we -- you know, it is the public
2 that brings those kind of things to our attention.

3 Number three an opportunity for
4 public comment and/or hearing as required by law or
5 as deemed necessary by the department. The renewal
6 application is not timely or sufficient.

7 And then the grounds to modify
8 are -- are very similar to these but I will -- I will
9 read them nonetheless. They -- they include a
10 materially false or inaccurate statements in the
11 permit application or supporting papers, failure by
12 the permittee to comply with any terms or conditions
13 of the permit. Exceeding the scope of the project as
14 described in the permit application. Newly
15 discovered material information or material change in
16 environmental conditions. Relevant technology or
17 applicable law or regulations since the issuance of
18 the existing permit, or non compliance with
19 previously issued permit conditions, orders of the
20 Commissioner, or any provisions of the Environmental
21 Conservation Law or regulations of the department.

22 MS. CONLEY: Thank you.

23 So, essentially renewals are going
24 to be handled the way they are handled currently. We

1 will get an application for renewal and we will
2 process it the way we have been processing it.

3 What Jeff was just reading to you
4 are regulations that have always existed that would
5 allow the department, if one of these situations
6 occur, to treat a particular renewal application as a
7 new application.

8 A renewal will not -- will not be
9 subject to an environmental justice analysis if it
10 comes through as a renewal. We will -- we will
11 process it. However, if -- if in the event that some
12 of these conditions occur and we treat it as a new
13 application, that will go through all the -- the
14 recommendations that you have heard -- heard here
15 tonight.

16 One of the significant things
17 with -- dealing with renewals because there is a
18 concern that -- that -- that facilities that already
19 exist in communities have violations, they are
20 renewing their permit but they may not be in complete
21 compliance. And, if they are in compliance with the
22 regulations perhaps the community has other issues
23 with them.

24 So, some of the recommendations

1 refer to making sure that the D.E.C. has appropriate
2 enforcement information, any information from the
3 community as they are determined -- as they are
4 processing this renewal, so that before the renewal
5 is actually granted the violations can be corrected.
6 and -- and those things addressed in the community.

7 So there are things that we are
8 doing with the renewals but they are not going to be
9 subject to the full environmental justice analysis
10 that has been talked about earlier.

11 That is it for this section I just
12 have the last few additional items if some -- does
13 anyone want to make a comment now or I can --?

14 MS. DELOAYZA: Yeah. And when we
15 do this, I would like to keep it at about -- I am
16 looking at the time now and I know that people want
17 to make comments at the end. So, if we can be brief
18 and I know the gentleman wants to speak. Would you
19 come up to the front and speak. But I would like to
20 confine this to a ten-minute period, if we can.

21 MR. DAILLIE: Yes at the bottom of
22 page fourteen it says group recommend that the D.E.C.
23 requires that to the extent practicable applicants
24 have made all drafts and final E.I.S.s in electronic,

1 read-only format. Now -- what do you mean by to the
2 extent practicable?

3 And I think to be -- you need to be
4 much more specific about that. For example BESICORP,
5 just put its E.I.S. -- application E.I.S., I mean
6 D.E.I.S. on their web site but it is only the text,
7 it has no tables. So I understand that they would
8 not put oversized maps. But tables fit on a regular
9 sheet of paper and how can one find out about air
10 pollution in our community if those information are
11 not provided. So, you know then you have to go to
12 the library. Well I think that BESICORP can
13 certainly afford to put the tables on this web site.

14 Finally, I would -- I would like to
15 come back to this issue of reverse discrimination. I
16 am reading the advisory group recommend that a full
17 E.A.F. be required for all unlisted action occurring
18 in or likely to significantly affect the minority.
19 All unlisted action occurring in a minority or low
20 income -- all action in one particular community and
21 the community next door does not have the right to
22 have a full E.A.F., I am sorry if anyone here was
23 offended by that but I am a community activist, I
24 work in the trenches for whoever -- whatever

1 neighborhood, you know, faces a problem, you know,
2 and there are, you know, what is low income, how do
3 you define low income.

4 Yeah, the poor people give me a
5 number, give me a number, you know, those statistics
6 come from the census, you know, they do not reflect
7 the opinion of many community who feel that they are
8 low income. And, you know, and they have three jobs.

9 So, you know I -- I have problem
10 with the text that the community two blocks down the
11 road would not be able to have a full E.A.F. You
12 have to be careful what you say and how you say it.
13 And again, you know you might create problem for
14 the -- for another poor community -- for that poor
15 community, so called, you know low income community
16 who is going to put tremendous regulation. So that
17 the business is going to go next door not in that
18 community because it becomes so complicated because
19 now they are required to do a full E.A.F. So, they
20 are going to go two blocks down the road where they
21 do not have to. So, what I am saying is I want -- I
22 want more I do not want less, but I do not want that
23 this create also, you know, problems later on and --
24 and so you have to be careful with how this language

1 is put together.

2 MS. CONLEY: Thank you.

3 MS. DELOAYZA: Okay, thank you.

4 Yes, sir would you come to the front. Thanks.

5 MR. ZIEMBA: Hi. My name is

6 Russell Ziemba, and I live in Troy. I am member of

7 the Rensselaer County Greens. You know, mentioning

8 the E.A.F. as -- as an effective tool to flesh out --

9 flesh out important issues, I have seen too many

10 E.A.F.s -- full E.A.F.s that is only like ten or

11 twelve pages long, with yes and no questions, about

12 twenty questions or so, where very specific questions

13 are asked and the applicant does not answer them

14 correctly; very common. Like a -- a place in the --

15 the Pine Bush where there is a huge sand dune the

16 University -- the State University of Albany, are

17 there any -- are there any sand dunes on the

18 property; no. You know, it is a -- it is a

19 geological feature that is right there, in the case

20 of an Eckerd who wanted to go into Lansingburgh where

21 there is a Frieffer Bakery and the Riverside Club.

22 Are there any historic buildings;

23 no. Is there any of impact on traffic; yes. There

24 will be an -- even though they are going to be a lot

1 of extra cars, sixty-five car park lot two entrances
2 on -- on an intersection, it has to be a positive
3 impact because we are going to put a bus stop. Well,
4 maybe that is the positive impact but how about the
5 negative impacts. Any impact on character or
6 esthetics of the community, no, no impact. If you
7 put a drug store in a -- in a community -- a big buck
8 drug store, I think that is an aesthetic impact.

9 Are -- are there any impacts on
10 public open space or and the proposal was to put a
11 bike path in the back which could through anyway.

12 Yes, it would be a positive impact,
13 even though I -- I think that it would be a negative
14 on walking in the community because the traffic lanes
15 would be expanded, it will be harder to cross the
16 intersections. There is not real provision for
17 so --.

18 MS. DELOAYZA: Okay. So I am
19 wondering because what you are saying is --

20 MR. ZIEMBA: So, I am just saying
21 that --

22 MS. DELOAYZA: -- the quality of
23 these reports is your concern.

24 MR. ZIEMBA: The quality -- right,

1 is -- is there someone checking on that. I mean even
2 as -- as citizens groups we -- we write comments for
3 Environmental Impact Statements and I think our
4 comments are either neglected, minimized or and you
5 know -- we -- we bring that up all through the
6 process, from scoping to the -- to the finalization
7 of the finding statement and it seems like there --
8 you know.

9 MR. MAIR: Aaron Mair, Arbor Hill
10 Environmental Justice, and I -- Russ hits a very
11 important point. The issue is we also already have
12 very good tools but the question here is whether or
13 not somebody is really looking at it. Just even to
14 add on one with regards to the Pine Barrens City has
15 basically got a lateral expansion of landfill and it
16 pretty much is try to write off the ground water
17 and -- and tried to even assert in one of their
18 defenses, that nobody with -- within the city are
19 actively using the ground water.

20 I beg to differ. In fact they
21 permitted Two Cousins to pump ground water and they
22 have a permit to use ground water to manufacture ice,
23 as well as for the fish and the production of food
24 products out of Two Cousins. So, on one end they

1 are -- for the convenience of expanding the landfill
2 in their permit they are asserting that the ground
3 water is not actively used within the water shed.
4 When in fact they permitted a -- a business which
5 happens to be the capital region's largest distrib --
6 distributor of seafood and seafood products, which
7 has a tremendous demand for water for ice to the --
8 to use that. So, I think somebody needs to
9 scrutinize the assertions of some of these
10 applications, like, because, I think a lot of the --
11 the tools that we have are there and an absolutely
12 the check box, I think there needs to be a
13 reasonable -- reasonable test, that if there is
14 clearly material deficiencies where you can clearly
15 see that they check one thing. And if there is a --
16 a given fact opposite, I think D.E.C. needs to
17 seriously clamp down on that. I think that if D.E.C.
18 clamps down on the misuse of the E.A.F. form, where
19 even their assertion strain credulity. I think that
20 we -- that is one way we sought to bring about, as I
21 say some sort of equitable treatment. Also I want to
22 add clarification because I think that is a kind of
23 misleading to say with regards to, again deciding a
24 permitting, where something is located in an E.J.

1 community verses non E.J. community. What folks are
2 missing, is that part of the science is something
3 called cumulative impact as well as loading. What
4 happens is in E.J. areas there tends to be a loading
5 of these type of facilities. It is not just a
6 facility by facility analysis or part of the analysis
7 looking at the characterization of an area. Does --
8 how many permitted facilities does it have, it is one
9 thing to say, you know, you need to look at for a say
10 waste transfer station, but if the area happens to be
11 loaded with eighty percent of the waste transfer
12 stations for an entire region, obviously there is a
13 problem. And if an area already happens to be loaded
14 with a lot of negative amenities and businesses, it
15 happens to be a problem. And concern need not be
16 just for the fact that it will stigmatize the
17 community and drive away jobs, to the contrary. If a
18 job is causing adverse health and adverse quality of
19 life, then it is making the community unlivable. So,
20 you know, quick -- it's a false choice that
21 unfortunately low income communities have to make
22 between a poor environment and jobs.

23 The issue is they should also be
24 equal sides for corporate parks, where things that do

1 not pollute. So the thing is, as I said, it is more
2 than just looking at the narrow aspect of this -- at
3 the work that we have done. I am a proud participant
4 in this -- this committee, but what is -- what belies
5 this is that there is a significant body of
6 leadership that deals with the over sighting of
7 certain classes of industries and businesses in an
8 area that is predominantly low income.

9 So, it is just not only the
10 applications and the process that lead to it or
11 enable it, this is what we are seeking to deal with
12 but there -- there is a recognition that these
13 communities already carry a disproportionate burden
14 and the science and the analysis and the researches
15 has borne that out. And, so the question is do we
16 have the tools now to kind of lessen that burden or
17 at least not allow things to get worse.

18 This is not to push things away but
19 also, again raise the awareness of policy makers and
20 not only just for low income communities but even in
21 general that if we are sensitive to the load of any
22 area regardless of race, creed, color or in --
23 income, it starts to reeducate policy makers as they
24 start feeling with the siting of facilities and they

1 are -- put their general impacts on communities.

2 So, I think that again this policy
3 raises a level of awareness and environmental health,
4 environment and public health protection that
5 heretofore was not there.

6 There is a level of sensitivity as
7 result of this process that benefits all New Yorkers.

8 And again, I am proud that the -- the -- the
9 commissioner has embarked on this effort and we want
10 to encourage it. Thank you.

11 MS. CONLEY: Thank you.

12 MS. DELOAYZA: I am going to -- I
13 am going to ask you to continue on to the next
14 section and if you have a continued comment on this
15 section to hold them till the end when you have an
16 open forum.

17 MS. CONLEY: Okay. I will quickly
18 go through this. I just wanted to -- to address the
19 question the -- the comments that were raised about
20 the E.A.F., and the fact that it may not be filled
21 out correctly.

22 Could additional guidance from the
23 D.E.C. on how these things should be filled out,
24 help? And could getting these E.A.F.s out to the

1 public for their review early help as well?

2 MR. ZIEMBA: I think both of those
3 things would be helpful because often people do not
4 even realize there is an E.A.F. to be filled out and
5 they don't see the conflicts in the statements.

6 MS. CONLEY: Okay. Thank you. I
7 am just going to briefly touch on the last section
8 which talks about recommendations with respect to
9 E.J. that don't unnecessarily touch on -- on -- on
10 permitting.

11 MR. GREGG: Sure, the group did --
12 the advisory group had one Native American
13 representative within the group. He was Jim Ransom,
14 from, you know, the Mohawk Nation Council of Chiefs
15 up in Akwesasne. Basically the outcome of his
16 involvement and our own recognition, the advisor
17 groups own recognition was that that the recognition
18 of the -- the sovereign status of the Indian nations,
19 the federal trust responsibilities, the -- the -- the
20 uniqueness of -- of Indian lands in New York State,
21 and what have you. So a whole separate section
22 was -- was devoted to that particular issue of
23 separating it from some of the recommendations of
24 the -- of -- for E.J. generally and basically they

1 came out with the -- these six enumerated
2 recommendations you find on page nineteen that --
3 that deal with the -- the department developing its
4 own Indian policy statement for one. That the
5 Commissioner of the Department of Environmental
6 Conservation should meet annually with the various
7 nation leaderships of the Indian nations. The
8 department should develop a culture awareness program
9 focusing on Native Americans but which will be
10 actually incorporated when we do this into our
11 sensitivity training will do it for all staff, on all
12 issues but we will incorporate a Native American
13 component into that when we do it.

14 The department should develop
15 agency specific contact and consultation guidelines,
16 basically in this case paralleling what a lot of the
17 federal agencies are doing at this time under a -- an
18 executive order of the President. The D.E.C. should
19 just -- just support taking steps to evaluate laws
20 regarding excavation, disinterment, removal
21 alteration, impairment, disturbance of human remains,
22 in other words burial issues, that the department
23 take a look at that and that the -- the department
24 and the State Historic Preservation Office and the

1 State Museum establish protocols for the State
2 agencies to share archeological information of
3 importance; including maps and site files, with the
4 nations. This is an issue that many of the Indian
5 Nations have that -- this information has not been
6 made available to them in the recent past and it is
7 information related to their own ancestors. So,
8 those are the six basic recommendations of the -- of
9 the group.

10 MS. CONLEY: Thank you. The -- the
11 last few -- are, you know, pretty self explanatory.

12 There was a recommendation that the
13 advisory -- the efforts of the advisory group that
14 have been used to put together this recommendation
15 report be continued and made permanent -- a permanent
16 advisory group to the D.E.C. So, that as these
17 recommendations are implemented we have an advisory
18 body including people from the community, people from
19 the regulated community, government officials. So
20 that they can receive guidance as we -- we try and go
21 forth to achieve environmental justice. Assessing
22 the distribution of -- of green environmental
23 benefits and making sure that they are equitably
24 distributed to all residents of New York State. A

1 lot of environmental justice focuses on correcting a
2 disproportionate adverse environmental impacts on low
3 income minority communities, then there is also the
4 other side to it. It's getting -- getting the
5 benefits to the communities, getting the -- the park
6 lands, getting -- you know the -- the better
7 technology for certain plans just making sure that --
8 that we are improving these communities as well. Not
9 just preventing the bad stuff but -- but actually
10 doing proactive things to improve the communities.
11 So, the suggestion that we look and see where --
12 where the money is going and either encourage the
13 legislature to make appropriations in these -- these
14 low income minority areas or where the D.E.C.
15 controls giving out this money that we make sure that
16 it is equitable throughout the State.

17 Assessing our enforcement efforts,
18 just taking a look at how we do enforcement, where we
19 do enforcement and making sure that it's occurring in
20 low income and minority communities. Looking at
21 facilities or activities that may not be subject to
22 an environmental review, for instance it may be
23 Metropolitan Transportation Authority going through
24 an action they don't necessarily need to go

1 through -- an environmental quality review and
2 that -- that the advisory group wants the D.E.C. to
3 look at those actions, just to make sure that if
4 there is low income minority community that may be
5 affected that -- that those authorities be encouraged
6 to do the review.

7 Reviewing the D.E.C.'s
8 organizational structure to make sure that this
9 program continues to be effective and achieve
10 environmental justice; make sure there is enough
11 staff, enough funding, make sure there is a proper
12 staff, perhaps getting a sociologist or just
13 different staffs to address problems of -- in -- in
14 low income minority communities, developing a
15 translation policy, trying to figure out which --
16 what documents can be translated for the communities.
17 And, then, as I mentioned earlier requiring state and
18 local government agencies to address environmental
19 justice, that is where the advisory group took a look
20 at -- at all the good suggestions we have come up
21 with for the D.E.C. and saying that they should be
22 extended to other agencies and the D.E.C. should
23 encourage that to be done.

24 So let's I -- I thank you for your

1 patience -- I have -- I have, you know I have gone
2 through very quickly I mean, I do not want to burden
3 you, I have been talking enough. And, so, there are
4 a few things in here that -- that had not been
5 touched on. I encourage you to take a copy of the
6 report home with you, you know, and submit additional
7 comments or give me a call to discuss them.

8 MS. DELOYZA: And I would like to
9 give ten minutes on this area; specifically to this
10 area and then we have a remaining forty minutes for
11 open discussion of report.

12 MR. MAIR: I have just -- just a
13 brief clarification about Native Americans
14 communities. A lot of folks are not -- again this is
15 not a set aside or a special handling the -- the Jim
16 Ransom actually was a Nation representative and so
17 actually our body had the privilege of having a
18 representative of the sovereign nations of Native
19 Americans, that are recognized by treaty to be a part
20 of this body. Normally, in my opinion, it should
21 have been either meeting with governor or meeting
22 with the President of the United States. So, there
23 are issues, you know, people tend to want them on par
24 with average communities, but these are sovereign

1 nations and to have a representative there, again is
2 not an issue of separate treatment. But, it is
3 recognizing those nations that are actually
4 recognized by our constitution and treaty and, so,
5 therefore they are representatives being a part of
6 this body again was an important piece and equally
7 more important their needs being addressed is
8 important.

9 So I want folks to understand again
10 this is not a case of reverse discrimination, but
11 again this was a issue again of making sure that
12 those voices, you know, are heard and again that --
13 that they are bringing more that a significant
14 adverse impact with regards to dumping and -- and
15 that their needs were brought to the table.

16 So, I know that we have to deal
17 with a delicate political issue of, you know, do they
18 have a separate process or what have you, but they --
19 the chiefs were -- were gracious enough to
20 acknowledge and honor our -- our process. So I want
21 folks to understand that this was not, you know, them
22 versus New Yorkers or what have you. These are --
23 these are sovereign nations and the respect that is
24 duly accorded to them, you know, is again, you know,

1 I think we tried to -- I think the process tried to
2 reflect this so I just wanted to add that piece of
3 clarification.

4 MS. DELOAYZA: Thank you Aaron.

5 Any other comments on this segment. Yes.

6 MR. DAILLIE: (Off mike) Just a
7 comment regarding the green environmental benefits.

8 I have just heard recently that D.E.C. is still
9 holding a hundred and twenty-five million dollars,
10 that it has not spent on cleaning up all those sites.

11 So I have -- just one more comment on that. It seems
12 that we have the money, we are not even spending it
13 where it is supposed to be spent.

14 MS. DELOAYZA: Yeah.

15 MR. MAIR: My understanding is that
16 not the legislature -- legislature or -- is it the
17 legislature or the Governor that controls that money?

18 MS. CONLEY: You know, I -- I
19 cannot comment on that.

20 MR. MAIR: Okay.

21 MS. CONLEY: I -- I do not know.

22 MR. POKALSKY: It has not been
23 authorized for spending by the legislature.

24 MS. CONLEY: Okay.

1 MS. DELOAYZA: So, should we -- so,

2 now --

3 MS. CONLEY: Thanks.

4 MS. DELOAYZA: So, now the -- the

5 table is open for or the floor is open for any

6 discussion, anybody who would like to come up, make

7 comments and -- to please take the podium and -- I

8 think probably I should have done --

9 MS. McDOWELL: Well, I am first

10 anyway.

11 MS. DELOAYZA: There you are,

12 right.

13 MS. McDOWELL: I am Geralyn

14 McDowell from Rosa House Peace Community at 2251 Old

15 Sixth Avenue in Troy. We are still under the color

16 city bridge. We are still at the intersection of

17 racism and classism. The only difference it is

18 becoming more clear that our neighborhood is to be

19 sacrificed for any progress that is being done in the

20 city of Troy.

21 I appreciate Aaron providing me

22 with some new language tonight talking about loading,

23 we are -- since I was here last, a year and a half

24 ago, we have been loaded with two more parking lots

1 and there is definitely an over-siting of parking
2 lots in a very small tract a -- Father Flanigan's
3 Farm Community Garden, where we do an environmental
4 education program with the children, is gasping for
5 breath in a sea of asphalt.

6 Since our last meeting as well and,
7 you know, sometimes we forget that we -- we go to so
8 many of these that this is a process we were here
9 together before we are making a little progress here.
10 Our community published River People and I would like
11 to enter that into the record. River People looked
12 at the issues of environ -- looked at the issue of
13 G.E.'s responsibility of cleaning up P.C.B.s through
14 an environmental justice lens. And I was the editor
15 of that, Eric Daillie was the associate editor and
16 Arbor Hill Environmental Justice provided significant
17 information and support.

18 I have extra copies if anyone wants
19 it, it is still good information about P.C.B.s. I
20 will comment in writing on specifics of the
21 permitting process. I have not had time to finish
22 that but a few comments -- general comments I wanted
23 to make. I think we need to remember that if the
24 only tool you have is the hammer every problem is a

1 nail.

2 So, we have to look at things
3 outside of permitting when we are looking at
4 environmental justice. I would like to comment on
5 a -- any additional recommendations for strategic
6 environmental justice program plan, number six and
7 the -- of the goal to develop and implement
8 environmental justice policies, requires increased
9 community interaction, use of a public participation
10 specialist.

11 I would like to look at that
12 language. In -- in the report environmental justice
13 is defined as meant to ensure the fair treatment and
14 meaningful involvement of all peoples regardless of
15 race, color or income with respect to development,
16 implementation, enforcement, environmental laws,
17 regulations and policies. In River People we had a
18 little bit broader definition which we used from West
19 Harlem Environmental Action which is the fair
20 treatment of people of all races, cultures, incomes
21 and educational levels with respect to the
22 enforcement of environmental laws et cetera I think
23 that this is a very important addition because I
24 think as we look at increased participation, a public

1 participation specialist scares me because that is
2 going to be somebody with a lot of degrees from
3 higher education who got this term specialist. I
4 want to see a good generalist. I want to see
5 somebody who knows how to work in the community. I
6 do not want to see credentialism here. It's another
7 yet another ism. Some models that you might look at
8 there that I would like to suggest are the
9 institution -- Institute for Conservation Leadership,
10 the Environmental Support Center, the Institute for
11 Social -- Social Ecology. These are all places that
12 look at popular education that look at how people
13 really are involved in process and filing and perhaps
14 most importantly would be Highlanders Center in New
15 Market, Tennessee where both Rosa Parks and Martin
16 Luther King learned more about how to lead and how to
17 participate. So I think that is very important, that
18 cultural competency be looked at this, do people know
19 how -- whoever is going to work on this public
20 participation piece be able to do this.

21 Second, I would like to look at
22 planning as a civil right, and yet another ism that
23 we see in planning is a lot of cronyism, so that is
24 classist, racist, sexist.

1 We have planning departments, it --
2 as has been mentioned that are uninformed, they are
3 untrained and there are different ideas about how
4 that could be remedied, two that my colleague Eric
5 Daillie has suggested are that local representatives
6 running at a local -- in a local race to be their
7 city representatives in the various district, might
8 run with the people by naming people they would --
9 they would appoint to -- to the Planning Commissions,
10 the local Planning Commissions and another -- another
11 idea would be to see the planning departments, who
12 are these untrained, uninformed people can only be
13 seen as advisory boards and not rendering decisions.

14 And, the third thing I think is
15 really important for us all to remember who are here,
16 is that there are limitations on what the State can
17 do. There are very severe limitations. I remember,
18 years ago when the Martin Luther King Institute for
19 Non Violence was getting going and Thero Raymond
20 (phonetic spelling) who is a member of Albany Friends
21 Meeting, got up and she said, the State and non
22 violence. I came because I was interested in the
23 juxtaposition of those terms.

24 I think we have to remember that

1 the state and environmental justice may not always --
2 may not always be enough. And we have got to think
3 about what we each need to do in our lives and in our
4 communities to involve more than the law and the
5 limitations of the law which as John Mohawk has said
6 is only really about holding property.

7 If we are looking at justice for
8 people who do not hold property, who do not have
9 money, we have to look at matters of the spirit and
10 of building the communities. And the State cannot do
11 it for us we have got to do it ourselves. Thank you.

12 MS. CONLEY: Thank you.

13 MS. DELOAYZA: Eric, you have
14 further comments?

15 MR. DAILLIE: Well, maybe, as part
16 of the next session, or, you know, that -- that is
17 the last.

18 MS. CONLEY: This is the -- this is
19 the last session.

20 MR. DAILLIE: Last chance all
21 right. Don't have too many chances -- I am here in
22 front of me, somebody from the Environmental Permit
23 Division.

24 Because, what I want to talk about

1 is yes -- as GERALYN mentioned, you know, I think
2 that accountability -- I am not pointing the finger
3 at D.E.C. now, but at many other agencies such as the
4 Troy Planning Commission. It is really so important
5 that, you know, it has been suggested that, you know,
6 any issue that comes in front of the Planning
7 Commission should then go to the City Council, so
8 that they vote on it and so that they know about
9 those issue because many people at the City Council
10 know nothing about that. This is an issue that has
11 been on the table for months, years, this
12 revitalization plan, there are new City Council
13 people who -- who ran in November, who live in that
14 community who knew nothing about it. You know, we
15 need to get people accountable and we need more
16 representation.

17 You know, I want to talk about
18 loopholes and -- and -- and problems with the SEQAR
19 process because how does that relate to environmental
20 justice. Well in a way it does because and -- and
21 also, you know, it ties into TAGS, the Technical
22 Assistant Grants because the more loopholes there are
23 going to be in the SEQAR process the more it is going
24 to effect lower income community because they are the

1 one who cannot afford to hire a lawyer and fight, you
2 know, certain issues with the SEQAR. For example
3 there has been a recent abuse of using the -- the
4 Generic Environmental Impact Statement. And Generic
5 Environmental Impact Statement is supposed to be when
6 we do not know what the applicant is. For example of
7 the chip fab in North Greenbush -- fair enough, they
8 were a lot of problem with that, but now it is also
9 being used for when you have, you know, similar
10 project, for example the RPI project, comprise a
11 biotech center, an art center, a parking garage, a
12 boiler plant, a chiller plant. So -- so it -- it --
13 it has been allowed to take this designation as
14 generic. The -- the flaw was this -- Generic -- this
15 G.I.S. is that the applicant is not a -- does not
16 have to provide all the information, all the details
17 about the project. So, in these case for example RPI
18 and the lead agency in this case is the Planning
19 Commission has -- has got underway with not providing
20 information on how the art center is going to look
21 like, a huge massive structure built on the other
22 side of Troy and yet it's not even in the E.I.S. We
23 do not have to -- is generic E.I.S. Oh, well, okay
24 and the size of the parking garage same thing fifty

1 feet, hundred feet high, we don't know, you know, and
2 there are a lot of issue like that -- but these are
3 not answered or postponed to later. You know, we
4 have asked them, you know, what about you will say
5 you are going to use bio-safety level II, but then
6 you are not denying that you might use biosafety
7 level III. Well, we want to know. We have a right
8 to know. You can not just tell us well you know
9 maybe later if we need biosafety level III, but don't
10 you worry because the CDC guidelines we will follow
11 the CDC guideline. It's a segmentation in time where
12 you say to the community, well, we don't exactly know
13 right now, but do not worry, you know, we will deal
14 with that. But we like to know now because the whole
15 project depend on that. What if the community do
16 their own bio-safety level III, then the whole thing
17 is out of the window.

18 You know we need to -- to know that
19 and so this -- there is a really an abuse of the --
20 the generic designation and we have seen it with a
21 chip fab, it was in error and now we see it and is
22 being used, and used and abused.

23 MS. CONLEY: Okay.

24 MS. DAILLIE: This need to be

1 stopped. The same thing is happening with planned
2 district development. Which is another version where
3 you have a whole group of things and -- but very
4 little detail. And one of them is happening in
5 Rensselaer County in the town of Averill Park, where
6 they want to build this -- big huge -- with
7 businesses, nursing home, swimming pool, residential
8 and a lot of stores in the middle of a green field
9 and, you know, we do not know what kind of stores are
10 going to be put there, PDDs are another, you know,
11 loophole that needs to be addressed. Thank you.

12 MS. DELOAYZA: Thank you. Randel
13 Thomas.

14 MR. THOMAS: I have already spoken.

15 MS. DELOAYZA: You have already
16 spoke great?

17 MS. DELOAYZA: Okay, thank you.
18 Velma Fields and Grace Brown, I think you wanted to
19 speak together. Did you?

20 MS. FIELDS: My name is Velma
21 McNeils. I live at 149 Third Street. Now, most --
22 most of the things have been said by Mr. Thomas and
23 Mrs. Stutz.

24 But I wanted to add, there is a

1 impact on the parking and whatever, when they are
2 picking up, when the parents are picking up their
3 children.

4 Now, that a very small street and
5 you are not supposed to park on both sides of the
6 street. Now with me I cannot even get in my driveway
7 I can't get out. They park anywhere, all up on the
8 sidewalk and in the driveway. And, one day I came
9 home and I could not get in, and one of the kids
10 because they loading them on the outgoing traffic
11 side. And the parents are sitting in the car on
12 other side. And they opened up their door on my car
13 and knocked off the rear view mirror and it caused me
14 a hundred dollars. Now, I do not have money to just
15 keep spending -- spend out for someone -- I am not
16 able to even get into my drive or anything. And I
17 have spoken about this several times and nobody seem
18 to be doing anything about it.

19 I spoke to Mayor Jennings, the
20 people that they send out and they claimed that they
21 have put up some signs or something for them not to
22 park.

23 You are only supposed to park on
24 one side of the street at all times anyway, and I am

1 having a very -- I am getting very upset about it. I
2 can't even get out to go to the doctor or anything
3 else, you know. And if the ambulance or fire truck
4 come in, God forbid they cannot get through. That is
5 how much the traffic on that end, where you cannot
6 even get through. You can't hardly get through
7 walking much less a car. So, I am very concerned
8 about that. Thank you.

9 MS. DELOAYZA: Thank you. Susan
10 Stutz?

11 MS. STUTZ: No I already spoke.

12 MS. DELOAYZA: Okay. Jerome
13 Coller, would you want to speak again?

14 Now that is all the names we have,
15 if anybody else who did not register to speak would
16 like to speak at this point, the floor is open we
17 have a half hour.

18 MS. CONLEY: The whole hour is not
19 for you though.

20 MR. MAIR: Understood -- I will --
21 I will try.

22 Again Aaron Mair, Arbor Hill
23 Environmental Justice.

24 MR. MAIR: Did someone leave their

1 stuff up here.

2 MS. DELOAYZA: Yeah, that is mine.

3 MR. MAIR: Okay, all right. But in
4 short, what a lot of communities as you -- as you
5 just heard when a facility is put into a community,
6 things like the E.I.S., are supposed to deal with
7 traffic patterns and other things and unfortunately
8 in E.J. communities these get the short shift because
9 usually a -- and your average community folks will
10 turn out and they would demand or there is a level of
11 responsiveness with regards to local officials and
12 leaders to be sensitive to the needs of the
13 community. And they pretty much enforce the law in
14 mainstream communities. So, one of the principles
15 about E.J. is that the field is uneven. This is not
16 an issue of reverse discrimination where there is an
17 equal opportunity, put it in somebody's back yard
18 versus somebody else's.

19 What happens is -- is that a lot of
20 it already is in the front yard of an E.J. community
21 and more is being added.

22 This community has had to bear for
23 ten years the incineration of waste and garbage for a
24 capital region consortium of communities. It had to

1 deal with, as I say the, West Albany yards with
2 regards to the trucking and shipping by rail of-- of
3 hazardous chemicals to this day and there is -- all
4 the spills associated with that.

5 It has to deal with Benson Brothers
6 Disposable, Inc. which is a waste transfer station
7 which was then eventually phased out because of
8 community effort.

9 It has to deal with a lot of
10 facilities and parking garages that again run against
11 the grain of the community as well as a host of other
12 facilities there, as they say manufacture goods and
13 services of products, but have as they say discharges
14 whether through smoke stack or through water in the
15 communities.

16 So most E.J. communities are
17 already burdened and so it is not an issue of NIMBY,
18 it is about reversing what is what we call, PIPPBY
19 which is a putting in -- putting in poor peoples
20 backyard.

21 So, if we can reverse that and --
22 and as they say not putting on somebody else but, a
23 stop the as they say the dumping on the communities
24 but also at the same time whatever they do make sure

1 the processes are improved, that is something that is
2 important.

3 But the other aspect of it is the
4 process by which that occurs which is through the
5 zoning boards and what happens is -- is our a -- a
6 lot of our community planners and community
7 development officials in the pursuit of getting tax
8 revenues by bringing and tracking businesses. When
9 it comes to low income communities they run rough
10 shod over our rights with regards to the process.

11 Often we are informed too late in the process or in
12 the case of the community in -- in the heart of Arbor
13 Hill, they had no input over loss of the community
14 center. They had no input over the loss of a state
15 funded job training center. They had no loss -- they
16 had no input over the fact that their -- the traffic
17 patterns, just right in a residential neighborhood
18 would be turned into a full blown major school
19 traffic pattern.

20 All these things where the E.I.S.
21 and the D.E.I.S. and all these things that would have
22 been important to tease these things out, and do the
23 analysis. The community was literally denied access
24 to the process and if that just recently the Charter

1 School just went down to deal with its non-compliance
2 with regards to its zoning variance for a facility of
3 that -- of that type. Just so that they can
4 refinance the loan. So, the community saw this as an
5 opportunity to, again air its concerns.

6 They were in short told that is a
7 matter for the courts, if you -- we're going to push
8 the zoning through because they got to get
9 refinanced. So the refinancing issue, not the
10 function of the Zoning Board to whether or not that
11 facility is appropriate for the neighborhood felt
12 that the issue of -- of the Charter School,
13 refinancing getting money was more important than --
14 than them following the laws with regards to land
15 use.

16 So, it is as basic as a result of
17 that failing to happen that people can't get into
18 their homes. And these are things that are more
19 likely to occur in communities like this. And, so,
20 the opportunity to put these matters on the table and
21 the opportunity to present these to the state, the
22 Governor has taken a leap over other states. And
23 that is a very important step. We are hoping now
24 that it goes from the public comment, and if you take

1 all of this and try to assemble it into real policy
2 and real action. I think you are doing a bit more
3 than what has been done in the past. And I think
4 that you are way ahead of the game when comparing to
5 the other fifty states. And, hopefully taking the
6 comments as they are presented and also as they say
7 improving the bar by which permits are given out and
8 a need for more due diligence on behalf of State
9 officials, with regards to really scrutinizing these
10 permits.

11 And paying heed to citizens
12 regardless of background, income or creed. I think
13 we have done, and this process, opens a very, very
14 important door and so from that standpoint, you know,
15 we thank Commissioner for at least having, you know,
16 us as a part of the process and we like to again
17 extend an opportunity to be a part of any future
18 advisory body, if at all possible. So we can
19 continue to improve upon this process. Thank you.

20 MS. DELOAYZA: Thanks. Any other
21 comments at this time. Yes, Daille.

22 MR. DAILLIE: (Off mike) I failed
23 to finish my quote regarding the GEIS, the Generic
24 Environmental Impact Statement.

1 The argument is that, further down
2 if threshold -- threshold are -- if it could be on
3 certain thresholds, then it automatically require a
4 supplemental E.I.S. The problems is that this is
5 very easy to identify when you have measurable
6 threshold such as air emission, traffic volume or
7 whatever, but when you have more subjective issues
8 such as community impact, historic perseveration,
9 visual impact, then what thresholds are used, what
10 criteria are used and that then is up to the local
11 agency, the planning commission for example, and you
12 know what are they going to base the criteria say, oh
13 yeah, you are right, you know, there is some visual
14 impact here created by this art center. Now we know
15 what is going -- we are going to open this
16 supplemental E.I.S. They won't, because on what
17 criteria or visual impact, you say, oh yeah, it has
18 passed that threshold for community character. So
19 really there is a flaw in the -- in the GEIS and this
20 so called SEIS.

21 MS. DELOAYZA: Thank you.

22 MS. CONLEY: Thank you.

23 MS. DELOAYZA: Any other comments?

24 MS. CONLEY: At this point --

1 MS. DELOAYZA: I am coming back to
2 you.

3 MS. CONLEY: Yeah, at -- this is a
4 good point, this, I just like to introduce someone
5 from our staff Drissila Pogon, she has developed a
6 questionnaire, which is going to be distributed in
7 both English and Spanish to ask some questions of low
8 income minority communities. And Drissila if you
9 just want to say a little bit about like --

10 MS. DELOAYZA: Come up here,
11 please. Thanks.

12 MS. POGON: Good evening. My name
13 is Drissila Pogon. I work for D.E.C. with the
14 Division of Fish, Wildlife and Marine Resource. We
15 developed a questionnaire to collect the opinion and
16 interest of the minorities. The questionnaire is in
17 the front table, if you can take a time and fill that
18 questionnaire and mail to me or you are going to
19 bring here and I can pick up the questionnaire here.

20 I would really appreciate that.

21 Okay. Thank you.

22 MS. DELOAYZA: Okay. If -- if you
23 drop them off here would you collect them for us.

24 You can bring them down to the

1 Arbor Hill Environmental Justice office and they will
2 collect them and -- and we can get them. This is
3 something new that this division is trying and we
4 will see how it works and perhaps it will be
5 something that will be extended to other divisions
6 within the D.E.C. It is just a general questionnaire
7 that asks about the uses of, you know, of -- of our
8 water bodies, recreational uses, fishing, hunting and
9 those types of things. So, we encourage you to fill
10 them out and if you want to take a few and give them
11 to your neighbors we encourage that too.

12 MS. POGON: Thank you.

13 MS. DELOAYZA: Thanks. Monica
14 anything else?

15 MS. CONLEY: No.

16 MS. DELOAYZA: No. Then just thank
17 people for coming here.

18 MS. CONLEY: Yeah. It has been a
19 long night and I thank you all for sitting there and
20 listening through -- through all this, you -- you
21 have been a great audience and I have really
22 gotten -- we have gotten a lot of great comments. So
23 enjoy the rest of your evening and I, you know, I
24 thank you.

1 STATE OF NEW YORK

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4 I, Diane Morrow, do hereby certify that the foregoing
5 meeting was electronically reported by me, in the
6 cause, at the time and place, and in the presence of
7 counsel, as stated in the caption hereto, at Page 1
8 hereof; that the foregoing typewritten transcription,
9 consisting of pages number 1 through 117, inclusive,
10 was prepared under my supervision and is a true
11 record.

12 IN WITNESS WHEREOF, I have hereunto
13 subscribed my name, this the _____ day of
14 February, 2002.

15

16 _____

17 Diane Morrow

18 State of New York

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