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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

PUBLIC MEETING FOR COMMENTS ON THE REPORT
Recommendations for the NYSDEC Environmental Justice

Program

Federal Conference Center
Room A, 6th Floor
26 Federal Plaza
New York, NY

Tuesday, February 19, 2002
4:09 p.m.

WINIFRED DeLOAYZA, Facilitator

MONICA ABREU CONLEY, Environmental Justice
Coordinator

AR-TI RECORDING COMPANY, INC.
305 Madison Avenue 142 Willis Avenue
Suite 449 P.O. BOX 347
New York, N.Y. 10165 Mineola, N.Y. 11501
(212)349-9692 (516)741-5235

1 PROCEEDINGS

2 MS. ABREU CONLEY: We're going to get
3 started now. I suspect we'll get some more people
4 after five o'clock.

5 First of all, I just want to thank you
6 all for coming. This is a great turn out and I
7 recognize a lot of faces that I've seen in our past
8 meetings, and I thank you for coming back and
9 participating and helping the DEC create an EJ
10 program, and I also see some new faces. So I thank
11 you very much for attending and, hopefully, we'll
12 have a good dialogue and a good meeting today.

13 I want to introduce myself. My name is
14 Monica Abreu Conley, and I am the New York State
15 Department of Environmental Conservation's
16 Environmental Justice Coordinator. I started in
17 this position roughly two years ago now, and in that
18 time we've been trying to develop an effective
19 Environmental Justice program, and the report that
20 we're going to discuss today is a key element to
21 that successful program.

22 I just want to briefly mention the
23 purpose of this meeting, which is to get your ideas
24 and thoughts on the report that's been presented to
25 Commissioner Crotty from the Environmental Justice

1 Advisory Group, to get what you like, get some
2 feedback, good discussion going on. I'll be able to
3 describe the report to you and we can talk in depth
4 about any questions that you might have. And, also,
5 it's an opportunity for you to give us at the DEC
6 your ideas on maybe something that might have been
7 left out from the report, that you think the DEC
8 should consider when it's implementing its
9 Environmental Justice policies.

10 The purpose of this meeting is really to,
11 as I said, focus on the report. It's not to focus
12 on individual projects in communities, and those
13 projects are quite important and very key, and if
14 you're using them, as far as an example, to
15 illustrate something in the report, something that
16 might work, something that might not work, that will
17 be very helpful. But if there is something that
18 you're looking for, specific help for an issue in
19 your community, I would ask that you call my office.
20 Up on the table up front there's a flier that has
21 our new 1-800 number and I encourage you to call my
22 office. This way I can get the background that I
23 need in order to address your concerns and also
24 connect you with the people that you really need to
25 talk with, the people that are actually dealing on a

1 day-to-day basis with your issues.

2 I just want to give you a little
3 background. As I mentioned, this program was put
4 together two years ago and at that time my position
5 was created, the Environmental Justice Coordinator,
6 and two other positions were also created, and those
7 positions are in our Division of Permits. One
8 person works in Albany, his name is Jeff Gregg, and
9 he deals with Environmental Justice permitting
10 issues for all the regions other than New York City
11 and Long Island. And then there's Michelle Moore,
12 who is sitting down here at the end of the table.

13 She is an analyst in our Permits Division, and she
14 deals with Long Island and New York City issues.

15 Since the program was created our office
16 has grown. We have a program aide that actually
17 helps with program work. We have a secretary and
18 we're hoping to expand the program to bring in some
19 additional people that can help us with an effective
20 program.

21 When we first put the program together,
22 we applied for an EPA, U.S. EPA state and tribal
23 Environmental Justice grant, which we received. And
24 in that grant application the DEC said they would do
25 a few certain things. One was to enhance the DEC's

1 website to include Environmental Justice
2 information, which we have done and we'll continue
3 to update as new information becomes available.
4 Establish an Environmental Justice Advisory Group,
5 which has been done, and those are the individuals
6 who have been working very hard over the past two
7 years to develop the report you have in front of
8 you. To hold public meetings, and some of you who
9 were at our 2000 -- meetings in 2000, our public
10 meetings then, we did around -- we did maybe four to
11 five public meetings throughout the state at that
12 time, and that was the Advisory Group soliciting
13 your comments and input about what was going on in
14 your communities and what they should be thinking
15 about when they put the report together. And this
16 round of public meetings, which is the DEC getting
17 your feedback on that report.

18 The Advisory Group is -- there's a list
19 of the members in the report, in one of the
20 appendices. The group consisted of 18 individuals
21 from all different backgrounds and all different
22 interests. We had business representatives,
23 Environmental Justice advocates, community
24 representatives, environmental advocates, government
25 representatives, from local, state and federal

1 government. We had an academic, and everyone came
2 together, everyone was interested in the topic of
3 Environmental Justice, in actually making some
4 changes with DEC's programs that would address
5 Environmental Justice. So over the past two years,
6 those individuals who I mentioned worked together to
7 put together a report.

8 The report is broken down into basically
9 three sections, and the way the meeting will run is,
10 I will take the first section and I'll just briefly
11 hit the highlights of what is in the report, and
12 then give you some time to ask questions, make some
13 comments and get your feedback. Then we'll go on to
14 the second section and handle that the same way, and
15 the third section. The end of the meeting, roughly
16 about the last hour or so, will be just left for
17 open comments, open dialogue between the DEC and the
18 public.

19 Where do we go from here? As I
20 mentioned, the report was submitted by the Advisory
21 Group to commissioner Crotty on January 2nd, and
22 we've been holding a public comment period, which
23 ends on Friday, the 22nd of February. At that point
24 the DEC will take the report and will take all the
25 comments that we've received throughout the public

1 meetings and start to draft DEC policy. We're
2 looking to focus initially on permitting issues and
3 DEC is hoping to have a permitting policy effective
4 this summer, and then other policies dealing with
5 other issues, other than permitting, will follow
6 after that permitting policy is completed.

7 At this point I would just like to have
8 the Advisory Group members that are here introduce
9 themselves, and we can start with Jack.

10 MR. NASCA: I'm Jack Nasca, from the
11 Division of Environmental Permits at DEC.

12 MS. DeLOAYZA: I'm Winny DeLoayza. I'm
13 a facilitator, DeLoayza Associates.

14 MS. MOORE: I'm Michelle Moore, I'm in
15 Region 2, Division of Environmental Permits.

16 MR. POKALSKY: Kenneth Pokalsky,
17 Director of Environmental Programs, New York State
18 Business Council.

19 MS. HINCHCLIFF: I'm Diana Hinchcliff,
20 representing the Alliance of Chemical Industries of
21 New York State.

22 MR. SHAW: Jim Shaw from Alcoa, City of
23 New York.

24 MR. DOHERTY: The City of Rochester.

25 MR. DICKINSON: Jonathan Dickinson, from

1 the Mayor's Office of Environmental Coordination.

2 MR. WESLEY: Terry Wesley, Region 2, New
3 York.

4 MS. ABREU CONLEY: A few other of the
5 advisory members are scheduled to be here as well,
6 so I suspect they'll be rolling in as the meeting
7 progresses.

8 At this point, I would like to turn it
9 over -- before I get to the report, I would just
10 like to turn it over to our facilitator to talk a
11 little bit about ground rules and how the meeting
12 will work, and then we'll actually get into the
13 report.

14 SPEAKER: May I ask a question --

15 Are you going to be taking traditional
16 testimony, statements from people, like --

17 MS. ABREU CONLEY: This is like a
18 written --

19 SPEAKER: No, oral, like in other
20 hearings, or should we turn in anything we're going
21 to say written? Will this be transcribed?

22 MS. ABREU CONLEY: This meeting is being
23 transcribed, so anything you say will become part of
24 the official record. If you have something in
25 writing -- you will be able to, if you have a

1 prepared statement, toward the end of the meeting,
2 like the last hour, as I mentioned, you'll be able
3 to read that, but if anyone has anything in writing,
4 they can submit that to me as well and that will
5 become part of the official record. Thank you.

6 SPEAKER: I wanted to mention that this
7 is a technical document. I'm sitting here with many
8 of my colleagues who know no technical environmental
9 technology, I don't know how we can be asked, when
10 we have not received this in the mail -- I requested
11 it twice and did not get it. We should have read
12 this already and we should have come prepared, and
13 this is not the case in my case. I don't know about
14 my colleagues here, but I know that I have not
15 received this, so I don't know how intelligent the
16 comments I can make on this document could be.

17 MS. ABREU CONLEY: Thank you for your
18 comment. I apologize for you not getting the report
19 earlier. We were able to get it out to some people,
20 apparently we must have missed you, I apologize.

21 MS. DeLOAYZA: Monica did tell you about
22 how the structure of the meeting will be going, and
23 I just want to reiterate that for a moment.

24 There are three parts of the report.
25 Monica will spend some time sharing what is in the

1 highlights of each section, and then we're going to
2 spend maybe 15 minutes, 10 to 15 minutes, asking you
3 if there are questions or thoughts on that
4 particular section for clarification, whatever. And
5 then, at the end of those three sections, there will
6 be an open time for more general discussion,
7 recommendations, comments during that time.

8 So what I would also like you to do is
9 when you do speak, if you will come up to the front
10 of the room and speak from the podium. The reason
11 for that is we want to be able to get your name, to
12 give your full name, so that it can be placed into
13 the record.

14 I would also encourage you that if you do
15 need to make a longer statement, that you hold it
16 for the last part of the session because what may
17 happen, if we don't all hold our comments to the end
18 -- right now I only have three or four people
19 officially scheduled to make comments at the end
20 period. I wouldn't want us to run out of time by
21 taking that time earlier in the discussions.

22 So, with no further adieu, unless there
23 are any questions about the format --

24 SPEAKER: I would just like to say, it
25 would have been proper for you to have notified most

1 of the people involved as to how you were going to
2 structure the meeting, because besides myself, there
3 will be other community advocates coming a little
4 bit later, around 5:00, 6:00 and 7:00, who were
5 anticipating traditional hearing structure, where
6 they would sign up to give testimony, give the
7 testimony, and then enter additional written
8 testimony in.

9 It would have been a good idea to have
10 let people know how this was going to be structured
11 so that we could have been better prepared. I
12 didn't have a statement prepared to deal with issue
13 by issue by issue on a sectional basis of the
14 report. I do have some statements about each of the
15 different parts, and I do have an overall statement
16 about the report as a whole.

17 MS. DeLOAYZA: Right. I believe, I think
18 -- and your point is well taken -- I believe that
19 there will be opportunity after each section to make
20 any statements about particular sections, and there
21 will be quite a long time at the end for those
22 people who, like yourself, or those people coming
23 later, to be able to make statements as they would
24 in a traditional situation.

25 Any other comments before we go further?

1 (No response.)

2 MS. DeLOAYZA: All right, would you,

3 Monica?

4 MS. ABREU CONLEY: As I pointed out, it

5 is a technical document in some sections and I'm not

6 going to get too in depth. If you have questions

7 and you want me to get into more details in a

8 certain section of the report, I encourage you to

9 please ask me some more information.

10 As I mentioned, the report is broken down

11 into three sections. The first two sections deal

12 with permitting issues. The last section deals with

13 non-permitting issues that the Advisory Group felt

14 needed mentioning in its initial report. And I also

15 want to point out that this document -- I'm very

16 proud of the advisory for coming up with this

17 document, I think there are a lot of good ideas in

18 here. But as the state of Environmental Justice

19 matures, we will learn a lot more. There will be

20 enhancements to this document, to policies. So this

21 is a starting point, and I think it's a great

22 starting point for us.

23 We'll start with the first section.

24 Before the Advisory Group could actually

25 consider what recommendations they were going to

1 make regarding permitting, they had to figure out
2 what permits they thought the report should apply
3 to. So they looked at all the DEC permits that were
4 issued and came up with a list, and if you have a
5 copy of the report in front of you, on page three of
6 the report you'll see, toward the bottom, there's a
7 list of major programs that the DEC issues permits
8 for. Within these permits the Advisory Group said
9 that the recommendations in the report would apply
10 to new applications and major modifications of any
11 permit.

12 The second recommendation is to educate
13 DEC staff: Before staff can actually address
14 Environmental Justice issues, they need to be
15 informed about what even Environmental Justice is,
16 what it looks like and how to address these issues.
17 So one of the primary recommendations is to in fact
18 provide training for DEC staff, both on
19 Environmental Justice issues related to minorities
20 and low income residents of New York State, as well
21 as the Indian nations.

22 Making information more available to the
23 public: This was a recommendation that we heard
24 from the public during our meetings in 2000. The
25 idea that the public just isn't provided with enough

1 information that they can use to make statements to
2 -- that they can use to assist the DEC in making
3 decisions regarding the environment in their
4 communities. So there is just the idea that DEC
5 should try to use various methods to get as much
6 information out to the communities as possible. And
7 they list several methods here, including written
8 public notice, using mailing lists to get
9 information out to the public, using repositories,
10 enhancing the DEC website to make sure that as much
11 information is on there as possible so that people
12 don't have to go through the formal FOIL request in
13 order to get their information and they have it
14 right there at the tip of their fingers whenever
15 they need it.

16 Offering workshops was another
17 suggestion. We heard many times, often times, the
18 public is not aware of the DEC procedures and the
19 way the DEC works, so the idea of holding workshops
20 in communities and giving people the knowledge and
21 the information they need to participate in this
22 complex process of permitting.

23 The toll free Environmental Justice
24 hotline, and if you notice when you walked in there
25 was a little blue flier and that has our 1-800

1 number on it, and we have already started it. Every
2 day we get certain calls and we're hoping that in
3 the next few months it will really be utilized.
4 This is something that we'll be testing out for
5 about the next six months, and if we find that it
6 is, in fact, something that is used by the
7 communities, it is something that will continue.
8 The 1-800 number rings to my office. If you have
9 questions about things going on in your communities,
10 if you need information on who to speak to about a
11 particular item, if you need written information,
12 that's a way that you can get it. I'm also
13 accessible via e-mail and the e-mail address is also
14 on the documents you've been provided.

15 Curtis, you had a question?

16 MR. SEYFRIED: Do you want to wait until
17 the end of your discussion of each section to take
18 input on it or do you want to go section by section
19 within --

20 MS. ABREU CONLEY: This was a very sort
21 section, so let me just finish this section and then
22 I'll stop and ask for questions.

23 Enhance public notice and public
24 participation procedures: The Advisory Group looked
25 at the requirements that DEC has for getting

1 information out, and suggested that DEC take a look
2 at those procedures and find ways to enhance them,
3 to make getting the information out a little easier.

4 Also in this section the Advisory Group
5 recommends that the permit applicant themselves
6 enhance their public outreach and public
7 participation procedures. For instance, introducing
8 introductory notices, getting out into the community
9 as soon as possible, holding regular information
10 meetings. So that they're having exchange with the
11 community very early on in the process and are
12 already working to find out whether there are issues
13 related to the permitting project and trying to work
14 those issues out.

15 A key recommendation -- the next two are
16 very key recommendations. Traditionally, the way
17 the DEC operates in notifying the public that we
18 received a permit application is, we notify the
19 public upon completion of a permit application.
20 Often times that could be much later than the DEC
21 first learns about the permit application.
22 Sometimes we receive an application and it's not
23 necessarily complete, either the DEC might need
24 additional information, further analysis, or some
25 more information. They can't deem the application

1 complete. In the time that it takes the applicant
2 to get the DEC that supplemental information, that's
3 critical time that is not available to the public
4 for them to start reviewing the large application
5 packages that they need to review so that they can
6 learn about the project. So what the Advisory Group
7 suggested was, rather than wait until the
8 application is deemed complete to publish the
9 application, public notice the application as soon
10 as we receive it, whether it's complete or not. And
11 Region 2, our Region 2 office here in New York City
12 has been piloting that for a while now and finds
13 that it works very well. It gets the information
14 out to the community in a very timely fashion. This
15 way you know what is going on in your communities.
16 That's something we're looking to do for the entire
17 state for all permits, whether they be new
18 applications, major modifications, renewals for
19 every application that we received.

20 Another key recommendation is the
21 offering of TAG grants, technical assistance grants
22 to community organizations. One of the things that
23 we again heard throughout our meetings in 2000 was
24 that many communities don't have the resources
25 necessary to hire consultants to review the

1 technical information and on permit application,
2 provide comments to the DEC, so the Advisory Group
3 suggested that DEC find a way to make TAG grants
4 available to communities so that they can
5 participate in a meaningful way in this process.

6 Then the last section in this first part
7 of the report talks about encouraging an alternative
8 dispute resolution, and that's using mediation,
9 negotiation, arbitration mechanisms to get the
10 permit applicant and the community sitting down
11 early and working out the issues and getting those
12 agreements embodied in a document that if it's
13 something that DEC can enforce and if it is
14 something that the community and the applicant agree
15 to, then it can be put in a private agreement that
16 can be enforced by both of those parties, or if it
17 is something that comes to an agreement that the DEC
18 has authority for, that can be worked into the
19 permit itself and the DEC would have authority to
20 enforce that. So, again, it's just a mechanism to
21 try to resolve issues early on in the permitting
22 process.

23 That's the end of that section, so I
24 welcome any comments, suggestions.

25 Curtis, do you have -- do you want to

1 come up here?

2 MR. SEYFRIED: Hello. My name is Curtis
3 Seyfried, C U R T I S, S E Y F R I E D. I work for
4 We Stay, two words, "/Nos," N O S, "Quedamos," Q U E
5 D A M O S, which is located at 811 Courtland Avenue,
6 Bronx, New York 10452.

7 Just sticking to this section itself,
8 overall, one of the most important things as far as
9 the whole report is that this is only an advisory
10 report; it is not in any way mandated that the DEC
11 listen to this at all. And, unfortunately, the
12 views of community groups, in the way we have been
13 treated by DEC overall in the past, is that this
14 will be taken after the hearing and everything is
15 written up and it will be thrown in a corner and
16 forgotten about, because basically, from DEC's
17 actions, we feel as community organizations that we
18 are not listened to. We feel that DEC represents
19 industry, to protect industry from the public, when
20 in reality, you should be representing the public
21 and protecting the public from industry.

22 Industry has a lot of money. Industry
23 has a lot of legal representation. The agency is
24 there to protect the public's health and safety from
25 potential abuses by industry. That's a general

1 thing. I really feel this needs to have more teeth.
2 I really feel that in some way this should be
3 brought before the Governor and the legislature to
4 see if this could be made into a body of law so that
5 not only DEC but other agencies would have to comply
6 with this.

7 Overall, that's input on the entire
8 report, and this is very important because no matter
9 how good a report is, if no one really listens to it
10 and does anything, or if they do a few easy things,
11 like it's really nice that you picked up the 800
12 number, it really is, and thank you very much.

13 We also realize that a lot of individual
14 people in DEC work very hard and honestly try to do
15 a good job. When we speak harshly against the
16 agency, we're talking about the attitude of the
17 agency as a whole, much of which is influenced by
18 the administration, like the Governor, who directly
19 influences the Commissioner, because he appoints the
20 Commissioner and can tell the Commissioner, point
21 blank, "This is what I want done, and this is how I
22 want it done, and you will do it," and then the
23 Commissioner tells everyone else, "This is what is
24 going to be done, and this is how it's going to be
25 done, and if you don't like it, go find another

1 job."

2 So It is not to be taken personally
3 against individual employees, it's our impression of
4 DEC as an agency overall. It's really a dichotomy
5 because before I became a community advocate, I had
6 a lot of contact with the conservation side of DEC
7 that runs public lands. They're wonderful. They
8 are nice people. They protect the public lands and
9 the public from abuse, and they try the best they
10 can to make public lands available to the public in
11 a healthy way that both protects the public and the
12 lands, and they do what they can to protect the
13 lands from potential abuse by industry.

14 Somehow, the permitting side, the
15 environmental regulatory side of DEC is like the
16 evil side of the coin. They're totally and
17 completely the opposite in their attitude, and
18 predominantly towards community groups.

19 So some of my early feedback, because I
20 don't want to go on too long, is: First of all,
21 this needs more teeth. It needs to be incorporated
22 into a body of law.

23 One question I wanted to ask: In the
24 list of permits that were lifted, you have
25 regulation over Article 10, power planning air

1 pollution permits; is that covered under the air
2 pollution control section, because it wasn't listed
3 separately?

4 So I just would like to know and make
5 sure that that is included as a type of permit.

6 Since this deals a lot with prehearing --

7 MS. ABREU CONLEY: Just to clarify, the
8 permits that the DEC issues are included in the air
9 permits. Article 10 itself, which is issued by the
10 Department of Public Service is not.

11 MR. SEYFRIED: Okay.

12 Some of the big problems we have with the
13 application process, particularly the beginning of
14 it, is we really feel that communities and community
15 organizations and citizens need as much advanced
16 notice of a potential permit or a permit as
17 possible. It doesn't mean you can do this with
18 every little, tiny -- where there are major impacts,
19 particularly in communities that are heavily
20 impacted already, it's important to not just barely
21 go by the law, and basically just skim right under,
22 you know, micrometer under the limits of the law to
23 do everything just barely. Give notice, just the
24 minimum you can do in the minimum places you can do
25 it, and the minimum time ahead of time that you can

1 do it.

2 Very few people read the kind of
3 newspapers that you publicize in. It's important to
4 really get the information out to the public and to
5 get it out far enough in advance that the public can
6 adequately respond to it and know what is really
7 going on. We follow this and we even get surprised.

8 Then there's also the problem of, a lot
9 of times, where public hearings are held. A lot of
10 times they are not held in the affected community.
11 I don't want to go on too long. They're not
12 necessarily held in the affected community. Contact
13 community organizations. Ask them where they think
14 the most appropriate places to hold a hearing would
15 be. Don't assume. Ask the people who live in the
16 community where they would like to have, where they
17 feel would be the most convenient for them to be
18 able to give input on a project that's affecting
19 their community. In other words, talk to people.
20 Solicit input from people way ahead of time. As
21 soon as you get that permit, before you even are
22 starting to make any decisions or evaluate the
23 permit or even see if it's complete or not, start
24 talking to the community. Start getting input from
25 people.

1 Also, where applications are placed in
2 repositories: A lot of times they're placed, like
3 in New York City, in public libraries that are two
4 communities away. NYPA placed one that dealt with
5 Mahaven in Port Morris up in the Woodstock library,
6 which is two communities -- not even in the same
7 community board. Okay. It's like two-and-a-half,
8 three miles away. It's a distance, but it's also
9 not so much the physical distance, it's that some
10 people don't even know where that library was
11 because they don't live in that community, they live
12 in Mahaven and Port Morris.

13 So what I'm getting to a lot of is that
14 communication is important. Making sure that people
15 can know what is going on, can obtain the materials,
16 and be able to get adequate input.

17 Also, workshops are a wonderful idea.
18 Talk to people. Give as much information and
19 solicit as much input from the public as you
20 possibly can, because the way it's done now is it's
21 the minimum, and everything is done, from our view,
22 to prevent the public from giving input. In other
23 words, to give as little information as possible and
24 to take as little information back, input back from
25 the public as possible.

1 That's pretty much all I have to say
2 right now.

3 MS. DeLOAYZA: I think there was Ms.
4 Stetzer.

5 I'm going to, as people are speaking if
6 they've gone on for five minutes I'm going to flash
7 that they've gone five minutes, and so forth and so
8 on, to help you to know how much time you've been
9 speaking.

10 MS. STETZER: My name is Susan Stetzer.
11 I live in the Lower East Side, and I was at your
12 hearings two years ago. This is much more state now
13 than it was two years ago.

14 I almost don't know where to start
15 talking about the DEC. I met with you Monica, and
16 you've been very helpful -- you've been very nice
17 and you've been very concerned. However, dealing
18 with the DEC has been such a nightmare and such a
19 shock that I don't know how to separate what you do
20 and how that fits into what the DEC is really doing.

21 You've been trying to speak to us or in
22 the beginning you tried to help us with guidance,
23 Environmental Justice guidelines; however, the DEC
24 says to us that Environmental Justice is irrelevant
25 -- this is a quote -- that we were not allowed to

1 present testimony. That was an Article 10 siting.
2 Nobody has figured out yet exactly how Environmental
3 Justice fits in. It's part of your permitting, but
4 really we're not allowed to give testimony, we're
5 not allowed to give evidence, and nothing in the
6 last two years has been to straighten this out.
7 Meanwhile plants are being sited all over, and by
8 the time you figure this out, all these plants have
9 been sited.

10 DEC has been our worst enemy. We came in
11 prepared to battle with Con Ed. They were the
12 utility that wanted to site the plant. We did not
13 expect the state to be our worst enemy. I mean, the
14 worst was the PSC and then DEC, they were much
15 worse. They used every means possible to stop us
16 from presenting testimony, from presenting health
17 impacts. We have recently just won a rehearing
18 because what they did was wrong. What they did was
19 so wrong that even the Siting Board is giving us a
20 new hearing.

21 DEC has to, the left hand and the right
22 hand have to understand each other and what you are
23 doing. You're coming here and telling us you want
24 to help the communities, and the DEC is coming and
25 saying, "This is irrelevant and you can't present

1 testimony." So what is the answer?

2 We actually, last February, had a DEC
3 hearing on Chinese New Year. I went to the person
4 who set up the hearing and I said, "This is Chinese
5 New Years," and he didn't say, "Oh, I'm sorry, it
6 was a mistake," he said, "So what, it doesn't
7 matter." DEC is not taking any Environmental
8 Justice issues to heart.

9 There is no translation at these
10 hearings. The DEC is hiding information from us.
11 Our plant was in violation with the DEC. We found
12 that information out accidentally. The DEC had an
13 order on consent. They had made the utility company
14 make certain changes, litigations, and pay a
15 penalty, and yet we were not given any of that
16 information. All of this information should be on
17 the web. The public should have access to all
18 violations. I should go in and look at the plants
19 in my community and see what violations there are.
20 This is outrageous. I should be able to go in and
21 look at transcripts of public hearings, why can't I
22 look at them? Nobody has -- you have to -- I don't
23 even know how you get transcripts from these
24 hearings.

25 I guess basically that's it. Our

1 feeling, you know, we need money for legal help. We
2 go, we have to fight the DEC, the DEC is not there
3 to protect the communities. The DEC is there to
4 stop us from giving testimony. You can read
5 transcripts of our case and you will see exactly
6 what I mean, and we're supposed to find this without
7 legal help. You have lawyers there working against
8 us. You have all these technical advisors there
9 working against us, and we don't have money, and
10 we've been told that the state will do everything in
11 their power to make sure there are no Article 10
12 changes that will allow communities that money for
13 legal help.

14 MS. DeLOAYZA: Thank you. Gentlemen in
15 the green?

16 MR. COLPEPPER: Good evening. My name is
17 John Colpepper. I am the President of the Lower
18 Washington Heights Neighborhood Association. I
19 would just like to speak on the outreach that DEC is
20 doing.

21 I have contacted many organizations up in
22 Washington Heights and they know nothing about this,
23 so they bombarded us in our office about what is
24 going on. When we tried to tell them that they
25 should come down to find out, they didn't because

1 they didn't know about this. Your outreach needs to
2 be more. You need to reach out to communities, to
3 the people that are there, because the people that
4 are in these communities are the ones that know what
5 is going on. These are the people that you should
6 reach out to.

7 Each community has different problems.
8 That is something you should look into also. Each
9 community has different problems. We all don't have
10 the same. And just slight -- I'm just going to
11 piggyback on what Curtis said about the outreach.
12 What you're doing, as far as we in Washington
13 Heights are concerned, you're doing a fairly good
14 job, but we know that you can do more and we would
15 encourage you to. Please, reach out to the
16 community and to the people in the community more,
17 because these are the people that live there and
18 when they see something that is going on, they're
19 the ones that can give you the answers; so reach out
20 for them.

21 MS. DeLOAYZA: Sir?

22 MR. HASSIG: My name is Donald L. Hassig,
23 and I represent Cancer Action New York.

24 I would like to start off with making the
25 comment about the program that exists now, as much

1 as it exists now, as an example of why it's a little
2 frustrating to go have some of the promises made and
3 some of these expectations raised.

4 I have contacted, e-mailed the
5 Environmental Justice program in the office, and I
6 have made an 800 number phone call about a
7 particular project in our jurisdiction, in our
8 region. I came all the way down here from Saint
9 Lawrence County, it's 350 miles away, and part of
10 the reason I had to do that is because even though
11 our county is recognized as one of the most
12 impoverished, poverty stricken regions in the state,
13 which falls well within the purview of EJ, the
14 closest hearing to be held was in Syracuse, New
15 York, which is 140 miles away. Sure, I could have
16 gone to that hearing, but my time conflicts were
17 such that this was the hearing that was better for
18 me to actually attend.

19 I would offer that I do not suffer from
20 the poverty that many in our part of the state
21 suffer from, so the fact that I am here does not
22 address that by any means. So I would like to say
23 that there should be an Environmental Justice
24 hearing of this type conducted in the many parts of
25 the state that do have either minority racial

1 problems as race aspects of EJ, but also there are
2 many poverty stricken areas that are not having
3 these hearings conducted in them when the whole --
4 all of Region 6, there's not a single EJ hearing in
5 Region 6, even though Region 6 is one of the largest
6 poverty areas in the whole state. I would like to
7 make that point.

8 Getting back to the contact that I sought
9 to make with the already existing Environmental
10 Justice programs: With this 800 number and this
11 e-mail address, I sent out, I think it was three
12 e-mails, and I made at least two phone calls of the
13 800 number, and so far all I have received -- and
14 this has been going on now for at least, I would say
15 the first phone call and the first e-mail were about
16 six weeks ago, and all I did, I said, "Would you
17 begin a discussion about the Environmental Justice
18 issues that are involved with this chip board
19 factory siting proposal in our county, which is this
20 high poverty county. And all I've received is a
21 short e-mail stating that my e-mail was received and
22 there would be an answer eventually, but I still
23 haven't seen anything that's an answer. It's just
24 been confirmed that I had made the contact, but as
25 far as addressing the fact that this is an EJ

1 problem, I asked that there would be an evaluation
2 done to determine whether this was, in DEC's view
3 and opinion, an EJ community. I don't see how it
4 could help but be that with the high poverty level
5 that exists.

6 For example, if you have to have high
7 poverty and also adverse impacts already in
8 existence, high pollution type impacts in existence,
9 I would offer that the open waste burns that occur
10 in our part of the state, where nearly every
11 backyard has these burning barrels in it, it's a
12 problem of property, it's a problem of respiratory
13 exposure pollutants and hand-to-mouth exposure
14 pollutants, when little kids are in contact with
15 this ash, and it's a matter of food consumption
16 pollutant exposure when you're talking about, for
17 instance, the substances like dioxins, sulfuron
18 (ph), and PCB's that are emitted by these waste
19 barrels and metals that are emitted by these waste
20 barrels. So there is no doubt in our minds that
21 there EJ issues here -- and then we just have to get
22 into this whole side of whether health is being left
23 out of the permitting process.

24 I was at one of the EJ hearings in
25 Albany, back two years ago, and it was not only

1 myself but there were numerous advocates for public
2 health and environmental protection. They were
3 requesting that New York DOH should be made a part
4 of this process, and they're not here today and they
5 have not been at our environmental committee process
6 meetings that have transpired. We have contacted
7 New York State DOH over and over and over again,
8 requesting that DOH play a role, requesting that
9 they help us understand what is so protective of the
10 public health, about the regulations and the way the
11 committee processes are conducted, and they have
12 declined that offer. They have not only declined
13 that offer, but they've refused to make any other
14 type of providence of information on how the public
15 health is being impacted by tons of carcinogens
16 being emitted by some of these big proposals.

17 It's our argument that we would think
18 that our case would be a perfect chance for DOH to
19 establish a good record in this type of thing. We
20 have some of the highest lung cancer rates in New
21 York State. Our county has the highest prostate
22 cancer rate in New York State. Our county has high
23 bladder cancer rates and collagen cancer rates. It's
24 not just the county, it's the region that has many
25 of these cancer rates as well.

1 We just feel that how can New York State
2 Department of Health ignore our somewhat pitiful
3 calls for help in these matters, because we're just
4 trying to avoid having these cancer rates go higher,
5 and we don't see how in any way it can be argued
6 that they won't, based on basic cancer biology and
7 basic cancer causation that we've been informing
8 ourselves about for years now, because DOH won't do
9 anything about this, and to add thousands, excuse
10 me, hundreds of tons of recognized pollutants, many
11 of which are human carcinogens, to our air supply,
12 in areas where people are being exposed, as I've
13 said, to this open waste burning and some of these
14 other -- we have Alcoa that dumps SO-2 on us, and
15 SO-2 is considered to be a promoter of
16 carcinogenesis in research communities.

17 We're just concerned that DEC won't reign
18 in the existing polluters, how are we expected to
19 believe that they will reign in or seek to permit in
20 a way that would establish a controlled emissions
21 set up for, you know, proposals.

22 If I can spend a little bit more time now
23 on this part, this permitting part of EJ, I would
24 like to --

25 MS. DeLOAYZA: I think that the

1 permitting section is in the next section.

2 MR. HASSIG: Well, the permitting is
3 right here, this is permitting right here, right?

4 As far as 6 NY CR 621, the Uniform
5 Procedures, one of the sections of 6 NY CR 221
6 requires that a hearing will be conducted during the
7 committee process if significant comments were made
8 during the accounting period. We tried everything
9 we can come up with as far as, like, providing a
10 significant comment, and we've been through this
11 over and over again because we're in route three of
12 the three processes that are being held. There was
13 a permitting process held. We didn't have a public
14 hearing, but we took away the air permit -- we had
15 that air revoked by some agency. And the Albany
16 County Supreme Court Justice, Justice Sheraton,
17 stated that New York State DEC was really doing an
18 end run around their own regulations in granting
19 this permit.

20 So we felt that that basically proved
21 that we had made significant comments because the
22 comments we made were speaking to this matter of
23 this particular end run that DEC was making. So we
24 felt that we had been robbed of the public comment,
25 you know, hearing in that round.

1 Then we made another round of comments,
2 and then we had some of the DEC regional people say,
3 "Well, these comments are good, we have to conduct a
4 public hearing." So what they did instead was they
5 had the application withdrawn and started all over
6 again. Then they finally got far enough to have
7 Round Three, and we've made comments on that round
8 of permitting and still there was no public hearing
9 held.

10 We just feel like here's the deal: The
11 DEC will conduct a public hearing, 300 people come
12 out against a proposal, but that's not what the law
13 says. The regulation says if significant comment is
14 made, as in one significant comment, that's only
15 just because the definition of a significant comment
16 is that something major would have been done about
17 the permit. We feel that it would really be
18 legitimate, because I've been hearing something of
19 that magnitude and scope. It's purely in the
20 interest of the public health and the environment to
21 not conduct these public hearings and to just
22 basically ignore the significance of public comment.

23 Can DOH be involved in the permitting
24 process? Because that's the time that it needs to
25 be done. Once the permitting process has gone

1 through and a facility has begun to construct, it's
2 just getting later and later and there's less and
3 less opportunity for the public to have a role, and
4 the public will become the most excited about
5 addressing the matter and being involved if they
6 know what the health effects are going to be.
7 They're obviously going to hear all this technical
8 information about levels of this and levels of that,
9 but it doesn't mean really as much as this disease
10 and that disease, and this exposure and that
11 exposure. So DOH must be involved in this or it is
12 completely corrupt and it's completely being done
13 without an interest in really protecting anyone's
14 health or anyone's environment.

15 There's a section of 6 NYCRR, and I can't
16 recall which section it is right now, and I won't
17 try to recall it from memory, but one of these
18 sections, it's the synthetic minor permitting
19 section that allows one to have a synthetic minor
20 permit and it is usually a state facility -- a state
21 facility, minor, and then, within a year after
22 obtaining that permit to construct, they can have an
23 opportunity to apply for and receive a major clean
24 air permit, operating permit, and that is totally
25 unfair.

1 It's not right to be able to make it easy
2 for a facility to come in and get the permit to
3 construct a minor source and then later on say,
4 "Well, it wasn't a minor source, we have to apply
5 for a major operating source permit." That is a
6 delusion. It's a deception of the public. It
7 allows -- you know, everyone knows, we're not
8 kindergartners, we get it. The more factories
9 built, it's a lot harder to get something done about
10 it, nothing is going to be done about it. Once it's
11 built, it's going to operate.

12 So it's not right to put these laws up so
13 that you can go in and permit the construction as if
14 it were going to be a minor source, and then say
15 later on, in a year's time, "Well, it was a minor
16 source, we won't operate at a major source level.
17 It is okay because it is legal, the law says we can
18 do that." Well, it's not okay. The public should
19 not have to suffer those kinds of abuses and we
20 would challenge that particular regulation, it
21 should be rescinded.

22 This matter of sham applications, we've
23 been arguing with EPA, with DEC, with anybody that
24 is willing to listen, that this particular facility
25 we're involved with is a sham permitting process.

1 I'm sure there have been others around the state, I
2 have heard other people address that matter as well.
3 Sham permitting is this matter of suggesting the
4 levels of emissions will be far below what it
5 actually will be and thereby getting one of these
6 state minor permits, and we're offering this
7 perfectly reasonable solution to this. If DEC would
8 just look at the existing data from similar
9 facilities around the U.S. and Canada and around the
10 world, for that that matter, it's on the web, it's
11 accessible, it's not something that we have been
12 especially astute in, especially assiduous in
13 obtaining. We've gone out and obtained this
14 information, and DEC tells us they're looking at
15 this information, well, why don't they ever use it
16 if they do have it? Because we've looked at chip
17 board manufacturing around the U S and Canada; we've
18 looked at the records, the emission of records and
19 data from facilities of similar size and type of
20 manufacturer, made the best comparison as possible,
21 and come up with a conclusion that this is an
22 obvious sham application.

23 This facility can't begin to produce the
24 amount of board they would argue they can produce,
25 no matter how state of the art their equipment is.

1 It's just smoke and mirrors. They're a major
2 source. They should be permitted to major source,
3 and that would make EJ necessary, rather than just
4 being something that we added on and is done without
5 a basis in law, well, the Federal Clean Air Act
6 committee. EJ is much more fully constituted in a
7 much more important and legally based entity, and
8 it's part of the public's access to protection.

9 So we feel that if EJ is being avoided by
10 not doing clear air permitting, then how can we
11 expect EJ to be done by DEC? There are signals here
12 that would lead one to believe that there is nothing
13 really genuine about these offers being made about
14 Environmental Justice. I'll finish this part with
15 that woman before that said about having some access
16 to courts. There would be a chip board factory in
17 St. Lawrence County right now if we hadn't had the
18 dollars to go to the courts on our own, and that was
19 a fairly unusual instance in that community, because
20 it is an EJ community, it's a poverty stricken
21 community. We just did it because we had the time
22 and money to do it and we're not suffering from
23 poverty like they are, like many in the community.

24 We can't be doing that forever. We have
25 a number of lawsuits going right now and some of

1 them are caused by DEC. They won't let us have
2 freedom of speech. They tried to arrest us just for
3 trying to raise some environmental awareness. So we
4 have to go to the federal courts and fight with the
5 U.S. Justice Department over our free speech, you
6 know, just wanting to have some free speech in this
7 country, and it's supposed to be a very important
8 part of the Constitution and the Bill of Rights, and
9 what makes an American American, it's having free
10 speech; then you try to use it for something that
11 matters like your health, and you get screwed over.
12 Then you have publicly paid attorneys, the Attorney
13 General's Office, in this case, fighting you in
14 court. It's just not fair. We should have some
15 kind of legal -- there should be a leveling of the
16 playing field, where it's not these individual pro
17 se lawyers against attorneys that are paid out of
18 our taxes. It's just completely corrupt.

19 MR. PADILLA: Carlos Padilla, South Bronx
20 Clean Air Coalition.

21 The first comment I want to make is that
22 in page two -- and this is a question for the DEC --
23 you mentioned that you have incorporated
24 Environmental Justice procedures in the process of
25 making decisions, decision-making process, making

1 decisions in your agency. I want to know how you're
2 doing that if we're right now discussing principles
3 from which we are going to make that justice policy
4 for DEC? We don't have the principles already laid
5 out, so how can you implement that particular
6 process already when you haven't gotten principles?

7 MS. ABREU CONLEY: Do you want an answer
8 to that?

9 MR. PADILLA: No, let me finish, please.

10 The other important comment as an
11 organization that we have is, and I want to raise
12 these concerns was, what is the process of deciding
13 the composition of that sort of group?

14 After a reading of these documents we
15 really believe that the whole composition of the
16 Advisory Group was biased or geared toward business
17 interests, where despite the very brave presence of
18 our Environmental Justice advocates there, and I
19 perceive that their work was not already easy,
20 dealing with the different issues and controversial
21 issues that were going on in the process of deciding
22 these Environmental Justice policies, guidelines and
23 recommendations. I'm really very concerned for the
24 fact that it's not only that Environmental Justice
25 advocates, we're in the minority in the total number

1 of people working in the Advisory Group, but even
2 the people representing the government agencies were
3 not represented for the diverse community that we
4 have in New York, and that's a really, really
5 important concern for us.

6 The other point I want to make regarding
7 the permitting process is, from our point of view,
8 this permitting process in this Environmental
9 Justice recommendations is flawed in the sense that
10 it is not based on something that ecological and
11 other environmental activists call the precautionary
12 (SIC) principle. Basically, what that means is when
13 you're going to make a decision and you'll be coming
14 to a community, we labelled that facility as "guilty
15 until proven innocent." That means that we cannot
16 make a decision, even think to locate any facility
17 in this community that is an Environmental Justice
18 community, without that industry so the people
19 presenting this activity, this new activity, prove
20 to us that it is not going to increase the local
21 pollution and is going to increase the bad emitting
22 effects into health and environment. And this
23 Environmental Justice recommendation has no base on
24 that. For that reason and because of what Curtis
25 said at the beginning of his comments, there's no

1 legal enforcement to make agencies and industries to
2 follow these regulations.

3 I think what is going to happen with this
4 recommendation is that it will exacerbate the
5 problems for Environmental Justice in New York,
6 unless you see these concerns that we have.

7 Regarding the proposals that I make here,
8 regarding the type of permit notice, there is -- one
9 part of the problem is the time to know the
10 information about the different permits that
11 industries or business have submitted to DEC. But
12 you know what, you can get one year and there is no
13 really radicalization of the political process and a
14 leveling field of the power structures that decide
15 why this facility is going to get this permit or
16 not. It doesn't matter how much time you give to
17 us. It's not going to make a difference. That
18 means that we need to radicalize, we need to change
19 completely the way that policy, that policy is
20 decided in the state, where the driving force is not
21 a community, health and environmental welfare, but
22 economic incentive and economic growth in this
23 state. We need to change that, and that's not here
24 in this document by no means.

25 The other important point you're talking

1 about, I need a concern about the fact that you're
2 putting those electronic format documents out into
3 the community when you know that the majority of the
4 Environmental Justice communities do not have access
5 to electronic devices to be able to retrieve this
6 information. Not only that, you can have two,
7 three, four, five, ten computers in a community
8 library; you have maybe 10, 15 minutes, 20 minutes
9 to get there. Have you ever been trying to get
10 documents out of the website from the environmental
11 agencies? It's very difficult. It's very hard.
12 It's frustrating. Where are the resources to train
13 these people? Where are the resources to provide
14 really in community centers computer assets to the
15 communities?

16 What I am hearing is that we have to
17 direct our energy to penetrate formats on computers
18 or putting information on the computers. What is
19 going to happen is we're going to forget the most
20 simple ways of getting information to the community.
21 Then we have a problem that in the long run people,
22 the community asks for information. "Oh, but
23 information was electronically accessible. Why
24 didn't you get the information? That's not our
25 fault, we put it in the computer." And you're going

1 to disempower more our communities.

2 The other item that I'm really concerned
3 about, and this is not only as a representative of
4 the South Bronx Clean Air Coalition, but a personal
5 issue, is the matter of identifying the resolution,
6 et cetera. Because you're asking us to give away
7 what is our more powerful tool, pressuring
8 politically you, DEC, and the business interest when
9 we are in a conflict regarding a facility in our
10 community. That is why we're going to the street,
11 march, pickets. You're turning us off from the new
12 process. You sit down with the business and the
13 industry activists and you start to evaluate
14 resolutions where you're going to concede and write
15 an agreement where you're going to negotiate what is
16 going to be effective or not in a facility. Do you
17 know what, when you will start your power between us
18 and them, the only item that we're really powerful
19 in is that political struggle, and if we are
20 precluded, we're not in agreement from the beginning
21 of the process, we cannot use that political power
22 in the future. We cannot use that political power
23 in the future to really put pressure in the business
24 and the governmental agency that are supposed to
25 protect us. For me, that's another serious flaw of

1 this document.

2 That's for now, in this section, my
3 comments.

4 MS. ABREU CONLEY: Thank you for your
5 comments. They were all great and they will
6 definitely help us in our next phase.

7 I'll just try to respond to a few of the
8 comments that I heard so far or questions that were
9 raised, and I think in the future sections, I might
10 try to do that after each speaker so that I don't
11 lose my train of thought in remembering the
12 question.

13 One of the first comments that was
14 mentioned was that this is an Advisory Group report.
15 It doesn't have, as Curtis mentioned, the teeth or
16 the weight behind it. And when this report was
17 presented to the Commissioner, I sat down with her
18 and went through the recommendations that are there.
19 And she was -- she basically gave the commitment
20 that she would try to implement and turn into policy
21 as much of the report as she possibly could, keeping
22 in mind that we have resource issues. There are
23 some recommendations that suggest legislative or
24 regulatory change, so that will take a while to
25 actually accomplish. But your point is definitely

1 well taken.

2 Getting input from the communities:

3 There was a suggestion that we reach out to the
4 communities and find out where we should be holding
5 meetings, and that was something we also heard in
6 our 2000 meetings. We do that in setting up these
7 meetings, particularly in Buffalo and Syracuse, and
8 we didn't know where to hold a meeting out there.

9 Thankfully, for this one, EPA was gracious enough to
10 hold this, seeing that we have so many boroughs to
11 deal with, but it did work. It was a great way to
12 set up a meeting and we did actually hold it right
13 in a particular community. So I agree with you,
14 that is something that we should definitely use.

15 I understand the frustration of the past
16 two years. DEC has been trying to put together an
17 EJ program, but at the same time you're dealing with
18 issues currently within your communities, and you're
19 being confronted by DEC people who either don't know
20 what EJ is or have no answers for you or completely
21 disregard it, from your process. I can understand
22 the frustration.

23 A lot of it comes with the education. As
24 I mentioned, there's an educational component,
25 getting information out to the rest of the DEC

1 employees, and making sure that they utilize that
2 information. For instance, the information that you
3 had about setting up a meeting on the Chinese New
4 Year, we're trying to put together a calendar of
5 various cultures, special days, days of worship, so
6 that can be utilized by the DEC so that things like
7 that won't happen. Your comment was a great one.

8 Mailing lists from community
9 organizations: We have a mailing list right now,
10 and I get addresses primarily from these public
11 meetings and from -- there's a section on our
12 website that allows you to input your contact
13 information. We are looking to try to revamp the
14 system, perhaps get an outside consultant to help,
15 to actually help us get all the community
16 organizations within the state, any one interested
17 in EJ, churches, any place that people get their
18 information from. In the time that it takes us to
19 actually do that, it will be very helpful if you
20 have a mailing list or if you're part of an
21 organization that has a mailing list, it would be
22 very helpful if you could send that to me, because I
23 would be very happy to put that and combine it with
24 the mailing list we have now, so that we can reach
25 as many people as possible.

1 Getting DOH involvement, that's --

2 MR. SEYFRIED: Can I make a feedback
3 comment?

4 You said that when you sat down with the
5 Commissioner that she said she would make a
6 commitment to institute as many of these
7 recommendations as possible; would the Commissioner
8 be willing to sit down with community organizations
9 at a press conference and sign a statement to that
10 effect? Join with us, as citizens of New York
11 State, and pledge to -- not that I'm going to adhere
12 to every single word in here, but to something that
13 would at least give a commitment from the
14 Commissioner, because that's important for DEC
15 employees to hear, that the Commissioner has
16 committed publicly to the adherence of this.

17 The other thing I wanted to give you
18 feedback on: Susan brought up the Chinese New Year.
19 You said, "Well, we're trying to make a list of all
20 the different religions." Christmas and
21 Thanksgiving, is there anyone who doesn't know what
22 Christmas and Thanksgiving is? Please raise your
23 hand. Most of our hearings are held during the
24 weeks of Christmas and Thanksgiving or during the
25 weeks of New Years and Christmas. I don't think

1 those are hidden secret holidays; that somehow DEC
2 manages, all the agencies, NYPA, to schedule their
3 hearings and to have public comment periods and the
4 like on Thanksgiving day, or they make announcements
5 or permit approvals like on Thanksgiving day or the
6 day before Thanksgiving. These are not like obscure
7 holidays.

8 MS. ABREU CONLEY: Your point is well
9 taken and it happens all the time. Hopefully -- it
10 shouldn't happen -- and hopefully that is something
11 that will change.

12 The report that the Advisory Group came
13 out with, it was ready two weeks before Christmas,
14 but we specifically held off and issued it after
15 Christmas and New Years so that we would have a
16 valid public comment period that wasn't interrupted
17 by major holidays like that. So your point is well
18 taken. Thank you.

19 Involving DOH, that is something we have
20 heard many times, and by some of the recommendations
21 in the report we are trying to get more health
22 information into the permitting process, and involve
23 DOH to the extent that we can.

24 Holding public hearings: There was
25 mention that a public hearing wasn't held on a

1 particular project. One of the recommendations in
2 the report is when a low income or minority
3 community is identified, that the discretion as to
4 whether to hold a public meeting or not hold a
5 public meeting for DEC gets done in a way that it
6 become mandatory, when there's an identified
7 minority community, and there's interest to have a
8 public meeting. Hopefully, when that is
9 implemented, that will remedy that problem.

10 As far as getting calls and people
11 seeking information, I recognize that we don't
12 answer everything as quickly as the community would
13 hope. Hopefully, we can get everyone their
14 information in a timely matter and, sir, I can talk
15 to you later to talk to you about your specific
16 information.

17 How can DEC be putting EJ into practice
18 when it hasn't even heard from the public?

19 Well, the idea of having a statement in
20 the report that the DEC has already tried to
21 implement Environmental Justice comes from when we
22 first -- before we even started this program. The
23 program was started because the community came to
24 DEC and said there were Environmental Justice
25 problems, so we've been hearing about these issues

1 for well more than two years. So based on what we
2 have heard, we have tried to make some changes in
3 the DEC. For instance, setting up this program, and
4 the small things that we have been able to, the
5 mailing list, putting together the website, the
6 1-800 number.

7 So, no, we haven't implemented our full
8 scale Environmental Justice process, but we didn't
9 want to wait for two years before we started doing
10 anything.

11 I wanted to point out that there are
12 attached to the report, after the report, 24, 25
13 pages or so, after that there are supplemental
14 letters that are attached and various members of the
15 Environmental Justice Advisory Group felt that they
16 wanted to add or supplement the information that was
17 put in the report, so you can find that information
18 there. And they do talk about different things,
19 such as Article 10 and different things that may not
20 have been specifically mentioned in the report.

21 Access to electronic information --

22 SPEAKER: Excuse me, Monica?

23 MS. ABREU CONLEY: Yes.

24 SPEAKER: I was one of the members of the
25 Advisory Group. That report that you just referred

1 to, actually, I think, just recommends a wider scale
2 approach, a more comprehensive approach to EJ, not
3 just additional things, but goes a little further
4 than the group wanted to go. So that's why you see,
5 for instance, the example Curtis gave, NYPA just did
6 that, they scheduled hearings on power plants in
7 between Christmas, and then they made the comments
8 due by New Year's Day. So that kind of situation is
9 what we wanted to address in your recommendation.

10 So I do urge that everyone read that, that our
11 recommendations are in the report, but they are
12 supplementary, they're not part of the --

13 MS. ABREU CONLEY: Thank you.

14 The access to electronic information:

15 This was one of the things -- we did talk about the
16 fact that many low income minority communities do
17 not have access to electronic information via the
18 Internet. However, the group still felt they're
19 getting as much information on the web as possible,
20 and it would still be beneficial because there is
21 some access. Some of the community organizations
22 have access to the Internet. As mentioned, the
23 public libraries have access to the Internet,
24 although it is somewhat limited, but it's not the
25 only mechanism to get information out to the public.

1 We still have to send information out in written
2 form.

3 If you need information, our e-mail
4 number, e-mail address, and the 1-800 number, that
5 we can easily print information off the web and have
6 that sent out to you if you don't have that type of
7 information.

8 If I skip comments here, I tried to write
9 down as many of the comments that were raised as
10 possible. I would like at this point to go on to
11 the next section of the report. There's a little
12 more detail in this section and it actually suggests
13 some regulatory changes and some, I would think, a
14 little more complex concepts.

15 The Advisory Group recommended the DEC
16 have a method for identifying low income and
17 minority communities. How can you help
18 Environmental Justice or address Environmental
19 Justice if you don't even know where the people are
20 you need to be helping.

21 So they looked at several mechanisms that
22 were being used to identify these communities, and
23 in the report recommended that the DEC use EPA
24 Region 2's methodology for identifying low income
25 and minority communities.

1 EPA Region 2 came out with a GIS program,
2 Geographic Information System, that uses maps and
3 U.S. Census data to pinpoint the areas that have low
4 income minority communities. And this computer
5 program allows the user to find the point where an
6 application, permit application has been received
7 for a proposed site, and map the community of
8 concern around that facility, based on what the
9 proposed impacts from that facility may be. So it
10 might be a situation, for instance, air impacts. We
11 would look at air modeling and see what airs are
12 being affected, and the program allows you to
13 actually pinpoint and draw that map. If it was
14 something that would affect an area that's maybe a
15 half mile, a quarter mile radius around the
16 facility, it allows you to do that too, to draw a
17 line.

18 The next step that the computer program
19 does is generate within that section that you've
20 mapped out, it pinpoints the census block groups
21 within that area of concern that have either low
22 income or minority. And the program identifies
23 minority communities as "any community" -- they
24 separate between urban and rural. For urban areas,
25 it's any community that has 48.5 percent or greater

1 minorities. For rural areas, it's 33.5 percent
2 minorities.

3 The reason there are two numbers, EPA
4 hired statisticians to find a statistically
5 significant number that they would use as their
6 cut-off to determine whether it's minority or
7 non-minority, low income or non-low income. In
8 doing their statistical analysis, when they combined
9 both urban and rural areas, it diluted the rural
10 areas. They kind of got lost -- I'm sorry, the
11 minority areas that were in rural areas kind of got
12 lost because of the greater concentration in urban
13 areas. So there's two numbers there.

14 For low income, the cut-off number is
15 24.8 percent. They have to be 24.8 percent low
16 income or greater low income residents, for that to
17 be considered a low income community.

18 SPEAKER: How do you identify "low
19 income"?

20 MS. ABREU CONLEY: Low income is, we're,
21 again, using the census data. In the report I
22 provide, we talk briefly about EPA's system
23 analysis, but I also provide EPA's website address
24 there, and they have a more in-depth description of
25 that procedure.

1 We also recently, EPA, Terry Wesley, and
2 DEC held a meeting in their offices next door, and
3 we invited many community groups to that and,
4 hopefully, in the future we can have some additional
5 ones. What this meeting allowed people to do is
6 actually sit with this GIS software and play with it
7 to map the communities that they were themselves
8 familiar with, to see if those areas were picked up.
9 So that's something we can definitely do in the
10 future. I say definitely, I'm sure we can do that
11 again in the future if there is interest. This way
12 you can actually see how this works.

13 Eventually we're hoping this is something
14 that will be accessible from the DEC website.
15 Anyone can just log on to that site and be able to
16 use this type of software.

17 Determining significance: Once there is
18 a low income minority community identified, the idea
19 there is that the DEC staff knows that some
20 additional scrutiny, some additional attention needs
21 to be paid to this particular permit application.
22 They need to try to get as much information as they
23 possibly can on this site. Then, there are several
24 other things that they need to look to start doing.

25 Determination of significance: The DEC

1 will receive an application and they'll review the
2 application and determine whether the impacts, the
3 potential impacts from a particular application will
4 be significant and adverse. If, in fact, they are,
5 there's a potential to be significantly adverse,
6 there is a requirement that the permit applicant do
7 an environmental impact statement, an in-depth
8 review of the environmental impacts on the
9 surrounding environment near this facility.

10 So before the DEC can make the
11 determination of significance, they need certain
12 information, and the next recommendations that the
13 Advisory Group suggest have to do with getting
14 enough information so DEC can make a proper
15 determination of significance. One is to require
16 those involved to fill out environmental assessment
17 forms for unlisted actions.

18 There are three types of permit actions:

19 Type one, type two, and an unlisted.

20 Type one applications carry with them the
21 presumption that they will have significant adverse
22 impacts and will most likely need an environmental
23 impact statement.

24 Type two applications are the exact
25 opposite. They're the smaller type of action that

1 don't need in-depth environmental review. The
2 unlisted actions are the ones in the middle. They
3 can be as small as, you know, as close to the
4 threshold of type two, with a very insignificant
5 impact, or they can be up to the type one threshold.

6 So for the type one application, the DEC
7 -- the permit applicant, rather, is required to
8 submit a full environmental impact -- a full
9 environmental assessment form. That's a form that's
10 eight, ten pages long, 13 pages long, and it
11 requires some more in-depth information. Then
12 there's another form. That's the short
13 environmental assessment form. That form can be
14 used for unlisted actions.

15 What the environmental Advisory Group,
16 the Environmental Justice Advisory Group is
17 suggesting is that for any of those unlisted actions
18 where you can use a short form, which is like two
19 pages, that the DEC required the applicant to fill
20 out the full form, which is the larger form, and
21 provides much more information on what is going on,
22 what is going to happen with this permit
23 application.

24 Along with that recommendation is the
25 idea that even the full environmental assessment

1 form doesn't have enough information on it. So
2 there needs to be an enhancement of that form, and
3 the DEC is going to look into what changes it can
4 make, what additional information needs to be on
5 that, whether it be just additional examples, for
6 instance, that would trigger a significant impact,
7 maybe examples of Environmental Justice, or whether,
8 in fact, we need to solicit additional information
9 from the permit applicant.

10 Posting these environmental assessment
11 forms to the DEC website, that was a suggestion by
12 the Advisory Group. We're anxious to get as much
13 information regarding the application to the
14 community early on.

15 Requiring a minimum time frame, prior to
16 making a significant determination: The
17 recommendation here is that the DEC actually amend
18 its regulations and require a minimum time frame
19 from the time the DEC first notifies the public of a
20 permit application, until the time that it makes a
21 significant determination, and the suggestion in the
22 advisory report is that that be no less -- that be
23 somewhere between 30 to 45 days. This is a set time
24 frame where the community, I said, would be notified
25 upon the Department's receipt of an application, and

1 then would have a set time to respond to or comment
2 or review the permit information before the DEC
3 makes its determination of significance. This would
4 allow the community to bring whatever information
5 they might have to the DEC's attention, and as I
6 said, assist the DEC in making that determination.

7 The next two there are just utilizing
8 Environmental Navigator. I'm not sure how many of
9 you are aware, but DEC currently has a GIS system on
10 its website. It's still in its infant form, but
11 what the GIS allows you to do is zero in on a
12 particular area and find out information about
13 facilities in that area. And we're going to be
14 continually update that system so that eventually
15 you will be able to find out, you know, toxic
16 release inventory information, what is being
17 released or omitted by that facility, just to
18 educate the public. So the idea is that DEC should
19 also use that tool to make sure that they know
20 enough about a permit application before they make a
21 significant determination.

22 Assessing whether significant adverse
23 environmental impact has a disproportionate adverse
24 effect on a low income, minority community: Once
25 DEC makes its significance determination, if in fact

1 there is the potential for significance adverse
2 impact, the DEC -- the regulations require that an
3 environmental impact statement be done.

4 One of the recommendations in here is
5 that the DEC supplement its guidance on how to
6 conduct environmental impact statements. We've
7 heard a lot of comments that EIS's are done, but
8 they're not done correctly, or they leave out
9 information that is very crucial to the
10 determination that is ultimately made on the permit
11 application. So the DEC -- the request from the
12 advisory group is that DEC revise that.

13 SPEAKER: I'm sorry. The word
14 "significant" keeps coming up and there's no clear
15 definition of what is "significant." Some people
16 there might not be impacted at all, for some people
17 it might be a large impact. I think that's one of
18 the places we need to differentiate.

19 MS. ABREU CONLEY: Thank you.

20 Jack, can you?

21 MR. NASCA: There is no definition of
22 "significant" because it varies from community to
23 community, from area to state, to area of the state.
24 It has two components. "Significance" is not only
25 the magnitude, the size of the impact, but also the

1 importance of the impact. So you could have a very
2 large impact that is large in size, but may not be
3 truly important and, therefore, not significant. On
4 the other hand, you could have a very small impact,
5 which on the side would look small, but it could be
6 very important and, therefore, could trigger
7 significant.

8 So it's a combination of the two factors
9 and it's used to try to determine what is --

10 SPEAKER: See that's one of the problems
11 that Environmental Justice is all about, it's
12 exactly that. It's a determination of significant
13 impact and you might believe that it doesn't have a
14 -- your terminology, "a significant impact" in our
15 community. We, on the other hand, do. We have
16 nothing down pat that we can guide ourselves by, so
17 it's left to discretion, and that's why it's left us
18 out in the cold.

19 MS. ABREU CONLEY: So you're suggesting
20 that the term "significant" should be defined within
21 our regulations?

22 SPEAKER: It should be defined within
23 the EJ communities and the transportation sources be
24 part of that significant impact.

25 MS. ABREU CONLEY: Thank you.

1 MR. SEYFRIED: Also, it's important that
2 the impact of the source, whatever it is, is
3 compared to the cumulative, already existing
4 conditions in the community. In other words, a very
5 small addition to a pristine environment is
6 insignificant, but a very small addition to a
7 heavily polluted environment makes a big difference.
8 A large increase in pollution to an already heavily
9 polluted community creates a lot of death.

10 MS. ABREU CONLEY: Thank you.

11 SPEAKER: I would like to see written
12 into the permits in a facility that may have an
13 impact on an EJ community be "non-structural
14 solutions," and it would have to be put in place to
15 remedy the problem. Then you could put the non-
16 structural solutions, like there could be a marsh,
17 there could be a planting of trees, whatever.

18 MS. ABREU CONLEY: Thank you.

19 SPEAKER: I don't know if it's presently
20 now, but they should also report to that community
21 monthly or on some regular frequent basis, the air
22 quality, the water quality in that area.

23 MS. ABREU CONLEY: Thank you.

24 After there's a determination as to the
25 fact that whether there's significant adverse

1 impacts or potential for significant adverse
2 impacts, the next step is to try to define whether
3 that impact disproportionately affects low income
4 minority communities, and the Advisory Group
5 suggests that the regulations be amended to include
6 criteria related to Environmental Justice when the
7 determination of significance is made.

8 In the regulations there's several
9 criteria that's used, and the regulations actually
10 say that the listed criteria are not all inclusive,
11 there are others that could also be used. But the
12 Advisory Group suggests that the regulation actually
13 be amended to include some type of Environmental
14 Justice criteria as a criteria for determining
15 significance.

16 Where an environmental impact statement
17 is required because there's potential for
18 significant adverse impacts, and a minority or low
19 income community has been identified, the Advisory
20 Group suggests that scoping be mandatory. Scoping
21 is the process by which the environmental impact
22 statement is defined, what will be studied in the
23 environmental impact statement. Right now the
24 regulations say that scoping is discretionary. The
25 lead agency can require it or not, and what the

1 Advisory Group is saying is that in these instances,
2 where there's a facility that may impact a low
3 income community, that scoping be done and that
4 scoping be done in a manner that the community is
5 involved. That either public meetings be held to
6 get community input or that a real effort be made
7 for the community to comment on a proposed scoping
8 document.

9 MR. PADILLA: Excuse me. Sorry. Carlos
10 Padilla, South Bronx Clean Air Coalition.

11 Of the lead agency, I'm glad you brought
12 up lead agency status. One of the problems in order
13 to enforce EJ in some measure that you're involved
14 in is similar to what happened with NYPA. You have
15 to also issue a permit for the power plants. And if
16 they don't adhere to certain conditions which are
17 believed to be accurate by DEC's Environmental
18 Justice, then the DEC has the right to hold back
19 its permit until they do follow the process, because
20 it's very difficult to get the other agencies, like
21 the DOT and the DOS and the DEP on board with the
22 Environmental Justice concept.

23 MS. ABREU CONLEY: Right. Quite often
24 DEC is not the lead agency on certain activities,
25 and the Advisory Group's report recommends, towards

1 the end of the report, that there be some mechanism
2 to require these other agencies to also look at
3 Environmental Justice, whether that be an executive
4 order or whether that be legislation requiring that
5 that be looked at. Because the DEC alone can only
6 address the applications that are before it, but
7 we're -- for instance, where NYPA was doing an
8 environmental impact statement, they're the lead on
9 that and the DEC, that's what we're given.

10 MR. PADILLA: There's certain criteria
11 that they have to adhere to you in order for you to
12 be able to participate and issue the permit, and if
13 you would have done that, they wouldn't have been
14 operating today. So there are some of the things we
15 have to take a look at.

16 MS. ABREU CONLEY: Thank you.

17 SPEAKER: If a minority community has a
18 community disease like asthma, is tickets like that
19 for proper health taken into consideration in your
20 EIS?

21 MR. NASCA: Probably not as frequently
22 as we should, okay, because we as yet generally
23 don't have a lot of that information or access to
24 the information, and with respect to asthma, DOH is
25 in the process of gathering the information that

1 they hope will provide for a certain data base that
2 can be used to provide that information. Right now,
3 I might be wrong, I might be speaking for the Health
4 Department incorrectly, but I don't think they are
5 in a position at this point to provide that
6 information, but they're in the process of gathering
7 it.

8 SPEAKER: There's no time frame?

9 MR. NASCA: I can't speak for the Health
10 Department on that.

11 MS. ABREU CONLEY: Public comment on the
12 Environmental Impact Statement: Currently the
13 regulations require that the lead agency give a
14 minimum of 30 days public comment time for the
15 communities to participate and review the
16 information and comment. The Advisory Group
17 suggests that this time frame -- and this is based
18 on comments that we received, that 30 days is just
19 too short of a period of time to actually review the
20 technical and voluminous documents that come with a
21 permit application. So the Advisory Group suggests
22 that the 30-day minimum be changed to a 60-day
23 minimum. Again, the lead agency would have
24 discretion to make it longer, if that be the case,
25 but at least have a minimum of 60 days time for the

1 public to participate.

2 Requiring public hearings on a draft
3 environmental impact statement: I touched on this
4 briefly earlier. The recommendation from the group
5 suggests that where a low income minority community
6 is identified and an EIS has been performed, that
7 there be a requirement that a hearing be held, that
8 it not be discretionary. Again, all of these -- I
9 mentioned that the group suggests that there be some
10 regulatory amendments to the permitting process.

11 Currently, DEC can implement some of
12 these things without actually going through
13 regulatory amendments. For instance, the ability to
14 hold a 60- day public comment period rather than a
15 30-day public comment period. Currently we have
16 that ability and we're going to implement that
17 regardless of whether we can actually get the
18 regulations amended. However, if we pursue a
19 regulatory amendment, other agencies who are lead
20 would have to follow that as well. So it would
21 impact other agencies other than the DEC, but it is
22 something that DEC can do even without regulatory
23 amendment.

24 Traffic generating facilities: We heard
25 that currently the threshold for traffic generating

1 facilities that would require an in-depth
2 environmental review is a thousand car parking lot
3 threshold, and we've heard many times there are
4 facilities that are well under a thousand vehicles
5 that still contribute significantly to environmental
6 air quality degradation. So there's a
7 recommendation that DEC look at that threshold and
8 try to assess whether that's an accurate threshold
9 or whether in fact it should be lowered, especially
10 in urban communities.

11 SPEAKER: I would go a step further and
12 say that parking shouldn't be the marker of vehicle
13 density or vehicle impact on air quality or people's
14 health at all. We have some facilities that are
15 basically trucks in, trucks out. Trucks may be
16 idling there for a long time and breaking the law,
17 but they're not necessarily parking there. And so I
18 think there has to be some estimation in these
19 things of vehicular trips, that there be a marker
20 that's vehicular trips per day, and that has nothing
21 whatsoever to do with the requirement.

22 MS. ABREU CONLEY: Great comment, thank
23 you.

24 MR. FREILLA: Omar Freilla, Sustainable
25 South Bronx.

1 I would also add to that that in a lot of
2 cases you have facilities that aren't transportation
3 related by definition. They're in that business of
4 doing something else, but they need trucks coming in
5 and coming out. Those typically aren't looked at
6 when their company is doing an EIS or DEC is looking
7 over an EIS, and it is typically seen as something
8 that is outside of the purview of what needs to be
9 looked at.

10 So including all of the transportation
11 contributions to air pollution, in addition to what
12 would come out of a stack of things that need to be
13 included as well.

14 MS. ABREU CONLEY: Great. Thank you.

15 Permit renewals: When I started talking
16 about what types of permit the recommendations in
17 the report would pertain to, I mentioned new
18 applications and applications for major
19 modifications. I didn't mention renewals. The
20 Advisory Group talks about renewals in a separate
21 section and the recommendations with respect to
22 renewals are somewhat different.

23 For renewals of a facility that's been in
24 existence, when it first applied for that permit, it
25 went through some environmental analysis if there

1 were significant environmental impacts associated
2 with the facility. So the idea of a renewal is
3 looking at the current state, are they continuing to
4 do the work that they were originally permitted for;
5 do the regulations still allow for that, and if so,
6 the renewal is issued. There's more to it. I'm not
7 a permitting expert, but there's a lot more to that
8 process.

9 The Advisory Group looked, and based on
10 comments we got, there's a lot of concern that these
11 facilities that currently exist have problems
12 associated with them. Either they're not complying
13 with the permit, or there's been no even enforcement
14 taken against them. So the Advisory Group
15 recommends that the permit reviewer, before issuing
16 any renewal, get information from our Division of
17 Environmental Enforcement. And if there are, in
18 fact, outstanding violations, that those be dealt
19 with before the permit is actually renewed.

20 Another thing the Advisory Group wanted
21 to point out is the DEC's current authority to treat
22 a renewal as a new application. The regulations
23 provide for certain circumstances where that can be
24 done. For instance, if the application involves a
25 material change in existing permit conditions, newly

1 discovered material, an opportunity for public
2 comment or hearings required by law or deemed
3 necessary, there are several circumstance where the
4 Department can treat something as a new application,
5 at which point it would be subject, again, to all
6 the recommendations we have already been talking
7 about, and, you know, just notifying the public that
8 DEC has that ability can enable the public to get
9 the DEC any information they think it might not have
10 or might not be acting on.

11 SPEAKER: A question: So are you
12 proposing -- what are you proposing as a way to
13 determine whether or not you would use that standard
14 for this facility? You're going to treat it as a
15 new application, but not for this one?

16 MS. ABREU CONLEY: That's actually in
17 our regulations. The criteria that I said are used
18 in order to figure out whether it's treated as a new
19 application or continued to be treated as a renewal.
20 That's in our New York Code of Rules and
21 Regulations, 621.13 and .14(a).

22 SPEAKER: Monica, there are in New York
23 City a serious number of problems to what you just
24 said, the major one being DEC's enforcement unit is
25 understaffed. There is inadequate enforcement right

1 now, and in the instance where DEC by law is
2 required to collect certain data, they're not doing
3 it.

4 We know that for a fact regarding solid
5 waste transportation. They're supposed to monitor
6 the volumes of waste, look at the transfer to
7 states, where the waste comes from, et cetera, and
8 you do not do it. So how do you know if
9 transportation companies are violating the permit
10 and taking more waste than they're permitted, for
11 example? We have a number of concerns there about
12 certain basic legal requirements that exist now,
13 like a cumulative impact analysis. This has been on
14 the books for as long as I've been a consultant.
15 DEC has yet to publish any cumulative impact
16 methodology. This is a significant and outrageous
17 omission for the EJ community where this -- if a
18 site clustered permit renewal exists where you have
19 already clustered 24 stations in a community, or
20 sited all power plants in low income communities
21 with all the other pollution that is there, how do
22 you look at cumulative impactors, indeed there are
23 the next ten or 20 facilities waiting in the cue to
24 get permits?

25 This is an inadequate response to serious

1 issues that were raised here two years ago. This, I
2 have to say, hasn't even met the PR laugh test.

3 MS. ABREU CONLEY: Cumulative impacts
4 we're going to continue to work on.

5 SPEAKER: For 20 more years?

6 MS. ABREU CONLEY: As long as it takes
7 to develop.

8 SPEAKER: There wasn't PM 5, that was
9 your excuse for doing SEQRA analysis. The Court of
10 Appeals said you had to do it. When is the DEC
11 going to stop hiding behind the excuse, "We don't
12 know how to do it?" The law mandates that you do
13 it, and yet for 20-plus years you've been evading
14 that legal mandate.

15 SPEAKER: The law doesn't mandate.

16 MR. NASCA: DEC should consider
17 cumulative impacts.

18 SPEAKER: You're ignoring your own
19 regulation under the law.

20 MR. NASCA: I would like to say that we
21 could put in place protocols for doing something if
22 we had protocols developed.

23 SPEAKER: Why haven't they been
24 developed?

25 MR. NASCA: We're talking about having a

1 problem that has escaped definition by every
2 environmental agency in this country.

3 SPEAKER: Remember it's ten years, we're
4 talking a whole generation now. There is no excuse.

5 MR. NASCA: If we could do it, we would
6 do it. It's not something that we're able to do.
7 We had a group of 20 people to try to help us, 20
8 very intelligent people to try to help us do that
9 and that group was unable to come to any consensus
10 with respect to how to make it work, how it would
11 work, whether they should be doing it. It's a very
12 difficult topic. I'm not trying to say that --
13 avoid saying something is noxious.

14 SPEAKER: That's not an acceptable
15 answer. It's a legal mandate. The law mandates
16 that you do it.

17 MR. NASCA: I disagree with that
18 statement. I don't agree that it's a mandate.

19 We can discuss this later on if you'd
20 like.

21 SPEAKER: There's no point if 20 years
22 later you're no longer doing it.

23 MS. ABREU CONLEY: I understand your
24 frustration. We haven't figured that out yet. In
25 the recommendations we talked about having public

1 input in the scoping process, that is an opportunity
2 for the DEC, the community and the permit applicant
3 to figure out what to get into the environmental
4 statement and cumulative impact should be there.
5 The community should able to bring to the table what
6 is going on in their community, and some kind of
7 framework should be able to be negotiated where
8 those things can be looked at in the environmental
9 impact statement.

10 SPEAKER: This is something we did go
11 over repeatedly. We really did make a good faith
12 effort to look at cumulative impact, but given this
13 discussion that just took place, I'm thinking one of
14 the things we should consider is -- the cumulative
15 impact's working group was a volunteer advisory
16 board, correct?

17 MR. NASCA: Right.

18 SPEAKER: I think the state needs to put
19 resources behind -- in other words, hire the
20 professionals who have the ability to develop the
21 methodology because her point is well taken. If we
22 take that into consideration seriously, that we look
23 at cumulative impact as the law does require, then
24 let's hire the professionals to come up with the
25 methodology as a consultant. Certainly, maybe,

1 that's the recommendation, that the state find the
2 resources to hire the professionals to come up with
3 the methodology to look at cumulative impacts.
4 Because if we don't do that, EJ will continue, and
5 environmental injustices, not EJ, but environmental
6 injustices will just pile up while we continue to do
7 this work. So let that be the recommendation, that
8 professionals be hired, that they be paid to come up
9 with this methodology.

10 SPEAKER: There's some great minds in
11 this room who could help get paid to do that too.

12 SPEAKER: Because we look at that as an
13 Advisory Group, we really did take that seriously.

14 MR. NASCA: It's very a difficult topic.

15 The issue of how to do cumulative impact
16 assessments, if you're talking about a cumulative
17 traffic assessment, we do that. If you're talking
18 about a cumulative air quality assessment, that is
19 done. If you're talking about cumulative impacts to
20 a receiving body from discharges, that is already
21 done. So there's a lot of impact assessment that
22 doesn't come under the standard guise of cumulative
23 impact that is already being conducted as part of an
24 environmental assessment.

25 I think where people get and where

1 cumulative impacts get very difficult is when people
2 say: Now take this air impact and take this water
3 impact and take this mobile source, diesel emissions
4 impact, and now take this other impact and now kind
5 of get them all together and come to one conclusion
6 as to what is the impact now on asthma or human
7 health. That's where you really get a situation,
8 where as a country, EPA has not --

9 SPEAKER: We don't want anything looked
10 at in a vacuum. That is the heart of EJ. We're
11 saying we want the whole picture looked at as a
12 whole, and that's why the recommendation is, let's
13 get the professionals who can do that.

14 SPEAKER: You're never going to be able
15 to get a completely 100 percent certain picture of
16 what actually happens when you combine a facility
17 that uses X amount of sulfur with some facility that
18 produces X amount of mercury into the air and find
19 out what the actual impact is going to be on
20 somebody who is trying to cross Bruckner Boulevard.
21 That's like a ten-lane street. You're not going to
22 be able to have some kind of certainty, but you
23 shouldn't be using that as an excuse to not go ahead
24 and do anything, because you're only going to be
25 able to make some kind of a decision when you

1 actually decide that you're just going to go with
2 the weight of the evidence and say you have a
3 community that is over burdened with all of these
4 facilities and it can't tolerate another one, and
5 just make the decision to not allow another one to
6 move into the area.

7 But whatever the case may be, it's not to
8 renew a permit but to actually sit around and wait
9 and see. If we're going to wait for all of the
10 great minds we can put together to come into a room
11 and give us a methodology on how to actually to do
12 that, you're never going to be able to do that. It
13 hasn't happened yet because there are too many
14 variables of what can actually or what may happen or
15 what may not happen. You may find out about some
16 new chemical compound next week that has some
17 unintended and unknown effects, but you can't use
18 that as an excuse and not go ahead and move forward.
19 You have to be able to set some kind of policy
20 recommendation to say if this -- you know, "If we've
21 got this many facilities in this area, then we won't
22 allow a new one," or some other polluting facility.

23 That's really the crux of the issue when
24 we talk about how are we not going to wind up with a
25 situation where we've got a Hunts Point, you know,

1 anyplace in the South Bronx that's overburdened with
2 facilities, be it there or places like Williamsburg
3 or places throughout the city, because what we deal
4 with now is, and the question came up earlier and
5 Curtis first raised the question about cumulative
6 impacts, how do you get to a point where we don't
7 wind up with a situation where a facility, a waste
8 transfer station in Hunts Point is said to be not
9 going to have a significant impact, even though it
10 could be larger and could affect more people than a
11 facility, say, in Staten Island, which does get some
12 estimation that it is going to have a significant
13 impact, and where does that decision come about?

14 What we deal with right now is a
15 situation where you simply have a facility in Staten
16 Island -- this is actually a case that happened, I
17 think just a year ago or two years ago, a facility
18 on Staten Island, simply because it's in an area
19 that's considered more pristine, it has an impact
20 not that's more important or affects people to a
21 greater extent, but simply because the difference of
22 what was there prior to the facility being there and
23 what is there after is so great. You had some area
24 that was just woodland and now you have a facility
25 that's a waste transfer station, whereas in all the

1 neighborhoods that we're from, we're in
2 neighborhoods that are already heavily inundated
3 with polluting facilities. We breathe smoke coming
4 out of stacks and coming out of exhaust pipes. So
5 it is considered to be not something that's
6 important -- as you said, you know, your criteria is
7 whether or not it's important. Well, what is
8 important? That's completely subjective. If you're
9 going to have a cumulative impact standard, then
10 that needs to be something that is said so it's not
11 just subjective and can be used in Staten Island in
12 one way or in certain parts of Queens one way, but
13 used completely differently when we go to places
14 like anywhere in the South Bronx or Green Point,
15 Williamsburg or in Manhattan.

16 MS. ABREU CONLEY: Your comment is well
17 taken. I just want to respond to that briefly.

18 I think there are many instances in the
19 recommendations that just give the public a greater
20 opportunity to know what is going on, and let the
21 DEC know their position on the potential to site
22 this particular facility in their community. With
23 that information, we're hoping that the DEC will
24 think long and hard before they make their
25 determination of significance. So hopefully more

1 environmental impact statements will be done when
2 they're needed especially in low income, minority
3 communities.

4 SPEAKER: I think that Omar's points are
5 well taken. I thank Omar as well. I think the
6 issue is that there needs to be some type of balance
7 between the two of them, in the sense of having the
8 group of professionals or whoever it is, as have
9 been suggested, and probably in this room are people
10 who are probably skilled enough to give you the
11 answer. And funding that, making that a request to
12 the government to put it as line item in the budget,
13 is not something that is to the exclusion of the
14 other. I think Omar is right in the sense of when
15 he is saying things like coming up, are we, as
16 communities, expected to wait on these issues? And
17 the answer should be absolutely not. We have had to
18 wait, as you heard in the previous comments, 20
19 years.

20 So I don't think the two are mutually
21 exclusive, is what I want to get at. I think you
22 get the idea that moving forward with cumulative
23 impact methodology is very important, and I think
24 that we are right now in a very pivotal time for
25 that. I think there are forces, political, social,

1 and otherwise, given what we just experienced in the
2 wake of September 11th, to really begin to harness
3 the resources that are necessary to move forward on
4 this issue. I just want to make sure that the two
5 comments don't seem to be pitted as against each
6 other. I think they are complementary, and need to
7 be seen as such.

8 MS. ABREU CONLEY: Thank you.

9 Curtis, you have something?

10 MR. SEYFRIED: It's really very simple.

11 The bottom line is DEC has, the original mandate is
12 to protect the health and safety of the public.

13 While you have spent 20 years trying to come up with
14 methodologies, and while you fenagle about
15 complaining that you don't have methodologies, that
16 what it comes down to, what you want is, you want a
17 methodology that will not make you liable to suit
18 from industry for being too strict. But I'll tell
19 you what one of the most important things is, how do
20 we tell a five year old child not to breathe all the
21 pollutants in the air, just to breathe some of the
22 pollutants, when she's having an asthma attack at
23 three o'clock in the morning, and her mother is
24 frantic because the child is in a serious emergency
25 situation, and the mother has to take her child to

1 an emergency room. Go to hospitals in our
2 communities and get hospitalization records for
3 intakes in emergency rooms for asthma, and you will
4 see the impact on our communities, the cumulative
5 impact on the health of our residents. And what it
6 comes down to is while you're playing games and
7 fenagling methodologies, people are dying. Children
8 are dying. Seniors, those two groups are the most
9 sensitive groups in our communities, they're dying
10 of asthma and of cancer and of other diseases caused
11 by the over burdening of pollutants in their
12 communities and they don't have the choices that
13 middle class and rich people have to move to a more
14 pristine environment. They are prisoners in their
15 community. They have to live with what is there.
16 They cannot go out and breath someone else's air or
17 not breath the pollution in the air. People are
18 dying.

19 MS. ABREU CONLEY: Another regulatory
20 amendment that I want to mention before I move on to
21 the next section: On page 17, there's a suggestion
22 that the regulations at 617 be amended to require
23 that the DEC, when it issues the permit, certify
24 that it has, in fact, looked at the proportioning
25 impact on low income, minority communities.

1 At this point I'm just going to briefly
2 go into the last section of the report that talks
3 about non-permitted issues that the Advisory Group
4 felt the DEC should be looking at. I'll just go
5 through these very briefly.

6 We looked at Native American issues.
7 There are many American Indians who live within
8 various communities whose Environmental Justice can
9 be addressed by this document. Then there are other
10 situations, for instance, where there are Indian
11 nations living on reservations, who have a separate
12 set of circumstances that address their communities
13 and because of the sovereignty of their government,
14 the Advisory Group chose to have certain
15 recommendations, and just put them at the end here.
16 For instance, dealing on a regular basis with the
17 Nation's government, having the Commissioner meet on
18 a regular basis, cultural awareness training.

19 Continuing the Environmental Justice
20 Advisory Group is one of the recommendations. The
21 Advisory Group has played a large role in the
22 development of the EJ program to date, and in order
23 for the next phase to come about, the actual
24 implementation of the policy, the Advisory Group
25 suggests that there be an Environmental Justice

1 Advisory Group to continue to advise DEC.
2 Assessing distribution of green benefits:
3 When you talk about Environmental Justice, we talk
4 about preventing or eliminating disproportionate
5 impact, adverse impacts on low income, minority
6 communities. Then there's the other side of that
7 too, which is getting the green benefits to those
8 communities, getting the good environmental things
9 to those communities. For instance, open space,
10 park money, things like that.

11 So the recommendation is for DEC to
12 assess what monies it gives out and make sure that
13 they are equitably distributed among the entire
14 state, and also look, try to encourage the
15 legislature, when it allocates funds for a
16 particular project, to make sure that those funds
17 are allocated, again, equitably throughout the
18 state.

19 Another recommendation is for the DEC to
20 look at their enforcement efforts and enhance them
21 to make sure that they are, in fact, addressing
22 Environmental Justice; to make sure that there's an
23 equitable amount of enforcement, inspections done;
24 enhance our order on consent policy to make sure
25 that we can't get around, perhaps, the permitting

1 process or other things by going into a consent
2 order; looking at the inspection reports and trying
3 to standardize these, currently each with different
4 programs, whether it be water, solid waste,
5 hazardous waste. They all have a different type of
6 inspection process. We try to standardize that so
7 the community can look at one document and know what
8 is being looked at at a particular facility.

9 Evaluate and address activities of
10 agencies exempt from SEQRA. There's certain
11 agencies or activities which when they're done they
12 don't necessarily have to go through the
13 environmental impact review. And the Advisory Group
14 recommends that DEC encourage, or if they can find a
15 mechanism to require that these agencies actually go
16 through the full environmental review and the
17 Environmental Justice review that's been suggested
18 in the recommendations.

19 The next review is the organizational
20 structure of the DEC and to make sure that the DEC,
21 the Office of EJ's, is appropriately staffed; make
22 sure that it continues to be staffed as it has been,
23 also adding additional staff, whether it be legal, a
24 sociologist, whatever that might be, to make sure
25 that EJ will be looked at from all angles.

1 Translation policy: You've heard many
2 times that a lot of DEC documents should be
3 translated into different languages, and so the
4 recommendations of the DEC actually developed a
5 translation policy which would talk about what
6 documents the DEC itself would translate, whether it
7 be pamphlets or policy documents or what have you.
8 And also a mechanism for doing translations at
9 public hearings.

10 The last one is the recommendation to
11 require state and local government agencies to
12 address Environmental Justice issues: The DEC
13 decided to implement this EJ program, and some other
14 agencies have, some have not. The recommendation
15 here is to require that all local and state agencies
16 address Environmental Justice. There is only so
17 much that one agency can do, and our agency, the
18 DEC, may not necessarily have authority over a
19 particular local agency that may be making
20 environmental decisions in their community. So the
21 recommendation is either to have the government
22 issue an executive order or have the legislature
23 issue legislation requiring that be done.

24 At this point, I'll stop and allow
25 comments and other questions.

1 MS. DeLOAYZA: I would like to say we
2 have about 50 minutes until seven o'clock, and there
3 are eight people who have requested to speak. So
4 we'll get some questions within this section, but
5 realizing that, let's try to do it as quickly as we
6 possibly can so that we have -- because at that rate
7 we have about seven minutes per person to speak.

8 MS. McQUEARY SMITH: Madam Chair, please
9 let the record show that Beverly McQueary Smith,
10 from Touro Law School, a member of the Advisory
11 Group, is present in the audience.

12 MS. ABREU CONLEY: There are several
13 other Advisory Group members that did come in after
14 we introduced ourselves. I might take that
15 opportunity to do that now. Thank you, Beverly.

16 Norma, do you want to introduce yourself?

17 MS. RAMOS: Norma Ramos, with Justicia
18 Ambiental Latina.

19 MR. PADILLA: Douglas Padilla, Bronx
20 Community Coalition.

21 MS. DeLOAYZA: Anyone else we missed?

22 And just, please, again, the point that
23 we made further recommendations that went further
24 than the ones that you've been addressing; that they
25 appear as attached to the recommendations. They are

1 more comprehensive.

2 MS. ABREU CONLEY: The Advisory Group we
3 talked about has worked very hard over the past two
4 years to come up with these recommendations.
5 Getting 18 people from very different backgrounds,
6 with different interests, into a room to come up
7 with recommendations to address Environmental
8 Justice was a tough fete, but I have to say I'm very
9 appreciative of the Advisory Group and very proud of
10 the work they did to come up with this report.

11 That being said, and the advisors support
12 the recommendations in the report, but as Norma
13 pointed out, there are also supplemental letters in
14 the back of the report that either go further in
15 explanation or mention certain disagreements that
16 they might have with concepts that were raised.

17 MS. McQUEARY SMITH: I am indeed a
18 signatory to one of the letters that's found at the
19 back of the report. Please let the record show that
20 I am speaking in my individual capacity and not as a
21 representative of Touro Law Center, on the
22 letterhead of that letter.

23 MS. ABREU CONLEY: Thank you.

24 SPEAKER: I had some -- I wanted to make
25 sure all this was done.

1 MS. ABREU CONLEY: Do you have questions
2 on this section or do you want to just make general
3 statements.

4 SPEAKER: I had some general statements
5 also, but I do have a question: When you talk about
6 the continuation of the Advisory Group, do you talk
7 about that continuation in its present composition?

8 MS. ABREU CONLEY: Coming from the DEC
9 staff, I'm not sure how many of the representatives
10 will be able to continue, but we will be looking, I
11 suspect we will be looking for additional people, if
12 that's what you're getting at, to look at who is on
13 there now and invite additional people.

14 Any other questions on the last couple of
15 things I talked about?

16 SPEAKER: I just really want to make it
17 clear that before this process started, when you
18 guys held public meetings and introduced who was
19 going on, to be on the panel, our organization and
20 most of the other community organizations raised
21 objections at that time to the composition of the
22 panel, to the relative weight; that Environmental
23 Justice and community organizations, in fact, have a
24 very small percentage of the composition on the
25 panel. That people who represent whole communities

1 have the same weight as someone who represents a
2 corporation, and that, you know, we really -- we see
3 this, if this panel is going to continue, you should
4 use this as an opportunity now to, like, reevaluate
5 the composition of this panel and to think about
6 changing that composition so that it actually
7 reflects a representation of the communities in New
8 York that both suffer from environmental injustice
9 and also best understand the concept of what
10 Environmental Justice is. That's the first point.

11 The second point is that our organization
12 also raised an objection before this started, in
13 terms of the composition of the panel, that there
14 was a lot of corporate representation and there was
15 no labor representation, as if the workers who work
16 in facilities that may be of question, in terms of
17 pollutants, aren't also suffering from the effects
18 of that pollution and don't have specific state
19 interests that need to be represented here. I refer
20 you to the Environmental Justice principles that
21 came out of the first People of Color Summit on
22 Environmental Justice, where there is a whole
23 section on occupational health and the importance of
24 that to the Environmental Justice movement and to
25 our way of thinking.

1 Furthermore, that many times we're faced
2 with situations where when a community complains
3 about pollution emissions from a given facility,
4 some the mitigation measures that are suggested are
5 mitigation measures that in fact do tighter
6 enclosures on the facility itself. Rather than
7 changing to cleaner production methods which would
8 make it safer for everyone, things are more tightly
9 enclosed, which means that while the pollution
10 that's coming out is reduced, the pollution that
11 stays in, that the people are breathing inside,
12 becomes worse.

13 We don't want to see that dichotomy
14 continue to exist. We would hope that this kind of
15 task force could help facilitate a change in that
16 method of functioning.

17 MS. ABREU CONLEY: Thank you for your
18 comment. I do recall the comments about when we
19 first held our meetings, about the make-up of the
20 group, and we did, in fact, try to get a little more
21 Environmental Justice advocate representation on the
22 group, but I think we can do a better job, and
23 hopefully in this next round we will do that.

24 MS. DeLOAYZA: Curtis, you're first on
25 the list, so maybe you can add your comment here to

1 your -- did you have general comments?

2 MR. SEYFRIED: I made all my general
3 comments. I want to make one short comment since no
4 one has brought this up.

5 As far as the section that deals with
6 accessing distribution of green environmental
7 benefits, the Clean Water, Clean Air Fund, the
8 Environmental Protection Fund are basically slush
9 monies that the Governor uses to reward or to
10 influence voting for himself in an election. For
11 one thing, I applied for a grant under the first
12 round of the Hudson River estuary grant program, and
13 I was denied legitimately because they were a lot of
14 good programs who have limited money to give out.
15 What I found offensive was that the awards were
16 supposed -- the decisions were supposed be made in
17 January, by July of that year no decisions had been
18 made yet, and they didn't know when they were going
19 to be made. Then, when they finally made them in
20 August, it took another three or four months because
21 the Commissioner has to review the decisions, and
22 then, the Governor had the final review and it was
23 held up for another three months because he wanted a
24 photo op.

25 This money cannot be used for publicity,

1 for campaigns -- it's basically a campaign fund for
2 the government, okay. "Give it to the people who
3 will vote for me. Put it in the rich communities
4 where they will vote for me." It should not be in
5 the hands of the government. It should be, just
6 like any foundation evaluates grants, it should be a
7 fair, unbiased determination, with no political or
8 political appointee influenced allowed in the
9 decision-making process. That includes the
10 Commissioner, because the Commissioner is basically
11 told by the Governor, "These are the people who I
12 want to get the awards, and then you approve them
13 and then I'll approve them, I've got to get my
14 photo."

15 MS. DeLOAYZA: I would like to say we
16 have about seven minutes for the eight comments, and
17 I'll give a warning at five minutes.

18 MR. HASSIG: I don't believe it feels
19 good about the way EJ is going in New York State,
20 and it's just because in my experience the role the
21 DEC plays and the role that industry plays have just
22 gradually become more and more heavy handed and
23 imposing upon people of bad health and disease. And
24 we've seen the cancer rate in our county constantly
25 progress higher for decades now. It's not some just

1 possibly an artifact and something that is not
2 likely to be the actual case, but for decades now
3 we've seen cancer rates, lung cancer rates
4 particularly, gradually, steadily go higher, and
5 it's been exceeding the New York State average now
6 for a considerable period, and still there is
7 nothing being done that will be concrete. Even in
8 the small thing, what we mentioned before, having
9 New York State DOH come to the area and talk to us
10 about why it is that we should believe that these
11 rates are not going to be driven higher by
12 pollutants being added to the air supply, I want to
13 really stress that.

14 And then I want to talk about something
15 that is -- it's justice. It's not so much EJ, but I
16 think if there are things going on with DEC that are
17 as unjust as I would like to relate to this group,
18 then I fail to see how there can be any address to
19 matters of justice that are with regard to race, and
20 with regard to poverty. And this is very personal,
21 but I feel that this is the appropriate place to
22 talk about this.

23 My brother was a forest ranger for about
24 two or three years, and then he decided not to
25 continue in that vocation, and partly because of the

1 forest ranger difficulties and partly because of the
2 environmental acumen that my brother and I both
3 engage in and that some of our allies engage in the
4 St. Lawrence County and Region 6 area of New York
5 State, DEC took it upon itself to require that he
6 give up a pistol permit that he had had, not because
7 he was a forest ranger, even though he was trained
8 to use a hand gun as a forest ranger, but a pistol
9 permit that he obtained, as I did, when we were 17
10 years old. I'm not making that up. DEC had a
11 police officer come to our county and sit down at a
12 hearing that a county judge was conducting, that has
13 to say about who has pistol permits, and this DEC
14 officer said, and these are his exact words, he
15 said, "If Mr. Hassig is to have a permit to have a
16 hand gun, then I don't want to enforce the laws of
17 New York State as the Encon officer."

18 That was just totally corrupt. My
19 brother has never done anything that would cause any
20 policeman or any military person or anybody that has
21 to enforce laws to say that he shouldn't have a hand
22 gun.

23 MS. ABREU CONLEY: Can we keep this on
24 Environmental Justice.

25 MR. HASSIG: It is. It's DEC and it's

1 justice. I just want to add one more thing along
2 these same lines.

3 I got a call from DEC about a week ago
4 saying that they're investigating me as a potential
5 Anthrax letter mailer. I find that so disgusting
6 when it's just a blatant attempt to discredit us
7 just because we are going to EPA and asking EPA to
8 take away much of DEC's authority as far as air
9 pollution permitting goes. And we feel that EPA
10 should take that over since DEC failed so terribly
11 and tragically in causing increased levels of
12 cancers and increased levels of disease among New
13 Yorkers.

14 For DEC to retaliate by taking away hand
15 gun permits, and I recently had mine taken away too,
16 for the same type of blackballing efforts, to
17 discredit the kind of efforts that are going on.
18 Like this Anthrax letter thing, to add that on top
19 of the hand gun thing, that is very, very provoking
20 and very, very lacking in any kind of interest in
21 justice.

22 MS. ABREU CONLEY: Susan Stetzer, I
23 think she's gone.

24 Steven Rosario.

25 MR. ROSARIO: Good evening. For the

1 record, my name is Steven Rosario. I am the
2 Northeast Regional Director of the American
3 Chemistry Council, which is a national trade
4 association representing companies in the business
5 of chemistry.

6 I do want to make clear that I'm not here
7 representing the New York State Chemical Alliance.

8 We do appreciate the opportunity to be here. I'm
9 not going to read my statement, I'm just going to
10 pick out some very important points.

11 I'm also not from Washington. I am from
12 right here in New York, born and bred, lived most of
13 my life here in the state, three-quarters of which
14 was in the city. So what happens here in the city
15 and in the state are very important to me, both on a
16 professional level and certainly on a personal
17 level.

18 And, yes, I do represent industry. We
19 all know that that is a hot button word, but often
20 times in my travels I have to remind people that
21 when we say "industry" we have to remember that this
22 is something that is made up of real people. Real
23 mothers, real fathers, real grandmothers, real
24 grandfathers. There are faces with real issues
25 behind the terms, whatever we say, corporations or

1 industry.

2 While we do support the concept of
3 Environmental Justice and an even-handed approach to
4 the enforcement of environmental standards, as the
5 old saying goes, the devil is always in the details.
6 How do you go about developing such a program that
7 enhances Environmental Justice while not placing a
8 noose around economic development?

9 By way of background, we have 634
10 facilities here in the state, most of them upstate,
11 employing 57,000 workers, people that we do care
12 deeply about. For every job that we do create, we
13 create an ancillary 2.9 jobs, for an additional
14 232,000 additional jobs here in the state, but that
15 has not always been the case over the past 20 years.
16 Our industry has diminished significantly. SEQRA,
17 which is a very complicated and lengthy process,
18 we're all familiar with it, makes it even that much
19 more expensive to build and operate here than in
20 other parts of the country. These companies are not
21 just going out of business. They're simply leaving
22 the state.

23 We all know what happens when plants
24 close; the houses that go up, usually they always
25 make the newspapers, but in this situation, we can't

1 have it both ways. There are a number of serious
2 reservations that we have, supplemental letters
3 signed by industry representatives, outlining some
4 of these concerns, with which we do concur. There
5 are some additional issues that I will be submitting
6 as part of these comments before Friday.

7 The first issue for us is the subject of
8 subjecting renewals or minor modifications to the
9 requirements of this EJ policy. We feel and believe
10 strongly that this is unreasonable to subject
11 current operating facilities, especially when you
12 have minor changes to the operations, and we simply
13 have a renewal.

14 The second issue is the DEC educational
15 outreach program. We believe you cannot have a one
16 size fits all, that you have to allow applicants to
17 do their own outreach in communities so that
18 whatever program are created can be tailored to that
19 individual community. And that DEC's role should be
20 one to assist the applicant, especially in the early
21 permitting process.

22 Third is the tag program. We cannot
23 stress enough how important that program is, but we
24 also have to stress it has to be funded by the
25 state. If you impose it on the applicants, you're

1 increasing their costs, and those are decisions that
2 companies are going to have to make, as to whether
3 or not they stay here or, for new companies, if they
4 even decide they want to come here. In the interest
5 of encouraging economic development, the state
6 really should be providing this assistance.

7 Fourth, one of the bigger issues is the
8 ability of DEC to deny application permits. This is
9 of utmost seriousness and concern to us because it
10 is a significant departure from the underlying
11 concept of fairness and balance in part 617. All of
12 you know what this requires, I'm not going to recite
13 that here, but the difference between 617 and
14 proposed policy is critical. Apparently 617 assumes
15 that mitigation measures will not always be
16 available to relieve radical environmental impacts.
17 It also assume that some level of environmental
18 impact is accessible when a project will provide a
19 positive impact.

20 The proposed policy, on the other hand,
21 takes an opposite approach. It assumes that only
22 mitigation measures that completely alleviate
23 impacts are acceptable. We believe strongly that
24 DEC should not be placed in the possession of having
25 to make the completely subjective decisions that

1 this provision would require.

2 We recommend that this proposed provision
3 be abandoned and the standards for DEC's decisions
4 to approve a permit application be based on existing
5 part 617.

6 Finally, while the draft itself does not
7 call for the issue of citizens' suits, for our
8 industry, it is of paramount importance that the
9 policy not permit this kind of legal action as part
10 of the Environmental Conservation Law. We all know
11 how crowded the courts currently are, and that this
12 creates another layer of expense for companies when
13 they have to defend against lawsuits.

14 We believe that if you are looking for
15 increased enforcement, that you've got DEC, you have
16 the Attorney General's office, you even have local
17 district attorneys who get involved in environmental
18 enforcement programs.

19 If you're really looking to do something,
20 we believe that DEC needs to look at these issues
21 and some of the ones that I will be submitting prior
22 to the end of the week. And we appreciate the
23 opportunity to address you.

24 MS. ABREU CONLEY: Michelle Alvarez?

25 (No response.)

1 MS. ABREU CONLEY: Leslie Lowe.

2 SPEAKER: She had to leave, but can I
3 take her place?

4 MS. DeLOAYZA: Sure.

5 SPEAKER: I'll submit more written
6 comments, but just quick talking points.

7 The basic flaw perhaps with this document
8 is that it is advisory in nature. Most of the
9 suggestions made are just that, suggestions. It's
10 unrealistic to think that these changes would be
11 made voluntarily or readily accepted. A similar EJ
12 circulating in New Jersey is in marked contrast to
13 the New York document. The New Jersey policy
14 recommendations are premised on numerous changes in
15 and additions to state regulatory provisions, so as
16 to make EJ mandates legally enforceable
17 requirements.

18 The general recommendations in this
19 document are too vague. The document is full of
20 things the DEC should encourage and lacks teeth.
21 For instance, there's notes on page eight that DEC
22 should encourage applicants to reach out to the
23 public and work to foster dialogue with community
24 representatives. First of all, even if DEC did
25 encourage such action, there's no sanctions if the

1 applicant does not do it. The language in the
2 recommendation is so unclear that it really does not
3 do anything and assumes DEC's permit applicants and
4 other non-fee based entries will take various steps
5 to benefit EJ needs just because.

6 Recommendations for improving public
7 meetings do not address common problems that EJ
8 meetings have faced at recent public meetings, like
9 lack of notice, or air region notices. Overlapping
10 meetings; overt racist treatment, in terms of
11 speaker preference, et cetera, this section must
12 expressly call for changes to ensure actual notice
13 to LICC's that enables broad participation.

14 Open space analysis is insufficient, over
15 simplified. The document only addresses those open
16 spaces in two brief paragraphs. It merely states
17 that funds from state environmental loan programs
18 should be distributed equitably and that DEC should
19 analyze where the money is being spent and make
20 revisions of disparity if evident. Again, there is
21 no teeth in the language.

22 There's nothing in this document
23 addressing some of the most pressing substantive
24 issues in the EJ appeal, such as waste, energy,
25 transportation policy, air pollution and brown field

1 redevelopment. With particular regard to energy,
2 this is very scary because the state is right now
3 looking at the state energy plan and they put
4 nothing in it about Environmental Justice because
5 they said, "No problem, that's going to be caught
6 under this," and this doesn't do it either. So our
7 state energy plan will have nothing about
8 Environmental Justice.

9 Suggested secret changes are admirable;
10 however, any positive result is limited by the fact
11 that they would only apply in situations where DEC
12 is the lead agency, as was discussed earlier. It
13 needs to apply in all cases. In a SEQRA review, I
14 read a document that recommends that mitigation
15 measures considered during the SEQRA process focus
16 on alleviating disparate impact. Mitigation is an
17 amorphous concept. Under the SEQRA statute,
18 mitigation measures only have to be implemented to
19 the maximum extent practicable. No lead agency,
20 particularly for SEQRA review purposes, can decide
21 what if any measures can be opposed. In this
22 regulatory setting, specific mitigation measures
23 cannot be mandated and are not backed up by any
24 legal force; thus, the recommended corporation of EJ
25 issues in the mitigation of justice will likely have

1 little real world impact.

2 Advisory groups focus on Internet
3 publication and manipulation as a means of providing
4 communities with information and do not take into
5 account that access to this technology is less
6 common in low income communities of color. Document
7 treatment of community-impact analysis in the SEQRA
8 process is very vague and defers further an in-
9 depth deliberation of such complex issues for
10 another time. That was discussed earlier.

11 I don't know why that's so difficult
12 because if you take any five year old in the South
13 Bronx and ask them if there is a cumulative impact
14 problem, if you explain that, they're going to tell
15 you, "Oh, yeah, I have asthma and so does my three
16 year old brother and all my cousins." It's not too
17 hard to explain.

18 This document does not make the
19 connection between effective public participation
20 and forced compliance when agencies drag their feet
21 with FOIL requests. Information is often received
22 by community members too late. The result is less
23 informed public comments and hearing testimony. New
24 Jersey's plan, referred to as "environmental equity"
25 rather than "Environmental Justice," is much more

1 comprehensive from a public participation standpoint
2 than the one being proposed by DEC. It applies to
3 all applications submitted to the New Jersey
4 Department of Environmental Protection, your
5 counterpart.

6 For new permits, permit renewals and
7 major modifications to existing permits for major
8 facilities, that consists of no less than ten steps.
9 Those ten steps being every permit applicant must
10 participate in a preapplication meeting with DEC,
11 learn about the new EE outreach process -- that
12 would be the EJ process. DEP partakes in a
13 mandatory EJ screening of the permit application
14 that is submitted. If the screening shows that the
15 project will have impact on an EJ community, the
16 applicant is required to participate in an expanded
17 community participation process for environmental
18 equity. In New Jersey, if an applicant fails to
19 initiate the EE process, citizens can petition the
20 agency and request that the applicant be forced to
21 participate. Applicants participating in an EE
22 process must plan and execute an extensive community
23 outreach program. This plan must be submitted to
24 New Jersey community members for review. A
25 mandatory meeting of the project must be held in the

1 affected community. This meeting is to be convened
2 by the applicant with DEP serving as the moderator
3 -- that would be you.

4 After this meeting, the applicant is
5 required to revise the outreach plan, in light of
6 the comments. Indeed, they must also detail
7 additional outreach activities. At the conclusion
8 of this process, DEP is to determine whether the
9 applicant made a good-faith effort to comply with
10 the process. The results of public participation and
11 outreach are to be considered in drafting relevant
12 permits.

13 If DEP determines there's no good-faith
14 effort, it will not issue the permit. Alternatives
15 and resolution is offered if there are remaining
16 issues of disagreement between the applicants and
17 the community. I might add that the advisory
18 committee, if it's to be advising on Environmental
19 Justice issues, it only makes sense that it's made
20 up particularly of people who have been impacted by
21 Environmental Justice concerns. So including
22 industry in is like inviting a fox into a hen house.
23 It doesn't make sense. Industry has plenty of time
24 to have their input included. They certainly will
25 once an advisory position is put forward, why are

1 they included in all the discussions when you're
2 trying to come to a consensus? Clearly they're
3 going to disagree with everything you put forward
4 that's of a substantive nature.

5 I guess, beyond that, the advisory
6 process needs to be more expansive. We said that
7 numerous times. We have sixteen community based
8 organizations in New York City, none of them sit on
9 your Advisory Group. As far as I can tell from
10 reading it through, it looked like you had about
11 four or five, give or take, Environmental Justice
12 related organizations, a bunch of government groups
13 and then some industry groups. That doesn't seem
14 like it's a good-faith effort to try to find
15 Environmental Justice advisors.

16 MS. DeLOAYZA: Ronald Dillon?

17 MR. DILLON: Good evening. My name is
18 Ronald J. Dillon. I'm the President of the
19 Concerned Homeowners Association.

20 Basically, really looking for some
21 justice, we recently had a meeting with the state
22 about the transfer station, which is my main area of
23 concern, and we were accused of being intemperant in
24 our letters, and that we basically have exhausted
25 the goodwill of the state to the point that they

1 basically don't want to deal with us. Looking at
2 why that happened and then looking at this document,
3 I've come to understand the basic reason is we're
4 coming from two different places.

5 Me and my neighbors, as residents in the
6 community, are merely asking that laws be obeyed,
7 whereas the state is looking to facilitate a process
8 of giving an application or an applicant a permit to
9 actually conduct business. And when I was reading
10 the document, I was impressed with all the things,
11 all the notifications that are in there, all the
12 allowing for comments, but we have submitted reams
13 and reams of documents, and it doesn't matter,
14 because basically what is happening is that the
15 state is using all our notices of problems and
16 notifications to minimize the complaints against the
17 facility and still give them a permit.

18 Now we're not there to try to have the
19 facility get a permit, we're trying to say it could
20 never have a permit. And then I was reading the
21 appendices of the document, especially the
22 appendices by the industry group, and they talk
23 about the renewals and the gentleman from the
24 industry group says, you know, "The renewals should
25 be taken out of the picture. We got the permit, now

1 we should be able to renew it." And our problem is
2 that the permits were given illegally, and this is
3 never addressed.

4 What happens is the state agency seems to
5 take the position of the company that we have a
6 permit there, that de facto it is legal. It was
7 never legal. In one example the company never used
8 the facility the way the permit specified. They're
9 in the process of going through a modification. The
10 modification is basically almost taking down the
11 building, except for the four walls and the roof.
12 That is an issue which doesn't get addressed,
13 whether these facilities, especially on renewals,
14 are legal.

15 When I was looking through the document,
16 you're talking about what facilities get coverage,
17 you're talking about permitted facilities. I'm not
18 clear, I'm sorry, maybe it was covered earlier, I
19 don't see any discussion of registered facilities.
20 And registered facilities are just as bad as some of
21 the permitted facilities. I wanted to use a word
22 here, but I see that the Regional Director for
23 Region 2, and I told him I can't use the curse word,
24 the four letter word, starts with "Z" -- zoning.
25 MR. DILLON: The industry comments in

1 the document talked about zoning. And it's cute,
2 because the way they present zoning is that we're
3 the innocent little lamb that went into an area,
4 that was -- we went in there legally, and now these
5 people are fighting us because the community
6 changed. But that's not what the situation is, at
7 least in my community. The zoning precludes the
8 company from being in there -- again, I'm talking
9 about transfer stations, I know there are probably
10 other things -- precludes the company from being in
11 there. They were never legal. Which then goes to
12 another issue raised in this, local enforcement.
13 The relationship between the state and the local
14 government.

15 Now in the current regulations, there's
16 this little catchall in the permitting regulations
17 that says that the applicant has to obey all local
18 regulations. That "Z" word is in there. That's a
19 local regulation, but the state says, "No, don't
20 talk to us about that because that's a local issue."
21 And that is a problem. Because especially in New
22 York City, where the local authorities ignore the
23 law, and the state knows they're ignoring the law,
24 they say, "Don't talk to us, because it's a local
25 issue." But it isn't, because the regulation says

1 you have to obey all the local regulations.

2 When they talk about the industry has
3 this problem with this grant and them funding the
4 grant. You know, in my community, most industry
5 doesn't pay the full -- don't pay the full cost of
6 their doing business. They cheat. The way they
7 cheat is by violating the law. And I was
8 particularly upset about the industry objection to a
9 comment that another group said about when they
10 present studies. The comment of the other group,
11 and I forget -- I'm not going to find it right now,
12 but I think it was Arbor Hill Environmental Justice
13 Group and others -- was that the assumption of those
14 studies should be available to the people who are
15 reviewing the documents. And that the company
16 shouldn't be able to hide behind copyright laws or
17 whatever. And basically what the company said is or
18 the industry position is, "No, we should be able to
19 hide behind that." Because what they're basically
20 saying is, "Trust us, we know best." And, really,
21 my problem with trusting them is, because in New
22 York City the presumption is, because everybody
23 needs a permit or a license to do things, that the
24 industry certifies works. You go to a plumber, a
25 licensed plumber, the licensed plumber certifies.

1 Well, in my specific instance, the company had a
2 professional engineer say a professional waste
3 transfer system, by definition, puts out odors.
4 That in the middle of the protressimal (ph) transfer
5 station there are no odors. And the city accepted
6 it, and the state accepted it. Now how can anyone
7 accept -- as I keep on saying, I'm a thousand
8 percent against them -- I'm willing to admit that in
9 the middle of a protressimal (ph) waste transfer
10 station, you will have odor. Yet the industry
11 submitted this study and it was accepted.

12 In another example, the company has part
13 of their operations on residential property.
14 They've admitted to us it's on residential property.
15 The state made them meet with us. We talked about
16 it. They said, "Yes, we know it's there, we'll take
17 it away." They subsequently went to the state and
18 said, "No, that's not part of our operation." We
19 complained, "Wait a second, what is going on?" The
20 state said, "They said it's not part of their
21 operation, they must be telling the truth."

22 Why? Why do these companies have the
23 presumption that they are correct? Why is not the
24 presumption that the community is correct?

25 We talk about inspection reports because

1 this is a large part of this whole process. Let us
2 see, let the community see the inspection reports.
3 There are no inspection reports. The city doesn't
4 inspect, the state doesn't inspect. What they will
5 do is, if you complain long and hard enough and
6 maybe we're getting close to that part, I can get
7 one complaint a day now, okay, from a facility, they
8 will go out and look at what you complain about,
9 maybe. But there is no, in fact, state inspection
10 out there that goes and says, "Are they complying
11 with their permit design?" "Are they doing this?"
12 "Are they doing that?"
13 What they do is, what they go out and say
14 is, "I see five bales of garbage." Okay. I write
15 it down and they leave. The facilities are open 24
16 hours a day. They go at 12:00 to 1:00. We looked
17 at the studies. The state doesn't want to go into
18 the communities that are impacted on this. There is
19 something wrong when you have a 24 hour a day
20 operation and the city or the state goes out within
21 a two-hour period. There are problems with this,
22 and there's a bias in this. The only justice that
23 we're really asking for is that at this point in
24 time every application be considered a new
25 application, and if it doesn't meet that curse word

1 "Z," and it doesn't meet any of it, they get closed
2 down.

3 There seems to be the problem also with
4 the state about this adverse position it was a
5 taking. It was mentioned in the documents. Again,
6 I think it was mentioned by Arbor Hill Environmental
7 Justice. It's a taking, but they have no right to
8 be there in the first place. They've taken from me.
9 I can't enjoy my community. Nobody seems to protect
10 me about their unjust taking of my community, of my
11 house, and I lived there a long time before those
12 transfer stations, but there seems to be an issue
13 with the state denying a permit because that will be
14 a taking. Why is this disparate -- you know, so
15 again, the document looks nice, the industry
16 comments are insulting. They talk about who should
17 you talk about, the community, the impact on us?
18 We, the business, know what the community is.

19 I'll tell you, Allied Grace has been
20 there for two years I've been there for 40. Don't
21 tell me they know better what the impact of the
22 community are. Thank you.

23 MS. DeLOAYZA: Marian Feinberg?

24 MS. FEINBERG: Good afternoon. My
25 colleagues and I raised most of our comments during

1 the discussion period, and we're going to submit
2 written comments during the week, so I just have a
3 few points that I really wanted to red flag.

4 One is the whole question of what was the
5 scope of work of this task force. And we feel, you
6 know, I guess in a way, at least in one or two
7 points similar to the speaker that preceded me, that
8 the scope was way too narrow, and focused a lot on
9 permitting processes, some of which are very
10 important and which we've been fighting about for
11 years, which are very limited. Very limited in the
12 extent of dealing with what are the -- what is
13 around the question of how do we get Environmental
14 Justice?

15 We don't just get Environmental Justice
16 by a better permitting process. We feel that
17 meaningful Environmental Justice can't be achieved
18 in the absence of state support of the development,
19 promotion, and implementation of pollution
20 prevention technologies and methods, particularly in
21 areas which impact disproportionately in
22 Environmental Justice communities. Without waste
23 prevention planning, energy conservation and clean
24 energy production planning, less polluting sewerage
25 treatment development, improved industrial pollution

1 prevention and control, clean fuels in public
2 transportation programs and fields like this, we
3 will continue to have adverse impacts in our
4 communities. Environmental Justice is not just
5 about equitable distribution of harm, it is about
6 reducing harm.

7 We think that the DEC, quite frankly,
8 like the EPA and many other agencies, separates out
9 their pollution prevention unit from their EJ unit,
10 as if pollution prevention were not an EJ concern.
11 When government agencies like DEC look for pollution
12 prevention partners in the environmental advocacy
13 community, they inevitably look to primarily
14 statewide or national organizations, without looking
15 for input, suggestions or contracted EJ
16 organizations. This robs the P2 process of the EJ
17 point of view, and who better to know the advantages
18 of P2 than the community who was suffering most from
19 the pollution?

20 It's also like in P2 type pilot projects,
21 whether that be in less than industrial forms of
22 sewerage processing to many other things, those
23 pilot projects very rarely happen inside our
24 communities. We feel also that Environmental
25 Justice not only involves better permitting in the

1 future, but mitigation of the environmental
2 injustice and the environmental health and quality
3 of life impacts that are already there.

4 Our question to you is: How will the DEC
5 help marshal the resources to close coal burning
6 power plants, large scale sewerage plants,
7 mitigation of industrial emissions, et cetera?
8 Because we don't just need to slow down the rate of
9 growth of pollution in our communities, which it
10 seems like some of these things that are being
11 talked about in this document are, but actually to
12 reverse them. How are we going to reverse them?
13 That is the task ahead of us. How to save the lives
14 in our community.

15 Second, that a lot of things in this
16 document, including -- and I think the speaker
17 before me touched on these issues also -- upon whom
18 does the burden of proof lie? You know, in
19 different parts of this document it talks about the
20 DEC instituting Environmental Justice to the
21 greatest extent practicable. It talks about setting
22 up depositories when there's sufficient public
23 interest; right? Things like this end up putting
24 burdens of proof back on the community. We keep
25 finding ourselves knocking and begging on your door,

1 "We want a hearing." "We want a hearing." "We want
2 you take this into consideration," "We want you to
3 take that into consideration." The truth of the
4 matter is, we shouldn't have to be doing that.
5 Right? The burden of proof should not be on us to
6 say we want democracy, and in terms of permitting,
7 the burden also falls on us, as the speaker before
8 me talked about.

9 The burden seems to be on us to prove
10 harm, and I believe, even when we do so, we're not
11 listened to, rather than a permitting process
12 especially for Environmental Justice communities,
13 but I think applicable everywhere really is the
14 question of proof that it wouldn't do harm. Not for
15 us to prove that -- prove that it won't do harm.
16 Use the precautionary principle. When there's a
17 doubt, you know, don't build it. When there's a
18 doubt, look for a better technology. When there's a
19 doubt, think about where it is being sited.

20 I have to just add here that what we're
21 all talking about here saying we want more -- better
22 public notification, we want more access to public
23 hearings, we have to raise the issue that we don't
24 feel like we're hardly ever listened to when we have
25 a public hearing or when we submit comments. It

1 feels like these things float into the air, and the
2 best that we can achieve often in a public hearing
3 is that we get to listen to each other, and some of
4 that is inspiring and educational, so that's good,
5 but we don't feel like we're ever really listened
6 to.

7 How do we get to the point where the
8 comments that we actually make -- where we know what
9 happens to those comments and where we feel like
10 those comment are actually being weighed?

11 I am almost done.

12 I have one comment that my colleague
13 wanted to red flag, and he had to leave to teach a
14 class, but I wanted to just alert you to our
15 concerns that we're going to be developing more in
16 our comments about the EPA/EJ community
17 identification process that my colleague has
18 actually really looked into some of this methodology
19 and the statistical methodology used, and we have
20 some real questions about that. And we also have
21 some questions about how these identifications are
22 going to be used.

23 It's not so much that industry doesn't
24 know where Environmental Justice communities are, or
25 for that matter government, or for that matter the

1 communities themselves, and people could argue about
2 borders or something like that, but for years
3 industry has -- all over the country, has been
4 actually hiring consultants to research which
5 communities may be the most economically and
6 politically vulnerable to polluting facilities being
7 built there, and, in fact, uses the kind of data
8 that they already know and uses the consultants that
9 they already have to target vulnerable communities,
10 rather than -- we feel like identifying communities
11 without any regulatory mandates, regulatory
12 protection that's involved in those communities once
13 they're identified. All it's just sort of saying
14 is, "Yeah, build it over here. This is the place
15 you probably will be able to get away with it.
16 These are the people that have the least money and
17 least power."

18 So I think -- we just really feel like if
19 you're going to do identification, then you really
20 have to have protection, I mean real protection,
21 regulatory protection, regulatory mandates.
22 Otherwise, we're not so sure it's actually in the
23 interests of justice.

24 You'll get our further comments, thank
25 you.

1 MS. DeLOAYZA: Leon Tulton.

2 MR. TULTON: Good evening. My name is
3 Leon Tulton. I'm from Mt. Sinai School of Medicine.

4 The comment I have regarding the point in
5 the recommendation about the exemption from the cert
6 review -- this is my own personal comment, this is
7 not as a representative of Mt. Sinai -- I've been
8 involved in the Environmental Justice cause since
9 1997, and prior to that I always believed that state
10 agencies, their job was to protect the public.

11 However, since 1997 and being involved in the
12 Environmental Justice cause, I have seen many times,
13 and I can list at least two, where DEC has failed
14 the community. And this is why, just to give you
15 two examples.

16 The first one occurred in the South Bronx
17 when this company called American Marine Rail wanted
18 to place a garbage facility in the Hunts Point
19 community. And just to give you a demographic
20 description of the Hunts Point community, Hunts
21 Point is home to about 28 garbage facilities. It
22 has a high percentage of Latinos and it is described
23 as low income. And yet DEC allowed this company to,
24 at least initially, to put one more garbage facility
25 in the community without submitting an environmental

1 impact statement.

2 The second example is in East Harlem,
3 where in East Harlem, once again, you have a
4 community of concern. It had a large percentage of
5 minorities and it's described as lower income and
6 the Metropolitan Transportation Authority, they
7 wanted to reopen a bus depot. That is on 100th and
8 Lexington Avenue, and the community was very
9 concerned that if they reopened this bus depot, it
10 would bus people into the depot with diesel engine
11 buses, where it has been shown that there's a
12 connection between diesel exposure and increased
13 asthma, that this would have a detrimental affect on
14 the community. Yet, once again, DEC, instead of
15 being there to protect the community, they allowed
16 the MTA to go ahead and to rebuild this bus depot.
17 Even as we speak right now, the MTA is rebuilding
18 this bus depot and this bus depot, once it opens,
19 it's going to have a detrimental effect on the
20 community.

21 Even at Mt. Sinai, we did a report that
22 was published in 1999, where we identified East
23 Harlem as having the highest asthma hospitalization
24 rate in the city, almost five times higher than
25 average. My point being that the recommendation

1 regarding the exemption for the Surgeon's review, I
2 think this is a positive step that DEC is taking in
3 order to demonstrate to the community that they are
4 working with them instead of against them. I just
5 want to emphasize that I really hope that these
6 recommendations not only are implemented, but that
7 DEC is very serious about working with the
8 community.

9 Thank you.

10 MS. ABREU CONLEY: I just want to thank
11 everyone for coming tonight. I know it was a long
12 meeting. We received some great comments. The
13 report is not a hundred percent perfect, and the
14 comments that you've given us will definitely help
15 us when we start developing policy.

16 I would also like to thank EPA for
17 hosting this meeting and Terry Wesley for helping us
18 set it up.

19 Before you leave, I just wanted to bring
20 your attention to a questionnaire that's outside.
21 If any of you work with or know of Spanish speaking
22 individuals, the Division of Fish and Wildlife put
23 together a questionnaire to survey the Spanish
24 speaking, and their interest in the environment,
25 with the intent of translating some of it back into

1 Spanish or English, and promoting other programs to
2 get the Spanish community involved with the
3 environment. So there are some out there, and I
4 urge you to take those with you.

5 I would like to thank you. If you have
6 further questions, call my office and, hopefully,
7 this summer, you'll see some policies coming out of
8 DEC to continue with the process.

9 MR. SEYFRIED: I would just like to --
10 if Commissioner Crotty, if she really means what she
11 said in joining with community groups at a press
12 conference and signing a statement of her choice,
13 making a commitment of her choice to implement these
14 required recommendations, We would welcome that.

15 MS. ABREU CONLEY: I think that's a good
16 idea. I did notice that when you mentioned it, and
17 we'll definitely present that to her.

18 Thank you.

19 MR. SEYFRIED: We would love to have a
20 positive, friendly relationship with DEC. We don't
21 want an adversarial relationship. The adversarial
22 relationship is created by the agency, and partially
23 by the Governor who tells the agency what is going
24 to be done. We really would like to talk to you as
25 nice people. Most DEC employees are -- they're

1 working people like everyone else.

2 MS. ABREU CONLEY: Thank you for your

3 comment.

4 (Whereupon, the proceeding was

5 adjourned.)

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1 C E R T I F I C A T I O N

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3 I, JENNIFER THUN, a Registered
4 Professional Reporter and notary public, within and
5 for the State of New York, do hereby certify:

6 That I reported the above proceeding on
7 February 19, 2002, at 26 Federal Plaza, New York,
8 New York and that to the best of my ability, this
9 transcript is a true record of what transpired at
10 that time and place.

11

12 IN WITNESS WHEREOF, I have hereunto set
13 my hand this day of , 2002.

14

15

16 JENNIFER THUN, Reporter

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