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NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of

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

PUBLIC MEETING in the above matter
conducted at the Westcott Community Center,
826 Euclid Avenue, Syracuse, New York on
February 15, 2002 at 4:00 p.m.

PRESENT:

MONICA ABREU CONLEY,
Environmental Justice Coordinator

JEFFREY GREGG,
Division of Environmental Permits

WINIFRED DELAOYZA, Facilitator

DARCY MORRIS, Assistant to Ms. Conley

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1 Introductions

2 MS. CONLEY: We're going to get
3 started. I'd like to thank everyone for
4 coming tonight. And your participation is
5 really critical to this program so I
6 appreciate it more than you know.

7 I would just like to introduce myself and
8 kind of go around the room and let everyone
9 introduce themselves, give their name, and if
10 you're part of an organization give that name
11 and that organization, just kind of get an
12 idea who's in the room and what your interest
13 might be so I can kind of tailor my comments
14 to you tonight.

15 My name it is Monica Abreu Conley, I am
16 the Environmental Justice Coordinator for the
17 New York State Department of Environmental
18 Conservation. I've been in this position for
19 about two years. It's been an exciting two
20 years, learned a lot and I'm really looking
21 forward to putting in place some policies that
22 deal with environmental justice and actually
23 make some good change. With that I'll pass it
24 on.

25 MR. GREGG: My name is Jeff Gregg,

1 Introductions

2 I'm with the State Department of Environmental
3 Conservation as well, Division of Environ-
4 mental Permits. I'm one of the two staff
5 people who are in the Division of Environ-
6 mental Permits who will be implementing the EJ
7 program once it actually gets established, and
8 I'll be handling Upstate issues. And I have a
9 counterpart in New York City who will be
10 handling Long Island and New York City issues.

11 MS. RIZZO: Chrissie Rizzo, area
12 director of the American Friends Service
13 Committee. And we're involved in cooperative
14 project with the Mohawk Nation at Akwesasne,
15 and I'm here in support of their interests,
16 these issues.

17 MS. DOYLE: Peggy Doyle, and I'm
18 just an interested neighbor.

19 MS. LOEW: Martha Loew, Sierra
20 Club.

21 MS. BAKER: Vicki Baker, Jamesville
22 Preservation Committee.

23 MR. SAGE: Samuel Sage, Atlantic
24 States.

25 MS. THAURO: Mary Thauro (phonetic),

1 Introductions

2 Partnership for Onondaga Creek.

3 AGGIE LANE: Aggie Lane, Partnership
4 for Onondaga Creek.

5 MS. JONES: Evelyn Jones, south side
6 neighbor.

7 MR. MANNA: Ralph Manna, DEC
8 Regional Permit Administrator, and as Jeff has
9 indicated, I'll be one of the folks that is
10 involved with our permit seeking.

11 MR. ALEXANDER: My name is Lou
12 Alexander, I'm an environmental attorney and
13 served as one of the members of the EJ
14 Advisory Group.

15 MS. MAY: I'm Rachel May, I'm a
16 student at ESF and interested in environmental
17 justice issues.

18 MR. EIDT: Steve Eidt, regional
19 water engineer here in Syracuse with DEC, and
20 many of our projects are involved in EJ.

21 MS. HEMBROOK: Onondaga Nation,
22 director of the Akwesasne, HETF.

23 MR. PATTERSON: Neil Patterson,
24 member of Haudenosaunee Environmental Task
25 Force, Tuscarora.

1 Introductions

2 MS. MITCHELL: Joyce Mitchell,
3 Akwesasne Mohawk Territory, Haudenosaunee
4 Environmental Task Force.

5 MRS. HILL: Bernadette Hill,
6 Haudenosaunee, Cayuga Nation, Environmental
7 Task Force Technician.

8 MR. HILL: Norman Hill, chief for
9 Tonawanda, band of Senecas, and member of the
10 Haudenosaunee Environmental Task Force.

11 MS. CONLEY: Thank you.

12 MS. DELAOYZA: My name is Winnie
13 Delaoyza, I'm a facilitator and I'm here to
14 help if I'm needed.

15 MS. CONLEY: My able assistant.

16 MS. MORRIS: Darcy Morris, I work
17 for Monica, New York State Department of
18 Environmental Conservation.

19 MS. CONLEY: Sorry, I don't want to
20 put you on the spot, we all introduced
21 ourselves, would you like to introduce
22 yourself?

23 MR. JONES: I'm Mr. Jones, basically
24 the south side of Syracuse resident for the
25 last 35 years.

1 Conley

2 MS. CONLEY: Thank you for coming.

3 Great. Well, we have a great crowd tonight,

4 and I guess without further adieu let's get

5 started.

6 The purpose of this meeting is to discuss

7 a report that was recently submitted to the

8 Department of Environmental Conservation by an

9 independent advisory group, the Environmental

10 Justice Advisory Group. And we're here to

11 discuss, and if I can answer any questions you

12 might have on it. Also get your comments on

13 the report. And if there is something you

14 really liked or if there is something you

15 didn't quite understand or really weren't in

16 favor of we would like to hear that. Or if

17 there was something that was omitted from the

18 report that you'd like included.

19 What the DEC is going to do is take that

20 report and take the comments that we receive

21 throughout this entire comment period and use

22 both of those in order to develop policy

23 related to environmental justice. The meeting

24 is really not to focus on individual projects

25 that may be in your communities. If you do

1 Conley
2 have individual concerns I encourage you to
3 call my office.

4 We recently installed a toll free 1-800
5 number that will ring my office and will
6 enable you to call, get information on, you
7 know, anything that's of concern to you. And
8 I would also be able to kind of hook you up
9 with anyone else in the department that would
10 really be able to help you in your specific
11 matters. But today we're really going to
12 focus on the report.

13 About two years ago the Department of
14 Environmental Conservation put together an
15 Advisory Group to formulate recommendations
16 and give them to the Commissioner so she could
17 make changes in the DEC policy. The recom-
18 mendations were to focus on permitting, but
19 also include any other strategic ideas that
20 the group might have. And on January 2nd the
21 Group, after two years of meeting, came up
22 with the recommendations report. And I think
23 it has a lot of really good recommendations,
24 suggestions, and we're hoping that all if not
25 most of the recommendations are turned into

1 Conley
2 DEC policy.
3 The framework - or the time frame rather,
4 for developing policy is, we're looking to
5 focussing on the permitting issues first. And
6 we're hoping that a permit policy will be
7 implemented this summer. Shooting for July.
8 There are a lot of complex issues and often
9 times these things take a little longer than
10 we anticipated but we're shooting for July and
11 the Commissioner is holding us to that. So
12 hopefully soon we'll have that out.

13 And then after that policy comes out then
14 we'll focus on other policies, unrelated to
15 permitting. And those will come out afterward.

16 I recognize a lot of faces, people that
17 came to our meeting in 2000. That was when we
18 had the entire Environmental Justice Advisory
19 Group come to listen to your concerns and
20 comments and find out what's going on in your
21 community so they could put this report
22 together.

23 This meeting is a little different. It's
24 not the Advisory Group listening to you, it's
25 really the DEC listening to you. And as I

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Conley

mentioned, you know, we really take your comments to heart and they'll help us in developing policy.

The report is broken down into three parts. The first two parts focus mostly on permitting. Initially the first part really talks about expanding DEC outreach and information to the community so that communities can participate in the permitting process.

The second section really looks at the environmental review process, when a permit application is submitted, and suggest changes in our current framework so that we really pay attention to low income and minority communities to make sure they're looked at, and any special needs they have and any health concerns really addressed.

And the last section deals with several recommendations, some very overreaching. For instance, the recommendation that the DEC implements a translation policy recommendations related to Native Americans and environmental justice issues. The recommenda-

2 tion that either the Governor issue an
3 executive order with the legislature or issue
4 some type of legislation which would require
5 not only the state DEC but other agencies and
6 local government to also look at EJ.

7 While the beginning focus is looking at
8 permitting, but we focus on a lots of areas
9 that should make some change. I'm going to
10 stop right there for a moment. Are there any
11 questions at this point?

12 MR. SAGE: Is the Advisory Group
13 still in operation?

14 MS. CONLEY: Yes, it is. In the
15 latter part of the report one of the
16 recommendations is to continue that Advisory
17 Group and make it permanent.

18 When everyone speaks if they can give
19 their name so the reporter can get everyone's
20 comment.

21 MS. LOEW: Martha Loew. The problem
22 I have with this report, I think the intent
23 was terrific, but if there are - if there were
24 18 members on the committee how did 10 of them
25 plan anything to write letters that complained

1 Questions
2 about the content of the report? I don't
3 think it was well thought out. They should
4 have had access to this first and then be able
5 to remedy what they saw as its flaws.

6 Especially the 5 that wrote in on the
7 second half of the writing part here. They
8 particularly identified a lot of areas where
9 that wasn't what the consensus of the group
10 had been. And so which do we believe, the
11 letters of this is the way it was supposed to
12 be or the body of the report which doesn't
13 agree with the letters? And the letters
14 represent 10 of the 18 members of the group.

15 MS. CONLEY: That's a great comment,
16 thank you for raising that.

17 MS. LOEW: And it seems to me this
18 should have been addressed maybe and needs to
19 be updated, I don't know.

20 MS. CONLEY: Just to give you a
21 little background on how the group worked.
22 There were 18 advisory group members all
23 representing different interests. We had
24 community activists, environmentalists,
25 business representatives, we had an academic,

2 we had representatives from local, state and
3 federal government, representatives from the
4 Indian nations. And we all tried to work
5 together to come up with some recommendations
6 that could actually make some good change.

7 Now as you can imagine, when you get
8 people from so many different interests and
9 background it takes a while to get people to
10 work together. But after maybe a couple
11 months the group really started to work
12 together and I think came out with some very
13 good recommendations.

14 Your comment about the supporting
15 letters, the dissenting letters toward the
16 back of the report, I think both letters or
17 all three letters state in there that they
18 generally support the recommendations in the
19 report. They just had either -- either there
20 was an area that the group hadn't completely
21 flushed out, so they wanted to add some more
22 information or, you know, they agree with the
23 concept, but they didn't quite agree with
24 maybe how to fund something.

25 So it wasn't, it wasn't discounting, the

2 supporting letters don't discount the report,
3 they just kind of add and give the environment,
4 Department of Environmental Conservation a
5 little more information. So when we actually,
6 you know, put the meat of the policy in that
7 you know we have -- we know where everyone is
8 coming from.

9 But I hope -- I wouldn't see these
10 supplementing letters as, you know, disagree-
11 ing or diluting the report at all. I think
12 the report itself should still -- still holds
13 all the weight. And that's what was submitted
14 to the Commissioner.

15 MS. LOEW: I still say that the
16 second letter, particularly for 16 pages, goes
17 on to say that they disagree with almost
18 everything that's in there or that it wasn't
19 done in the way that it had been. It's not
20 essential.

21 I commend you for doing the job but I
22 thought it was worth mentioning.

23 MS. CONLEY: Thank you. Any other
24 questions?

25 MR. JONES: Mr. Jones, Charles Jones.

3 us as a group down there on the south side
4 were completely neglected or ignored. But the
5 group report indicated that basically we were
6 right in our thinking and our feeling.

7 MS. CONLEY: Great, thank you for
8 that comment. At this point I will -- the way
9 we'll work the meeting is I'll just briefly go
10 over the different recommendations in the
11 report, the more major recommendations and
12 very roughly give some information and then
13 kind of give some time for people to ask
14 questions or make comments after I'm done with
15 each section.

16 And then once we're done with the entire
17 report there will be additional time if people
18 want to make comments after that or if anyone
19 has any prepared statements they want to
20 make.

21 As I mentioned, the report is broken down
22 into three sections, and we'll start with the
23 first section. Does everyone have a copy of
24 the report? If you don't there is an extra
25 copy at the front table. The first section of

1 Section 1 - Permit Process
2 the report -- of the report deals with, well

3 as I mentioned deals with permitting. So the
4 first thing we have to figure out is what
5 permits are these recommendations going to
6 apply to?

7 And as you see on page 3 of the report
8 there on the bottom starts a list of many DEC
9 permits. And what the Advisory Group has
10 recommended is that the recommendations in the
11 report apply to new permit applications that
12 are received under these programs and any
13 applications for major modifications. And
14 both of those terms - well, new application,
15 something brand new, but major modifications
16 is something that's defined in our regulations
17 under these programs here. Now, these are, as
18 I mentioned, recommended or a recommendation
19 that all of these be included.

20 The second recommendation focuses on
21 educating DEC staff. Before we can make
22 policy decisions or decisions related to
23 specific projects DEC staff really needs to be
24 educated on what environmental justice is and
25 how they recognize issues when they come

1 Section 1 - Permit Process
2 across their desks. So one of the first

3 courses of action is going to be to educate
4 the DEC staff.

5 When we came and did our public meetings
6 in 2000, one of the very large concerns across
7 the state was the availability of information,
8 and in making sure the DEC gets information to
9 communities in various different ways.

10 And so that one of the initial
11 recommendations is to make sure the DEC uses a
12 bunch of different tools to get information
13 out. Rather than the traditional little legal
14 notice that is put into newspapers and is not
15 readily seen, using things like mailing lists
16 to directly mail information to citizens that
17 are interested in a particular project. Using
18 our website and trying to get as much
19 information up on the website as possible so
20 people don't have to do formal Freedom of
21 Information requests which requires a letter
22 from you to the Department asking for specific
23 information, the information is already up
24 there, you can just kind of scan it at your
25 leisure and find things that are of interest

18

1 Section 1 - Permit Process

2 and importance to you.

3 Our 1-800 number was one of the

4 recommendations I recommended and implemented,
5 so I encourage you to give us a call.

6 MS. BAKER: Is that in the report?

7 MS. CONLEY: I think it's on page
8 6. The phone number isn't but there is a blue
9 document up on the table that has the 1-800
10 number on it. I don't know if my card does
11 but that piece of paper does.

12 MS. BAKER: I thought she would give
13 it to us.

14 MS. CONLEY: Darcy, can you read it?

15 MS. MORRIS: 1-866-229-0497.

16 MS. CONLEY: Did you hear that on
17 this side? Thank you. Well, in using those
18 methods, you know, that was just giving it to
19 DEC, some ideas on how they can get
20 information out to the communities; using
21 repositories is another method.

22 The next was, in general, DEC should look
23 at their procedures for getting information
24 out to the public and their procedures for
25 public participation. And make sure that

1 Section 1 - Permit Process
2 they're working, making sure that they reach
3 the people they're supposed to reach. Public

4 notice reaches the people they're supposed to
5 reach and include those people in any
6 environmental decision-making that's going on
7 in their communities.

8 With that idea is the idea also that the
9 permit applicant should reach out to the
10 communities and do some kind of public
11 outreach from the very beginning, very early
12 in the permit application stage to involve the
13 communities and make sure that concerns are
14 heard early on in the permit process. So that
15 those can be worked out before a permit is
16 issued.

17 Two, very, I'd say very key recommen-
18 dations in this section include a change to
19 how -- or a change to when we public notice a
20 permit. The way things work now is we'll
21 receive a permit application and our staff
22 will review it. And occasionally there is
23 information that's missing or information that
24 the DEC doesn't understand or it could be
25 anything. So we ask the permit applicant to

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1 Section 1 - Permit Process
2 supplement the information they've given us.
3 Sometimes that takes a week, sometimes it

4 takes a month, sometimes it takes, you know,
5 many more months. And the DEC would wait
6 until we got all that extra information and
7 give an analysis ourselves. And we would, the
8 term is, we would deem the application
9 complete. At that point is when we notice it
10 to the public. Often times as I mentioned
11 that can be quite a while after DEC first
12 learns of the permit application.

13 So the change the recommendation suggests
14 is that the DEC notice applications as soon as
15 they come in the door, as soon as they receive
16 them, whether they're complete or not. And
17 that would be for all permit applications. So
18 you know, hopefully that would give
19 communities a lot more time to, you know, read
20 the information and, you know, participate in
21 the permit process.

22 Technical Assistance Grants. That's the
23 other recommendation that I think is pretty
24 large in this area. The Advisory Group in its
25 public meetings in 2000, heard often times

1 Section 1 - Permit Process
2 that communities just don't have the resources
3 to review a lot of the permit information and
4 participate in the, either, you know, comment

5 on the permit application or, you know, do
6 technical reviews.

7 And there was requests for, you know,
8 funding, providing some kind of mechanism
9 where communities, community groups could hire
10 consultants to assist them in reviewing the
11 application.

12 So one of the recommendations is to
13 provide the grants, technical assistants
14 grants to community groups.

15 And the last recommendation in this
16 section is to encourage the use of alternative
17 dispute resolutions. For instance like
18 mediation, arbitration, getting all interested
19 parties together to try and work out any
20 concerns that there might be. And you know
21 there are a couple ways this could happen.

22 It could be a situation where there is a
23 community, a concern in the community that
24 they want to address by the permit applicant.
25 Both of those parties can go off and have a

1 Section 1 - Permit Process
2 private mediated session on their own, come up
3 with resolutions, do that and put together an
4 agreement that each of those parties can

5 enforce, be enforced by the community or the
6 permit applicant.

7 Or there could be a situation where there
8 is an agreement reached and the terms of the
9 agreement are things the DEC can actually
10 enforce under our authority. In which case
11 that goes, terms would be put into the permit
12 itself, the DEC could enforce them. But it's
13 just encouraging communities, encouraging
14 everyone to work together early in the process
15 so that, you know, so a permit application
16 isn't held up in the end trying to resolve
17 issues last minute when they could have been
18 dealt with and dealt with properly very early
19 on in the process.

20 So I'm just going to stop there for a
21 moment and see if there are any questions.

22 MS. BAKER: My name is Vicki Baker,
23 in this report you talked about notifying the
24 community and you said, it says in here that
25 you will publish it in the ENB, but how else

23

1 Section 1 - Questions
2 are you going to notify the community?

3 I would also like to point out that in
4 the decision of what is environmental justice,
5 it's the fair treatment and meaningful

6 involvement of all people regardless of race,
7 color or income. So I'd like to speak for
8 people regardless of race or income. Moderate
9 income people need information. Not SEQRA.
10 SEQRA reports and permit applications are just
11 as Greek to those people as written in Latin
12 or whatever foreign language you want to use,
13 as anybody else.

14 That all of these issues should be
15 applied to everyone equally whether it's
16 elderly or the young. And I think this is way
17 overdue. This is a step in the right
18 direction. But I hope that you don't exclude
19 others on behalf of what you're picking out of
20 this report. Because everybody needs this
21 information. And most neighborhood
22 organizations, regardless of where they live,
23 don't have a clue as to where to begin.

24 And once the application notice is
25 complete, and we know the DEC works with the

24

1 Section 1 - Questions
2 applicants to make sure that it is complete
3 and it's done, by the time it gets to the
4 public it's a done deal.

5 MS. CONLEY: Thank you for that

6 comment. I think our hope is that while a lot
7 of these recommendations focus on low income
8 and minority communities initially, they're
9 just good practice. And once implemented they
10 will be implemented statewide.

11 For instance, you know, how we get
12 information out to interested parties. You
13 know the focus of this report is on low income
14 minority communities. But I agree with you,
15 hopefully in the near future we'll apply to
16 other parties as well.

17 MS. BAKER: So do you plan to reach
18 out to neighborhood groups or adjoining
19 properties or certain geographical distance
20 within this application?

21 MS. CONLEY: We have, actually,
22 later in the report there is a mechanism that
23 the Advisory Group recommends for the DEC to
24 identify where low income, minority areas are.

25 MS. BAKER: But you're saying low

25

1 Section 1 - Questions
2 income and minorities and I say include
3 everyone; include moderate incomes, because
4 they need that information as well.

5 MS. CONLEY: Great, thank you. You
6 started off saying about the ENB.

7 MS. BAKER: This report says that
8 the notice would be put in - the Advisory
9 Group recommends that DEC publish a notice of
10 proposed action in ENB. Furthermore, the
11 Advisory Group recommends that all appropriate
12 material be made available to the public.

13 Well, how? Because nobody reads the
14 ENB. Not a lot of people have access to
15 computer.

16 MS. CONLEY: That's where I thought
17 you were going with that. The access to a
18 computer thing was something that the group
19 did discuss. And there were recommendations
20 made by the Environmental Justice Advocates
21 that computer access exists in local
22 libraries. And no, everyone won't have access
23 to it, but it's one way and it's a good way,
24 and we shouldn't be discouraged from putting
25 information on the Internet so it can be

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1 Section 1 - Questions

2 accessed that way.

3 But you're right, there are other ways we
4 need to be addressing it as well. Right now
5 the ENB is completely computerized, and I'll
6 take your suggestion that we need to use some

7 other mechanism to get the word out as well
8 for those that don't have any Internet access.

9 MS. BAKER: I would just like to add
10 that, you know, the old saying all politics is
11 local, I would extend that to say, all local
12 decisions are political. And most -- most DEC
13 offices or I would include the majority,
14 they're aware of the lay of the land and
15 they're aware of neighborhood organizations,
16 and I think that they need to do the outreach
17 through the neighborhoods in any way shape or
18 form that they can. Rather than just
19 discussing with local governments I think they
20 need to go to the grass roots people.

21 MS. CONLEY: Thank you. We did talk
22 also about using community centers and
23 churches as well. Winnie was bringing my
24 attention to the fact we were thinking of
25 using, one of the recommendations is to use

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1 Section 1 - Questions
2 mailing lists. And we're hoping that those
3 types of organizations will in fact be on
4 there.

5 MS. BAKER: Whose mailing list?

6 MS. CONLEY: It would be the DEC
7 mailing list, which would be available to

8 applicants as well.

9 MS. LANE: My name is Aggie Lane. I
10 would like to sort of second her idea that
11 locally the DEC knows who the grass roots
12 activists are around a particular issue. And
13 that they should reach out, because you
14 really, you really have to know the lay of the
15 land to get the report.

16 Like for example, they put on one ACJ
17 project locally in the Southwest Community
18 Center in the little local library. I did
19 walk there, I did read it. Let me tell you, I
20 don't know how many people did, but I don't
21 think that's a good way to do that. So I
22 think they should reach out, if you really
23 want the people to know.

24 MS. CONLEY: Great, thank you for
25 that.

28

1 Section 1 - Questions

2 MR. SAGE: I have a couple of
3 comments. One is that you need to go and
4 revise the permit process and the permit
5 application. I would imagine that the
6 majority of people applying to do something in
7 this state have absolutely no idea of the

8 demographics of the community.

9 In fact in the permit applications there
10 is nothing that requires them to obtain that
11 information. I mean so at some point we're
12 going to need revisions of the permit
13 application process, revisions in the
14 Administrative Procedures Act.

15 I don't know whether the law needs to be
16 changed or just the regulations, not having
17 studied these things sufficiently. And
18 probably I guess we'll talk about later in
19 SEQRA, regulations to require that these
20 things even be considered by the applicant. I
21 mean some applicants may in fact try and be
22 devious about it, but most of them haven't any
23 idea what is required; so that's one point.

24 A second point, the Environmental Notice
25 Bulletin, which is a sore point specifically

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1 Section 1 - Questions

2 with me because I was one of the ones that
3 helped write the laws that helped create the
4 Environmental Notice Bulletin to begin with.
5 The fact that that Bulletin no longer comes
6 out in hard copy is a real detriment to public
7 involvement.

8 Despite the fact that the mailing list,
9 the subscription list was very small, but
10 there were those of us in cells around the
11 state who got it, notified community groups,
12 notified people that permits were available.

13 Being on, just available on the Internet is
14 really not making that material available.

15 And another point is that there is no
16 mention, as far as I know, in any of this for
17 people who don't speak English, which is an
18 increasing problem in the state with a lot of
19 environmental problems -- implications.

20 Certainly fish advisory materials, pesticide
21 use, lead paint regulations are some of the
22 major ones, but there are other issues as well
23 that require translations. And we're talking
24 not so much translations in Spanish, which is
25 relatively available, but into Asian

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1 Section 1 - Questions
2 languages, in various places even here in
3 Syracuse I think now we have 60 languages
4 commonly spoken just in Syracuse. So that's
5 an issue that has to be addressed in how to
6 reach those people.

7 It's not just a matter of language. For
8 instance the Mung community, even if you have

9 material in Mung they're very much afraid of
10 government. Government means the enemy to
11 them. So getting any official publications
12 they don't pay much attention to.

13 And finally, and this is not meant to be
14 criticism of DEC, but DEC doesn't really know
15 who are the community activists, because very
16 often these issues, there aren't any community
17 activists when a facility is announced or
18 permit is announced in their neighborhood or
19 especially in rural areas. I know this
20 because almost on a daily basis I get calls
21 from people around the state asking for help
22 because they have no idea what's going on,
23 never heard of any of this, have no idea what
24 the government agency is that's involved.

25 So I think it would be very nice for DEC

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1 Section 1 - Questions
2 to have, you know, master mailing lists. But
3 the problem comes up is that much of the time
4 it's de novo, people who have never been
5 involved in anything, in places that have
6 never had to be involved in anything. So I
7 don't know what is the answer to that, but.

8 MS. CONLEY: Do you think we would

9 get those people if, for instance when a
10 project came up we used maybe that zip code
11 and sent out, you know, mailings to specific
12 individual houses letting them know and then
13 asking them, you know, to I guess maybe sign
14 up for a mailing list so they can continually
15 receive information on that project?

16 MR. SAGE: That certainly would be
17 an advance over the current system. Again,
18 you have to do this on somewhat of a case by
19 case basis. You have a project let's say in
20 the Adirondacks that the majority of people
21 would be affected are summer residents.
22 They're not in that, you know, zip code to get
23 a mailing. So you know with some modifica-
24 tions I think that's correct.

25 MS. CONLEY: Your comments, just

1 Section 1 - Questions
2 quickly to address some of them, the thing
3 about demographics and applicants, you know,
4 not being sure, the method that we, that the
5 Advisory Group recommends in here would be
6 available to the DEC and to the permit
7 applicants. And we'll talk more in depth
8 about how that process works in locating these
9 areas.

10 The ENB, your comment is received and
11 it's something we definitely encourage, so
12 we'll have to look into that. Translation,
13 one of the recommendations toward the end of
14 the report is in fact to develop a translation
15 policy and use translators when necessary.
16 That was something that we heard in our 2000
17 meetings, and the Informational Flyer that
18 went out was in fact translated in Spanish and
19 one side English. So we are definitely
20 looking in that direction.

21 I agree with you, that's definitely a
22 concern in order to reach out to the people we
23 need to reach out to.

24 MR. JONES: Sorry to say there are
25 many people that don't or doesn't have the

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1 Section 1 - Questions
2 education or the knowledge to read. And
3 public education, the system, public TV should
4 take more of a forefront in verbally
5 expressing these opinions.

6 MS. CONLEY: That's a very good
7 idea. TV and radio I guess too would work.

8 MR. JONES: Public education, we're
9 paying for it.

10 MS. CONLEY: Right. Great

11 thinking.

12 MR. JONES: Not public education,
13 public TV. They're able or their availability
14 to take an bigger part I think in this type of
15 ready knowledge.

16 MS. CONLEY: Thank you. Any other
17 comments at this point?

18 MS. DOYLE: I just had a question, I
19 didn't know, I see the Department spoke of
20 these places on the permitting process. For
21 example, I always thought enforcement was kind
22 of a key process of environmental permitting.
23 I was wondering if the Department had made any
24 plans either in the policy or other places to
25 increase public participation and involvement

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1 Section 1 - Questions

2 in this process?

3 MS. CONLEY: We do mention enforce-
4 ment briefly in that last section of the
5 report. Talks about the DEC needing to look
6 at its enforcement to make sure it's occurring
7 equitably throughout New York State, make sure
8 it's working especially in low income,
9 minority communities.

10 MS. DOYLE: Do you anticipate any

11 changes in the policy to suggest ways to
12 increase citizen accessibility to that
13 enforcement process? People don't know the
14 half of it. And don't really have a way to
15 even have their voices heard.

16 MS. CONLEY: I guess with respect to
17 the report, the idea, the 1-800 number, one of
18 the recommendations in here as well, and this
19 might help with education levels and to do
20 workshops in communities, so that communities
21 are aware of things that are going on in their
22 community, enforcement issues, those types of
23 issues.

24 So we really haven't gotten too in depth
25 into enforcement except to say we do mention

35

1 Section 1 - Questions
2 it in here and also it is something that the
3 DEC should be looking at.

4 MS. LOEW: The issue of communica-
5 tion seems to be actually the big ones. And
6 there is a paragraph here on page 6 that says
7 DEC should develop a list of local newspapers,
8 community organizations, local libraries,
9 churches, and other entities identified by the
10 public.

11 If they truly went out and sought those
12 things then Samuel and myself, I get calls,
13 Central New York Sierra Club, we get calls
14 from all over our area, Watertown, Utica,
15 saying what do I do? They're doing such and
16 such. And believe it or not, I know you all
17 live in DEC, they don't know that you exist.
18 They're kind of aware of us, so we try to let
19 them say, hey, call DEC and get going.

20 MS. CONLEY: That's great.

21 MS. LOEW: But that's the kind of
22 communication that's in this paragraph here
23 that should help. But it's got to be not just
24 here, it's got to be all over the state. It's
25 got to be in lots of communities where there

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1 Section 1 - Questions
2 are the little newspapers. So that they
3 didn't have to look around and try to find out
4 how to get ahold of us or Samuel or somebody
5 else to find out what they should do because
6 their lake is getting polluted.

7 MS. BAKER: I just wanted to dove-
8 tail on the enforcement issue that fines or
9 fees paid by the violators, that money should
10 not fall into DEC General Fund, that money
11 should be used back in the community for

12 projects that improve the environment in the
13 affected community where the fine is applied.

14 MS. CONLEY: Thank you.

15 MR. EIDT: Just to dovetail on that,
16 it doesn't go to DEC, the fine money actually
17 goes to New York State General Fund.

18 MS. BAKER: I'm sorry, that's what I
19 meant.

20 MS. LOEW: Either way.

21 MS. BAKER: Into that general black
22 hole, it shouldn't go there.

23 MR. SAGE: Just dovetailing still on
24 that same point, supplemental environmental
25 projects or I guess the state calls them

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1 Section 2 - Prelim Screen

2 environmental benefit projects should also, it
3 should be a legitimate use of some of that
4 money for community education and support. I
5 mean it shouldn't - I think there should be
6 somewhat broader universal projects within a
7 community that are considered.

8 MS. CONLEY: Okay, let's move on to
9 the next section of the report. This section
10 gets a little more technical and I will try to
11 explain things, but please feel free to stop

12 me, ask additional questions or clarifications
13 if I tend to skip. I've been with this report
14 so long I tend to assume people know something,
15 and I just want to make sure, you know,
16 everyone gets a good explanation of how this
17 will work.

18 Before the DEC can actually address
19 environmental justice issues in communities it
20 needs to find out where those communities are.
21 And the recommendation that the Advisory Group
22 gave was that the DEC use some kind of tool to
23 find low income minority communities. And we
24 looked at various tools and what the group
25 decided on was to recommend DEC use US EPA

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1 Section 2 - Prelim Screen

2 Region 2 new software.

3 They came up with a geographic informa-
4 tion system software that allows the user to
5 identify a particular area of concern. And
6 that area of concern would be based on impact
7 from a potential applicant - permit application.

8 For instance, if it was, you know, a
9 facility that was looking for a permit that
10 had air pollutants, we would look with models,
11 where those air pollutants would go and kind
12 of trace that area on a map and that would be

13 our area of concern.

14 What the software does is using US Census
15 data, it pinpoints within that area where
16 there are low income minority communities.
17 The software, EPA actually hired statisticians
18 to come up with the cut-offs as to what would
19 be considered a low income community, what
20 would be considered a minority community.

21 And using a complex statistical formula,
22 they came up with for urban areas, the
23 community must be 48.5 percent or greater
24 minority in order to be considered a minority
25 community. Independent rural areas that

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1 Section 2 - Prelim Screen

2 number is 33.5 percent.

3 The difference in those numbers when they
4 did their statistical analysis, they found
5 that if they just used one number for both
6 rural and urban the rural areas would kind of
7 get lost and they wouldn't really get picked
8 up. So they decided to use two separate
9 numbers.

10 And then for low income the number is,
11 the community must be 24.8 percent or greater
12 low income in order for it to qualify as a low

13 income community.

14 Now using these numbers, you know, there
15 was a concern from many advisory groups, do
16 these numbers accurately reflect our communi-
17 ties? Are they really going to pick up the
18 areas that need help? So what the Advisory
19 Group did was go down to EPA, sat with the
20 software and played with it themselves, put in
21 their own community, the communities that they
22 knew had environmental justice issues.

23 And overall they found that the
24 communities that they were concerned about did
25 actually pop up and were focused on with this

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1 (2) Prelim Screen - Questions

2 computer software.

3 MS. BAKER: I just have to say when
4 I read this page I was just infuriated. Page
5 10, where you're going to, you talk about the
6 goal of the DEC, their goal of SEQR to avoid
7 or minimize possible negative impacts on the
8 environment. I think there should be
9 legislation to change that but it should
10 include health in the environment.

11 Because when you talk about then you're
12 looking for areas of concern, and on 12 B,
13 determine whether the community minorities or

14 low income, if you consider under the health
15 aspect everybody is impacted by a bad project
16 or a project that hurts health.

17 And more importantly when you're looking
18 at those GIS maps you should be looking at
19 existing pollution, whether it's from diesel
20 or radon belts or from asphalt plants or
21 incinerators. Those kinds of things.

22 And you do touch on cumulative in this
23 report, those kinds of things interact with
24 health. And everybody's health is affected by
25 projects that DEC permits. And it doesn't

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1 Section 2 - Question
2 matter whether you're low income or moderate
3 income. And that really, that really
4 concerned me that you would pick and choose
5 and look for those.

6 And I think the statement says, if the
7 community of concern is not a minority or low
8 income, the review process may continue, end
9 of the recommendations in this section. Well,
10 what does that mean, you're going to stay with
11 the bad process you have that nobody knows
12 what's going on?

13 MS. CONLEY: I don't know how to

14 answer that.

15 MS. BAKER: I think that's very
16 discriminatory toward all people. And if you
17 look at it from a health perspective,
18 children, especially again, I go back to the
19 issue of age, the elderly and children when
20 you're siting facilities near the elderly, the
21 local incinerator was sited within 45 percent
22 of all the elderly in the county.

23 When someone wanted to put a childcare
24 center next to an asphalt plant, DEC didn't
25 seem to have a problem with that, and said

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1 Section 2 - Question

2 we'll talk with the Health Department. And
3 then the Health Department contacted DEC.

4 But usually those kinds of things should
5 be in the review process and should not be
6 discriminated against if you're not a minority
7 or low income.

8 MS. CONLEY: So your recommendation
9 is to have this apply across the board to
10 anyone?

11 MS. BAKER: I think health should be
12 included in your description of what you're
13 trying to protect, and if you include that,
14 health perspective, then all segments of the

15 population should be aware and protected.

16 MS. CONLEY: Well, I think the goal
17 of the recommendations is to initially focus
18 on communities that have been traditionally
19 under-served, meaning the low income/minority
20 communities. But as I mentioned earlier, I'm
21 hoping that if we change our procedures that
22 good practice will carry across the board and
23 will impact in a positive way the health of
24 citizens in the other neighborhoods.

25 MS. BAKER: So if you're looking at

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1 Section 2 - Question

2 including health as a rationale for your
3 review, good.

4 MS. CONLEY: Well, health, for
5 environmental review? I mean health is
6 already considered when an environmental
7 review is done. A lot of times when you're
8 talking about siting an area, a facility in a
9 particular area, you're also looking at local
10 zoning issues, which is not something that's
11 under the authority of the DEC. DEC doesn't
12 decide where to site something.

13 We look at our regulations, find out if
14 an application or a facility is going to meet

15 those regulations and, you know, then we're
16 under the requirement to issue a permit. But
17 we don't really play a role in the siting of
18 that.

19 MS. BAKER: I think you should is
20 what I'm saying. That should be part of the
21 review process. You can't just assume that
22 the state DOH is looking at it or the local
23 DOH is looking at it. Especially, as I said,
24 a childcare center that would have gone
25 through next to an asphalt plant with 1,100 or

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1 Section 2 - Question

2 1,500 diesel trucks going by on a regular
3 basis.

4 I mean you have to look at the health
5 perspective. I go back to the point when I
6 first called DEC several, many moons ago, and
7 found - asked about a project going on in my
8 neighborhood. And they said don't ask me
9 lady, I'm just Fish and Wildlife. And I said,
10 what am I, chopped liver? I mean we have to
11 protect human health as well as birds and
12 plants and grass.

13 MS. CONLEY: Thank you.

14 MR. JUDSON: It seems like the issue
15 that is relating to what Vicki is raising,

16 this program seems to be mitigating pollution
17 disparity, not necessarily mitigating
18 pollution. And that seems to be the
19 limitation in what's being raised here.

20 MS. CONLEY: Thank you.

21 MR. JUDSON: Not who gets it but
22 whether it's pollution at all.

23 MS. RACHEL MAY: Following up on
24 this, I also wonder, I know urban ecologists
25 think of cities as whole ecosystems and look

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1 Section 2 - Question

2 where there is green space and how environ-
3 mental energies move around in the city. And
4 I wonder if in these siting questions you
5 consider areas of concern that have very
6 little green space?

7 For example, if that is taken into
8 account or if it's just a matter of quantity
9 of pollution or number of other facilities in
10 the area?

11 MS. CONLEY: That's a great comment.

12 And actually toward the end of the - in the
13 last section of the report the Environmental
14 Justice Advisory Group recommends that the DEC
15 look at where the green areas are going, where

16 the environmentally positive projects are
17 going, and make sure they're going into low
18 income or minority communities or areas of
19 concern. Not only to keep the pollution out
20 but we also enhance those communities. Great
21 comments, thank you.

22 MR. SAGE: The definitions on page
23 10, I mean I'm not going to argue with the
24 computer program and with the percentage
25 numbers, I mean whether or not they make any

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1 Section 2 - Question

2 sense or not I have no opinion, but a greater
3 concern to me is how the community would be
4 defined.

5 And it would seem to me that the way to
6 get rid of environmental justice is you make
7 the community large enough so that you'll
8 never meet the 48.5 percent or 33.5 percent.

9 MS. CONLEY: That's a very good
10 comment, and I should explain a little bit
11 more about how the software works. There are
12 three ways to -- three ways that the EPA uses
13 to define the Community of Concern. One, as
14 you mentioned is modeling and seeing where the
15 impacts are actually going in the communities
16 and mapping the Community of Concern that

17 way. But once that area is mapped it's not I
18 guess written in stone.

19 The next step, as the EPA says, is to
20 look to the communities, to ask them, you
21 know, say this is how we defined it, what are
22 your comments on this, you know, should we
23 have drawn it a little larger, should we have
24 drawn it a little smaller?

25 And you know, in a situation where, you

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1 Section 2 - Question

2 know, the impacts are not defined yet, it
3 won't be defined until later on in the
4 project, the software allows you to kind of
5 just draw a radius, just draw a circle around
6 a particular area. And start with that and
7 with the demographic population in those
8 areas. But then it can be modified over time
9 as we learn more about the project and more
10 about the environmental pollution that's going
11 to come from that project.

12 So it's, you know, your concern you
13 raised is a real one and we're hoping that the
14 way this software is used it can't be
15 manipulated to I guess dilute the demographics
16 of a particular area.

17 MR. SAGE: Because you could still
18 have a very core population that mostly fits
19 the criteria but the impacted community or
20 area, whatever you want to call it, is larger
21 than that. So that you could legitimately
22 manipulate the numbers. So I think it's more
23 dangerous than just the applicant who goes out
24 of their way to get out from under the
25 regulation.

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1 Section 2 - Question

2 MS. CONLEY: I'll take one more
3 comment then we'll move on with the report.

4 PERRY HAWKINS: Question would be
5 more or less toward the boundaries and how
6 specific the GIS system is. Is it as specific
7 to detail a geographic coordinate and draw a
8 parameter, say 20 miles, 30 miles or 15 miles
9 around the area, the demographics in that area
10 or does it choose to say zip code the areas
11 and take the demographics from that area?

12 MS. CONLEY: It uses, the software
13 uses US Census data at the block group level,
14 which is I guess the second smallest, I think
15 that represents something like 250 housing
16 units. And the software, as you said, can be
17 used to draw, you know, a 20 mile circle or a

18 10 mile. But it can also be used, you know,
19 to map -- I guess you can change that boundary
20 according to where the impacts are.

21 MR. HAWKINS: My concern in asking
22 that question was more or less typical siting
23 with facilities will be on the border of a
24 community, where it might be border of a
25 county, and it goes from one county to the

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1 Section 2 - Question

2 next.

3 Lot of census data is more county driven
4 and less town driven, even though there is
5 data for it. If you're located actually on
6 the border of one community and your data that
7 you're actually accumulating actually focuses
8 on that community. For instance, your address
9 is Syracuse and you're actually, the facility
10 is closer to Liverpool than to Syracuse. What
11 you're going to do is you're going to get a
12 representation of those people that are
13 actually in Syracuse and not the representa-
14 tion of those people closer to that facility
15 in Liverpool.

16 And similar to the county's address alone
17 you can end up going into the system and

18 saying, okay, give me the representation of
19 people out of Syracuse, and you won't get the
20 same number of those people who are directly
21 impacted by the siting.

22 MS. CONLEY: It's specifically
23 directed toward that particular application
24 and drawing the area around that application.
25 And as I mentioned, the information is, that

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1 Section 2 - Question

2 the census block group uses, it's not the
3 county level, so we should get an accurate
4 depiction of that whole area, we shouldn't
5 have to carve anything out because it's a
6 different county and we don't have information
7 for that, we should get it all.

8 MR. JUDSON: In terms of doing that,
9 what's the area going to be what's affected,
10 is that done in simply a radius or do they
11 actually do that at the pathways of the
12 contaminants? It's usually critical.

13 MS. CONLEY: Modeling would be the
14 primary way of defining these areas of
15 concern. Actually seeing which -- where the
16 impact will be -- what will be affected by the
17 impact rather. And then as I mentioned, it
18 could be modified if the community thinks that

19 they in fact are getting, you know, impacted,
20 we could maybe make it a little larger.

21 MR. JUDSON: Couldn't it be
22 contested in the process. Could a minority
23 community or low income community actually
24 intervene on the basis they believe their
25 community has been omitted wrongfully based on

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1 Section 2 - Question
2 that kind of concern, remedy of wrong pathway?

3 MS. CONLEY: Could you say that
4 again?

5 MR. JUDSON: If for instance, you
6 know, this, you know, sort of screening
7 process omits a community, that they should be
8 taken into account, has an environmental
9 justice concern, can they intervene and
10 challenge that determination?

11 MS. CONLEY: The recommendations are
12 written -- the recommendations themselves
13 don't give any legal right or at this point to
14 any, to bring a matter up in litigation or
15 such. But we're hoping to have an open
16 process where the community would just have to
17 come to the DEC and say, you know, give its
18 concerns.

19 The DEC would consider what was being
20 told to them within the whole picture of how
21 they, you know, framed the particular area.
22 And it's going to be policy, it's going to be
23 guidance. So you know, whether that will
24 enable the community to have a right of
25 litigation I can't answer right now.

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1 (2) Determination of Significance

2 MR. JONES: That would seem like a
3 tickling, if it's not liveable, it seems like
4 whoever is asking for the permit could expend
5 a lot of money and resources in terms of
6 fighting, preventing the community from being
7 able to be considered under that.

8 MS. CONLEY: Thank you. Let's move
9 on. The determination of significance. There
10 are several - the Determination of Signifi-
11 cance. It's a determination made by the DEC
12 as to whether a project has significant
13 adverse or has a potential for significant
14 adverse impact.

15 If the determination is made that a
16 project could in fact have significant adverse
17 impact then an Environmental Impact Statement
18 must be completed. And an in depth environ-
19 mental review of the project if significant

20 adverse impacts not found then the
21 Environmental Impact Statement is not
22 necessary.

23 In formulating that determination the DEC
24 considers a lot of information. And the next
25 recommendations suggest that DEC should

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1 (2) Determination of Significance

2 consider even more information before they
3 make that determination of significance.

4 There are several categories of permit
5 application types. Type 1, which carries with
6 it the presumption that it will have signifi-
7 cant adverse impacts and will most likely need
8 an environmental impact statement.

9 Then there are Type 2 actions which are
10 the smaller activities which don't require an
11 environmental impact statement.

12 And there is a middle ground, a middle
13 type of project, it's called Unlisted. And
14 those projects can be, you know, just below a
15 Type 1, they can span the whole range.

16 And Type 1, the more serious applica-
17 tions, the ones with the potential for adverse
18 impact require that the DEC collect a lot of
19 information. For instance when the permit --

20 when the permittee submits the application
21 they have to fill out a Full environmental
22 assessment form. This asks for a lot of
23 information about the project, where it's
24 being located, any health impact that it might
25 have.

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1 (2) Determination of Significance

2 For Unlisted Action there is the
3 discretion, the Department can ask the permit
4 applicant to fill out a Full environmental
5 assessment form or they can use a Short form,
6 which is really just a two page form that gets
7 some information on the project but it's not
8 as in depth as the larger form.

9 And the Advisory Group recommended that
10 for those Unlisted Actions, where they occur
11 in or affect low income or minority
12 communities, that the DEC require that the
13 applicant fill out the Full environmental
14 assessment form so that DEC is getting as much
15 information on a project before they make any
16 significant determination.

17 Along with that suggestion is the
18 suggestion that the Full environmental
19 assessment form be revised, to include
20 examples of environmental justice, or

21 disproportionate impacts so that when an
22 applicant is filling that out they know the
23 type of information that should be including
24 in that environmental assessment form with
25 respect to environmental justice.

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1 (2) Determination of Significance

2 That it asks additional questions on
3 health - or traffic impact that it get -- I
4 guess, it asks for just a little more
5 information than what's already given, so the
6 DEC can use that if they determine there is
7 going to be significant impact.

8 Posting of forms on the web site, on our
9 DEC web site, along with the suggestion we get
10 as much information out to the community as
11 possible, a suggestion that we post these
12 environmental assessment forms on the web site
13 so that people can access them freely.

14 Requiring the minimum time frame prior to
15 making the significant determination.

16 Suggestion from the Advisory Group is that
17 there be some required time DEC has to wait
18 before they can make their significant
19 determination.

20 Currently the way it works we get our

21 information, verify it, and then make our
22 determination of significance. This
23 recommendation suggests that DEC have to wait,
24 has to wait some period, whether it be 30 or
25 45 days, from the date that they notify the

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1 (2) Significance - Questions

2 public that the application is out there.
3 After that delay they make their significance
4 determination.

5 The idea behind that, it allows the
6 community a specific time that they can get
7 additional information to the DEC, review
8 information on their own, thinking that the
9 DEC will be able to then gather as much
10 information as they can from the community
11 before they make their determination of
12 significance.

13 AGGIE LANE: I don't know if you
14 have already just passed it or where I should
15 jump in so I think you passed, so can I make a
16 comment?

17 MS. CONLEY: Please, go right
18 ahead.

19 AGGIE LANE: You talk about looking
20 at significant adverse environmental impacts.
21 And I think that there needs to be included in

22 that is the perception of a community on what
23 the project is going to do to its image. And
24 so, you know, on paper it may say, well, you
25 know, nobody is really going to get sick and

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1 (2) Significance - Questions

2 da ta da ta da, but the community feels that
3 this, you know, we can talk about it in terms
4 of property value. But in terms of with
5 respect to the community that it feels like it
6 has not been respected. And I don't know, is
7 that in there somehow?

8 MS. CONLEY: In the Environmental
9 Assessment Form and in the, I guess in the
10 Determination of Significance, one of the
11 criteria is Community Character. So that is
12 considered, but perhaps it needs to be more
13 defined. Perhaps we need to ask different
14 questions to make sure that we get the
15 information you're talking about. It's a good
16 comment.

17 AGGIE LANE: I think because there
18 is this whole feeling about how government or
19 how the rest of the community perceives them,
20 that we're just a place to put this kind of
21 thing. And you know, people say, well, it's

22 no big deal. Well, the people in that
23 community see it as a big deal. So I don't
24 know how you get to that but I think it's
25 essential to get to that because that's not

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1 (2) Significance - Questions

2 just any -- that's not trivial, I guess is
3 what I'm saying.

4 And people can see it on paper, and on
5 paper, don't worry, your health is okay and
6 all of this, but no one else wanted it in
7 their community. And so when that - if that's
8 what is happening then somehow there needs to
9 be a way to get at that.

10 MS. CONLEY: Thanks.

11 MR. JONES: Until it happens to you
12 it has no affect on you. You can have a
13 relative die and it just affects you, it
14 doesn't affect your neighbor; and this is what
15 happened to our community. Liverpool, North
16 Syracuse, they don't even know we exist or our
17 problem exists, but it does for us.

18 MS. CONLEY: Thank you. Again,
19 along with the idea of having the DEC use as
20 much information as is available before they
21 determine whether an environmental impact
22 statement needs to be done, the Advisory Group

23 recommends DEC use their Environmental
24 Navigator.

25 I'm not sure if many of you know this,

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1 (2) Significance - Questions

2 this is something that is relatively new,
3 something put on the website, a GIS mapping
4 system, an Environmental Navigator, allows you
5 to pinpoint a particular area and find out
6 what is in the area, that particular area,
7 what other facilities might be there. Is
8 there solid waste, power generating
9 facilities, you know, quite a bit.

10 So, you know, that's something that not
11 only the public can use but DEC permit
12 reviewer should be able to use to see what
13 also is in that community before they make
14 their determination.

15 MR. JUDSON: Actually, thanks for
16 bringing this up, something occurred to me is
17 whether an applicant for a permit can tell the
18 DEC community that it is having an
19 environmental justice concern under this?

20 MS. CONLEY: I'm sorry?

21 MR. JUDSON: Can an applicant for a
22 permit challenge the DEC designation or

23 screening of the community having environ-
24 mental justice issues?

25 MS. CONLEY: The DEC determination

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1 (2) Significance - Questions

2 of it?

3 MR. JUDSON: Yes, can the applicant

4 for a permit challenge that screening?

5 Because this seems like it could open up a

6 whole area of litigation which would be

7 potentially very damaging.

8 MS. CONLEY: I would say the

9 potential exists when a determination is made

10 that the environmental impact statement has to

11 be done for a project there are several things

12 that follow with that. Scoping is a process

13 by which the applicants, DEC and the public,

14 decide what an environmental impact statement

15 is going to address, what the review is going

16 to look at. And the option -- whether you

17 have scoping or not is discretionary.

18 The DEC has traditionally used scoping,

19 and find it very useful in figuring out what

20 an EIS is going to look like. The recommen-

21 dations that it be mandatory where there is a

22 project that could affect the minority or low

23 income community. And it goes further to

24 state that the applicant and the DEC should
25 ensure that there is public participation in

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1 (2) Significance - Questions

2 defining what goes into the environmental
3 impact review. So rather than it being
4 discretionary it should always be done.

5 In preparing the Environmental Impact
6 Statement the Advisory Group recommends that
7 the DEC look at its guidance for how
8 environmental impact statements are done and
9 revise the guidance, enhance the guidance,
10 give some new descriptions or new examples of
11 what should be looked at when an impact
12 statement is done.

13 And we heard from, you know, many
14 community residents that the impact statement
15 didn't look at a particular item they thought
16 should have been considered. So the idea is
17 that any guidance that would just I guess
18 better detail the whole environmental impact
19 statement process would assist in really
20 identifying the impact.

21 Public comments on the environmental
22 impact statement. When the impact statement
23 is done there is a requirement that there be a

24 public comment period. Currently the
25 regulations state that that comment period

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1 (2) Significance - Questions
2 should be no less than thirty days. It can be
3 more than that at the discretion of the lead
4 agency but it can be no less than thirty
5 days.

6 The recommendations suggest that that
7 thirty days be changed to sixty days, but it
8 should be no less than sixty days, giving the
9 public opportunity to review all the informa-
10 tion that comes along with an application and
11 participate in the process. Be able to offer,
12 you know, good comments, be able to hire
13 consultants to assist them in reviewing the
14 permits.

15 And public hearings. That's another area
16 that's discretionary. DEC Environmental
17 Justice suggests if there is a low income
18 community that might be affected and there is
19 interest in the community that a hearing be
20 held, that it not be discretionary.

21 MR. HILL: You say you go from
22 thirty days to sixty days on a person's
23 property. If there is something that doesn't
24 agree with the organization, that's not to

25 their benefit and they go to -- they move it
63

1 (2) Significance - Questions
2 up to sixty days and try to get a resolution
3 to the problem and they won't reach -- they
4 won't reach a settlement, solution. What
5 happens after sixty days?

6 Do they - you've got a low income
7 community which may be impacted, does that --
8 do they relinquish their properties then if
9 it's not passed by this organization?

10 MS. CONLEY: Oh, no. The public
11 comment period, the public comment period just
12 gives the public additional time to give
13 comments to the Department on a permit
14 application. So I'm not sure I'm under-
15 standing your question. Are you saying if
16 it's a situation where there is an
17 individual's property that may be affected?

18 MR. HILL: Yes, you're talking about
19 impact, that's a great impact if you lose your
20 property.

21 MS. CONLEY: No decision is being
22 made at this point. What's happening is the
23 recommendations suggest that we lengthen the
24 process so we get more input from the

1 (2) Significance - Questions

2 it's longer, once that time ends then DEC
3 takes whatever information they've gotten and
4 makes a decision as to whether they should
5 grant a permit. So I don't know if that
6 answers your question.

7 MR. HILL: Well, it seems to me that
8 the result, the determination of the property
9 that we're talking about, is deemed what would
10 you say, not fit for living, not fit for
11 anything.

12 MS. CONLEY: Well, this process
13 deals with permitting. It doesn't deal with
14 property laws. It wouldn't be used in a
15 situation like the one you're describing.
16 This is really, this is in a situation where
17 somebody wants to construct a facility or do
18 something that needs a permit. And so I don't
19 think it would apply to the situation that
20 you're describing.

21 Why don't we take a five minute break and
22 kind of stretch a little, give me a second to
23 get my voice back.

24 (Brief recess then meeting resumed).

25 MS. CONLEY: Well, hopefully every-

1 (2) Traffic
2 one is rejuvenated now after you had a few
3 minutes to kind of relax. There are just a
4 few more things to mention in this section of
5 the report and then we'll move into the last
6 section. Traffic Generating Facilities.
7 Mobile sources and the pollution generated by
8 mobile sources, vehicles, trucks, was a
9 concern that the Advisory Group looked into.

10 The Advisory Group recommended that the
11 DEC take a look at its threshold for traffic
12 generating facilities. Currently the thresh-
13 old for requiring an in depth environmental
14 review is a project that will affect a
15 thousand vehicles or more.

16 And there was a concern that that number
17 was too high, that there are often facilities
18 with much less -- much fewer vehicles that
19 still produce a significant amount of
20 pollution, in a particular community,
21 especially in densely populated area.

22 You know, a project might bring, you
23 know, a hundred, maybe 200 vehicles into a
24 community. If they're releasing diesel to an
25 area that already has had heavy population,

1 (2) Permit Renewals

2 heavy amount of diesel emissions, then that's
3 something that should really be considered.

4 So the recommendation is just for the DEC
5 to look at that threshold and see if it should
6 be modified or reduced in some way.

7 Permit Renewals. Permit renewals are
8 being dealt with separately. When we started
9 talking about what permits would be included
10 in these recommendations we were talking about
11 new permits and major modifications. And I
12 didn't mention renewals.

13 The Group talked about renewals, and
14 decided that because of the nature of renewals
15 the facility that's already existed in the
16 community, often times the environmental
17 review has been done for that facility and a
18 permit was granted.

19 So the thought is that so long as
20 circumstances haven't changed significantly
21 that when permit application is applied for, a
22 permit renewal is applied for, that that
23 permit renewal be granted.

24 There were certain concerns with that
25 though. There are often times facilities that

1 (2) Permit Renewals
2 are not complying with the regulations, you
3 know, they're in violation. And the Advisory
4 Group suggested that before renewal is granted
5 that the permit reviewers speak with the
6 Division of Environmental Enforcement of the
7 DEC and make sure that the compliant -- the
8 facility's compliance is 100 percent. And if
9 it isn't, if the facility isn't in compliance
10 that the violations be dealt with before a
11 permit is actually renewed. The Group --

12 MR. JUDSON: Just in terms of that,
13 it seems like a new standard that New York
14 State is looking at in terms of the environ-
15 ment, evaluating permits, that that would be
16 an opportune time to look at what the affect
17 of what the facility has been on the
18 community.

19 I can think of at least one example, you
20 know, is that up in Oswego County, you know,
21 the nuclear power plants were permitted a long
22 time ago. But since those plants have been
23 operating almost all of the dairy farms in
24 Oswego County have closed and the level of
25 poverty has actually seen to increase in that

1 (2) Permit Renewals Q&A
2 community. And that seems like a really
3 significant issue in terms of, the impact the
4 reactors have had that would have never been
5 anticipated 30 years ago or at least wouldn't
6 have been looked at as an environmental
7 concern.

8 MS. CONLEY: I think the idea of not
9 applying the environmental justice
10 recommendations to a permit renewal is related
11 to the fact that the recommendations don't
12 actually change any regulatory thresholds for
13 which the permit would be granted, and
14 therefore there is no reason to, it shouldn't
15 be looked at anew, because the standards are
16 the same. But recognizing the fact that as
17 you mentioned, things change, new information
18 might come up.

19 The Advisory Group did want to recognize
20 the DEC's authority to treat permit renewal
21 applications as a new application under
22 certain circumstances. If you get additional
23 or new information on the facility, there are
24 several listed here, the application of all
25 the material change or newly discovered

1 (2) Permit Renewals Q&A
2 material, or if the renewal application is not
3 timely sufficient, these are all opportunities
4 that the DEC has to kind of I guess look at
5 the permit renewal and not just automatically
6 stamp it as renewed. Say, kind of step back
7 and say, should this be treated as a new
8 application? Are there new circumstances?
9 And that's something that already exists, DEC
10 has authority for and, you know, will
11 essentially be used in EJ circumstances.

12 For instance, if the community gives the
13 Department information that it didn't have
14 earlier that qualifies the DEC for the DEC to
15 actually treat it as a new application, that
16 can be done.

17 MR. JUDSON: Seems like there are,
18 you know, standards in place under the current
19 regulations that you could apply environmental
20 justice criteria to. I know under SEQRA
21 evaluating the environmental impact, but also
22 under that included economic impact on the
23 community. And you know, I guess there
24 doesn't appear to be, you know, exactly how or
25 what point, you know, the DEC looks at what

2 the cumulative effect of a permitted, already
3 permitted facility is on the community.

4 And I mean which could actually create
5 environmental justice issues in terms of, you
6 know, how the community changes over time
7 because of that facility.

8 I think Aggie had something related to
9 that with the issue of how the community's
10 self image is reflected by the decision. I
11 know in certain ways it's shortsighted to only
12 deal with, you know, the issue of environ-
13 mental justice from the front end of the new
14 facility coming in, when in fact there is a
15 lot of existing facilities that were built
16 under, you know, an era when there were, the
17 guidelines and criteria had been much more
18 lax, had actually a tremendous affect in terms
19 of creating environmental justice in the
20 community situations.

21 MS. CONLEY: Thank you.

22 PERRY HAWKINS: My concern, just
23 reading this entire statement with Permit
24 Renewals, often times permit renewals can go
25 into effect without issuance of a new EIS,

2 without doing a new statement. And many cases
3 what the facilities will do is increase
4 production, increase emission rates.

5 In some cases may not even be a permit
6 renewal, it can be a modification or variance
7 on the standard. Is there anything that's
8 going to address those issues or those
9 concerns?

10 Because the facility actually can emit
11 more simply by going to a permit renewal or
12 modification or requesting a variance if the
13 standard says in the permit, in a certain
14 period of time they're going to raise
15 emissions, and they feel they can't reduce the
16 emissions, by that period of time they can
17 request a variance that says, you know, we
18 simply can't do it.

19 Depending on whether or not they have
20 control technology as well, in order to meet
21 the requirements, because if it's economically
22 - or it's not economically feasible for that
23 facility to implement any control technology,
24 they can get a waiver or say variance as long
25 as it's within EPA guidelines to do so. So

1 (2) Permit Renewals Q&A
2 that in that entire scenario you can actually

3 have an increase without having any evaluation
4 for environmental justice.

5 So is there going to be a plan to address
6 some of those issues that could occur?

7 MS. CONLEY: Well, the recommenda-
8 tions apply to new applications and major
9 modifications. So some of that may get
10 captured under major modifications. If it's a
11 minor modification then --

12 MR. HAWKINS: Then the question
13 becomes, what's a major modification? The
14 plant can increase its production by 10
15 percent and that not be a modification. Still
16 can increase the number of emissions by 10
17 percent and still not be a modification.

18 In addition, provided which parameter
19 you're looking at, which constituent you're
20 looking at they're emitting, if they don't
21 exceed the EPA guidelines it may not be
22 considered a reason for implementing a
23 modification.

24 So you're actually expanding your zone to
25 some degree but you don't have to do anything

1 (2) Permit Renewals Q&A
2 for it.

3 MS. CONLEY: So you're suggesting
4 that DEC should look at the different types of
5 modifications?

6 MR. HAWKINS: I think it's wrong to
7 assume that a permit renewal or permit modifi-
8 cation has zero impact and that it doesn't
9 involve the spectrum of that community.

10 Because now you're drawing a bigger circle
11 around that community because there is a
12 greater impact.

13 Assuming that the renewal process that
14 that's going to happen, is probably a false
15 assumption. Because the DEC will not take the
16 time to reevaluate that.

17 MS. CONLEY: I'm not, unfortunately,
18 a permitting expert. So I'd take your comment
19 and, you know.

20 MR. HAWKINS: Again, that's not
21 primary concern. I can think of some
22 permitting activities where DEC will actually
23 go in. They may do a public notification,
24 being such as quantity of increase, and it can
25 still follow the recommendations of minor

1 (2) Permit Renewals Q&A
2 modification.

3 Classic example, DEC can actually do a

4 modification within the five year period of a
5 permit and actually within that five years do
6 a renewal and don't have to do any public
7 notification for that renewal because, simply
8 because the modification on that permit was
9 for another five years.

10 MS. CONLEY: That one I can respond
11 to. Earlier I mentioned that the DEC, one of
12 the recommendations suggested that the DEC
13 notice applications upon receipt. That's
14 going to apply for all applications, so it
15 will apply for new applications, minor
16 modifications, major modifications, renewals,
17 all of that will be public noticed as soon as
18 we get the application in the door.

19 RALPH MANNA: Can I just ask, are
20 most of the concerns with Title 5 permitting?

21 MR. HAWKINS: It would be Title 5 as
22 well as SPDES permitting. Title 5 is a little
23 bit more aggressive in terms of their renewal
24 process in the water quality division. In
25 doing the SPDES permit it's a little lax in

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1 (2) Permit Renewals Q&A
2 terms of renewal process.

3 MR. MANNA: I would have thought the

4 comment was more apropos to Title 5 than the
5 SPDES. I just wanted to make sure we were
6 talking about the two federally regulated
7 permit programs. Not generally the rule with
8 most of the other DEC permits. And renewal,
9 by definition, is not supposed to involve any
10 expansion across the board in uniform
11 procedures.

12 MR. HAWKINS: Yes, but the only
13 problem is even under Title 5 permit you can
14 do minor modifications that may increase
15 velocities from a unit. You might not
16 necessarily be increasing concentration but
17 because you're increasing velocity you may
18 have some dispersion issues where you might
19 have to go back and model the system.

20 MR. MANNA: I understand what you're
21 saying, I just wanted to hear, and I'm sure
22 they'll look at it more carefully.

23 MS. CONLEY: Thank you. Is there
24 another comment? At this point, we will move
25 on to the Last Section of the report that

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1 (3) Native American
2 deals with some general recommendations the
3 DEC should implement.

4 The first deals with addressing Native

5 American environmental justice issues. I
6 mentioned early on that we had Native American
7 representative on our Advisory Group. And the
8 group talked about I guess the differences
9 between the Native American sovereign
10 government and how their issues may be
11 different from issues that affect other
12 citizens of the State of New York.

13 So the group decided to have a separate
14 section devoted toward Native American issues,
15 and came up with several specific recommenda-
16 tions, 6 of which you'll find on page 19,
17 dealing with one for instance, how the
18 Department should meet regularly with the
19 nations to discuss environmental issues and
20 how to resolve those issues, establish
21 cultural awareness training.

22 The DEC, as I mentioned earlier, you
23 know, we're going to train our staff on
24 environmental justice. And a key component of
25 that training will be Native American

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1 (3) Continue Advisory Group
2 sensitivity training, cultural training,
3 making sure that the State is, you know,
4 sharing information and sharing decision-

5 making process with the nations so that
6 decisions can be made together.

7 And I'll stop at that point and ask for
8 comments, concerns. You'll have an
9 opportunity once I finish as well but I
10 thought I'd just throw this out there.

11 The next recommendation is to continue
12 the Advisory Group. The Advisory Group has
13 played a large role in DEC's Environmental
14 Justice Program development. They have come
15 out with the recommendation, and the thought
16 is if such a group should continue so the
17 group can advise the DEC once it starts
18 implementing these recommendations.

19 Looking at, DEC should look at its
20 enforcement efforts to make sure that enforce-
21 ment is being done equitably especially in low
22 income or minority communities. Evaluate and
23 address activities that might be exempt from
24 an in depth self review from SEQR review.

25 There are some activities that aren't

1 (3) Staffing
2 required to go through the SEQR environmental
3 impact analysis. And the Advisory Group
4 suggests that we look at those projects and
5 try and encourage those, whether it be an

6 agency or whether it's a particular project,
7 try to encourage the applicants to actually go
8 forth and do the permit, the environmental
9 justice review.

10 Staffing is an issue for making sure that
11 the Environmental Justice Office is properly
12 staffed so that you know this program can
13 continue and grow into something larger.

14 The recommendation is that the DEC
15 translate key policies or key documents for
16 the community so that we have access to that
17 information.

18 And the last is recommending that the DEC
19 encourage the governor, legislature to enact
20 executive order or legislation which would
21 require the local governments and other
22 agencies to address environmental justice.

23 And that concludes the recommendations.

24 You'll notice attached to the recommen-
25 dations are several supplemental letters that

1 General Comments
2 bears the environmental justice memo drafted
3 just to give additional information or
4 different points of views on their thoughts on
5 the report.

6 At this time I welcome, you know, just
7 general comments about the report,
8 suggestions, discussion.

9 MR. HILL: I've got one. We live on
10 the reservation. Well, first of all, let me
11 begin, where it started was we had a meeting
12 with Department of Transportation Tuesday and
13 New York State DOT, Department of Transporta-
14 tion. So I go up there, I used to work for
15 the Department of Transportation myself. And
16 I asked a question, our roads are posted ten
17 ton, and we just live on the, just a small
18 country road. And we have fuel tankers coming
19 through there three or four times a day any
20 time of the day, night, whenever. And they go
21 through, and our roads are getting all
22 potholes.

23 And I asked a question, what could be
24 done about it? And they said, you have to
25 contact this section, Weights and Scales.

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1 General Comments

2 Well, first I called the state police, asked
3 them what could be done. They said you have
4 to see your congressman, representative. We
5 don't go by your laws, we have our own on the
6 reservation. He says, well, you'll have to

7 contact your congressman. I says, I told you
8 we don't have that. I said, what can be
9 done? He says, well, I don't know.

10 What do we have to do to get some
11 action? Do we have to go through this
12 criminal justice? Or what department do we
13 have to go to to get something done? You have
14 it in here about traffic generating
15 facilities, permit to renewals and stuff.

16 MS. CONLEY: Right. Well, the
17 recommendations that we deal with here are
18 with respect to the Department of Environ-
19 mental Conservation. Did you try contacting
20 DOT to ask them how you would go about that
21 issue?

22 MR. HILL: She (his wife) says I got
23 the answer to it.

24 MS. CONLEY: Then she knows.

25 MR. HILL: They sent me a card but

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1 General Comments

2 if I go to them and they referred me to
3 somebody else. Instead of going to them I'm
4 asking you the step that we have to take. So
5 that's not covered by --

6 MRS. HILL: This is an environmental

7 justice meeting.

8 MR. HILL: Well, our rules are
9 environmental.

10 MS. DELAOYZA: Different department.

11 MS. CONLEY: I guess I can say that
12 with the last recommendation that we have in
13 the report about, you know, asking the
14 governor, the legislature to enact laws
15 requiring other agencies and local governments
16 to address environmental justice, you know,
17 perhaps that's a way that the governor can
18 also I guess mandate or require that DOT, you
19 know, do the similar programs to what we have,
20 and address, you know, those issues within
21 your community.

22 MR. PATTERSON: I think I would like
23 to express also what Norman is trying to get
24 at, and I think that is even though we have
25 something that is probably a pretty good idea

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1 General Comments

2 here at this point, they're just recommenda-
3 tions.

4 So I have one question. That is, does
5 the Department have any indication about what
6 the governor's office will decide on these
7 recommendations, on their implementation or

8 their acceptance as part of the DEC?

9 And the second idea is that what Norman
10 is also saying, that within it we understand
11 that even talking directly to some agencies
12 can't get us much headway much less any
13 recommendations that we're discussing here.

14 MS. CONLEY: I work for an agency
15 and I have that same problem. I call another
16 agency I don't know who I'm calling. If
17 programs like this are implemented though, for
18 instance like we, the department have the
19 1-800 number maybe other agencies will also
20 have something similar so that you're not
21 being shuffled off, I'm going to refer you to
22 this person, I don't handle it, and that
23 person refers you to somebody else. Hopefully
24 they will have that information.

25 If you call my office I will actually

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1 General Comments

2 give you to the person that handles your
3 situation so you're not trying to find a
4 needle in a haystack.

5 MR. PATTERSON: I'm going back to my
6 question though, is there some gut instinct
7 within the DEC to what the governor's opinion

8 is?

9 MS. CONLEY: I had lost my train of
10 thought, she just reminded me that was the
11 first part of the question. In conversations
12 with the DEC Commissioner, her intention is to
13 try and look at our resources, to look at all
14 the recommendations and try to implement as
15 many, if not all of them, as possible.

16 And that would be, you know, that would
17 be what the DEC staff encourages the governor
18 sign onto as well. So we have no word from
19 the governor's office at this point as to
20 what, you know.

21 MR. JUDSON: Well, this seems like
22 actually a critical point. Because I think we
23 all know that the governor is talking about,
24 how thinly the state resources are stretched
25 at this point. If there is going to be a

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1 General Comments

2 budgetary consideration about whether, you
3 know, within the DEC existing resources, they
4 have to be allocating things.

5 I mean there is fear probably from all of
6 us, a program like this requires an increase
7 in resources. I mean it's about cutting
8 resources from some other DEC program, you

9 know, to make this work. I mean, you know, it
10 just seems like somebody is going to be
11 getting anemic somewhere if the governor, I
12 think ordered for this task force to be set
13 up. I mean do you have a sense he's willing
14 to commit extra resources to DEC to make this
15 thing work?

16 MS. CONLEY: That's my sense.
17 That's why the program was put together, to
18 make some changes. There are a lot of
19 recommendations in here that can be done
20 without additional resources. And you know,
21 when the Advisory Group was sitting down
22 trying to come up with recommendations, that
23 was always in the back of our mind.

24 We don't want to recommend something
25 that's going to take millions and millions of

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1 General Comments
2 dollars to implement because we're not going
3 to get that money. But we will get some. And
4 hopefully that will allow us to go forth with
5 this program.

6 And just as, you know, a sign of
7 commitment to the program, our office,
8 initially my office was me, and it's now, you

9 know, there are five people that work with
10 me. And, you know, hopefully that will
11 continue to expand as the program grows.

12 MR. HAWKINS: I have a question with
13 regards to why is the main focus of this
14 entire program on permitting, permitting
15 activities? Months ago most fear from people
16 in regards to each effect tended to be a
17 direct result of malfunctions at facilities or
18 railroad incidents, you know, derailments,
19 transportation related incidents or the
20 explosion at a facility.

21 When you have those type of effects I
22 keep reading, I see a lot about EIS, what
23 about impacts from those type of impacts, what
24 about risks, risk management where it's a
25 little bit more aggressive. You have probably

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1 General Comments

2 a wider zone based upon extremely hazardous
3 substances at a facility. Why are we just
4 focussing on permits and not other variables
5 that can actually come into play.

6 Second part of it is, when you look at
7 transportation, major highways are usually
8 route, train route, usually great way for
9 transportation of chemicals. Usually around

10 those areas property values are fairly low.
11 Which means that low income people are going
12 to buy that property to build homes.

13 What's being done to address the impact
14 of transporting hazardous material along
15 railways, roadways or by barge on those people
16 that live in those communities on those routes?

17 MS. CONLEY: There is only one of
18 me. Good question. The focus was on
19 permitting because two years ago before the
20 program was - let me just give you a little
21 background. Before my office was established
22 executives at the DEC and community residents
23 and environmental advocates, activists sat
24 down, and that's when DEC was introduced to
25 environmental justice. And sat down, heard,

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1 General Comments

2 you know, what the issues were and a lot of
3 them focused on permitting.

4 So that was our initial focus when we
5 apply, we the DEC applied for US EPA grants to
6 help us come up with recommendations. And
7 there were several things we said we were
8 going to do, enhance our website to make sure
9 there is EJ information on there, hold public

10 meetings, set up the Advisory Group, come up
11 with a recommendations, report on permitting.
12 And then there was the other, develop a
13 strategic environmental justice plan.

14 So this is the permit component. And as
15 part of it the Advisory Group felt they had to
16 mention some other things as well. But there
17 is that whole strategic plan that yet has to
18 be done.

19 MR. PATTERSON: That will cover
20 things in the R and P plan for facilities, the
21 greater magnitude as far as the impact.
22 Because I can see where an EIS is done, normal
23 operating facility where it doesn't
24 necessarily take into account the worst case
25 scenario.

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1 General Comments

2 MS. CONLEY: And planning, yes. I
3 agree. Thank you. Other questions?

4 MR. HAWKINS: The second question I
5 didn't know if I got an answer from you,
6 transportation routes, low income housing
7 along major interstates, major highways.
8 Typically anyone can drive down the major
9 interstate and you'll see houses along the way
10 and they're not your million dollar homes,

11 usually low income areas. What type of
12 consideration is going to be given to that?

13 MS. CONLEY: We're not there yet but
14 it's a comment that we've recorded and when we
15 start thinking of, you know, those types of
16 issues we'll try and address that.

17 I mean from our perspective at DEC there
18 are only certain things we have authority
19 for. And, you know, we'll have to get other
20 agencies on board as well. So that, you know,
21 those larger issues can be dealt with. There
22 is only so much we can do as an agency.

23 ZAC MOORE: I'm here as a student
24 and also with Syracuse United Neighbors.
25 Thank you for coming to the community, this

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2 neighborhood and informing the people about
3 environmental justice and the environmental
4 impact statements. I don't believe many
5 people were aware of the - that this program
6 exists or the term environmental racism or
7 some of the concerns about pollution in this
8 country.

9 The question I have, one of the biggest
10 issues in the city has been the sewage plant,

11 the environmental justice of locating it in
12 the process of developing it, studying it,
13 going through the due process with the
14 citizens and evaluating the environmental and
15 health impact.

16 The question that I have is why didn't or
17 did the DEC and why didn't the DEC do an
18 environmental impact statement of the proposed
19 chlorine, of the chlorine at the sewage
20 treatment plant going in a residential
21 neighborhood where over 20 low income African
22 American families, good majority of them
23 elderly, live on Oxford and Blane and going
24 through that construction would mean
25 devastating the homes and devastating the

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1 General Comments

2 quality of life.

3 Was there a study done about the impact
4 of chlorine and what the health effects and
5 environmental dangers of building a chlorine
6 based sewage plant there? Obviously chlorine
7 is a very dangerous thing.

8 MS. CONLEY: Your concerns are
9 recognized. Unfortunately I am not part of
10 that process and not privy to all the
11 information that you're going to need in order

12 to get your question answered properly. This
13 forum here is really to focus on the report.

14 You're more than welcome to call my
15 office and I can hook you up with the people
16 that can answer your questions, because I
17 can't.

18 ZAC MOORE: I basically want a
19 formal response to that. I'll write a letter,
20 and it's in the formal record. I think this
21 community and the community on the south side
22 want an answer, you know, as to why, if and
23 why, you know, the people that now we've gone
24 through this process, and I appreciate all the
25 work that goes into this, but if it's not

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2 going to be done simply when homes and
3 people's lives and generations, I mean there
4 is a playground there.

5 MS. CONLEY: I invite you to put it
6 in writing, take my address and send it to me
7 and I will forward it on or you can call me
8 and we can see who you should be sending it to
9 so you can get that question addressed. It's
10 not that I don't want to answer that question
11 at this point, because I do feel that it gets

12 into a lot of things that are ancillary to the
13 report that's in front of you. But I would be
14 happy to discuss that issue with you after-
15 wards and clarify things as much as we can and
16 continue the dialogue.

17 ZAC MOORE: Thank you.

18 MR. HAWKINS: One last question,
19 trying to think of the proper way to phrase
20 this. What's being done to make sure, I
21 didn't see any mention of this in the report
22 but for industry or any potential business
23 operation that would use a hazardous materials
24 will require a Title 5 permit or you know,
25 clean water permits, SPDES permit, any type of
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2 permitting activity, what is being done to
3 encourage industry to develop buffer zones?

4 Because in most cases what you're looking
5 for is because it's such a hot issue now,
6 you're looking for future practices, and
7 future practices can impact people down the
8 road.

9 I can see a facility sitting out in the
10 middle of nowhere and for 40 miles there is no
11 one around them. And they only have this
12 little 10 acre spot right in the middle of

13 that 40 miles. What is actually being done to
14 create a buffer zone around that?

15 MS. CONLEY: I can't answer that,
16 but you know it's taken, it's recorded, and
17 that's something that we need to consider.

18 MR. HAWKINS: You would think
19 industry would do that. At least take the
20 opportunity so that you know as soon as
21 industry puts a facility right in the middle
22 of nowhere the property values immediately
23 goes down. That becomes an attraction for low
24 income families to move in because it's cheap
25 property and it's probably in a good area.

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2 The roadways are being put in by that
3 facility, makes it more accessible getting
4 from one point to the other. But typically
5 the problem is, you know, 40 years down the
6 road no one ever thinks that there is going to
7 be a whole community surrounding this
8 facility.

9 Now with this going into effect now, you
10 have the potential projection of someone to
11 claim environmental justice. But you know, it
12 becomes a question of who was here first. Was

13 the industry here first or the community
14 first? So is there any encouragement to the
15 industry to say you have to create these
16 buffer zones in order to minimize that impact
17 in the future?

18 MS. CONLEY: That's a good comment,
19 thank you.

20 MR. JUDSON: I guess are we in the
21 period of general comments?

22 MS. CONLEY: Yes. General comment
23 pertaining to the report.

24 MR. JUDSON: Where I'm going is more
25 towards the recommendation at the end about

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2 the future direction of the task force. And
3 you know, it seems that what we're dealing
4 with at this point, you know I think it's, you
5 know, in order for this program to be
6 effective it has to start somewhere.

7 And it seems like at this point dealing
8 with, you know, I mean the permitting process,
9 new facilities, that sort of situation. In
10 the future, you know, we already have an
11 environmental justice advisory system in terms
12 of facilities that already exist, things that
13 are already going on. I just would encourage,

14 you know, the DEC to take on issues of
15 environmental justice, you know, policy, as
16 they relate to things that, you know, the
17 state are promoting.

18 We just had a series of hearings a few
19 weeks ago about the state energy plan. The
20 DEC was involved in as well as the Public
21 Service Commission and those agencies. One of
22 the sort of crucial parts of their
23 recommendations of the state energy plan was
24 the relicensing of every nuclear power plant
25 in the state for another 20 years of

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2 operation.

3 Number one, that doesn't seem like the
4 province of the state agencies in New York for
5 that, because they're not responsible for that
6 process. In addition to that, the nuclear
7 power plants in this state have a tremendous
8 -- there is a fundamental issue with the
9 radioactive waste that's produced with
10 environmental justice. Most of that waste is
11 deposited out of state.

12 But in terms of the state recommending in
13 order to meet your energy needs we're going to

14 be promoting sources of, you know, energy and
15 industries like that. Leaves a tremendous
16 blush on our state for participating in that
17 kind of environmental racism. And I think
18 this is something that needs to be taken up at
19 some point.

20 I understand that it's not about being
21 dealt with right now but this is, you know,
22 these environmental justice issues in terms of
23 industries like that are on the level of
24 genocide. And that's fundamental for the
25 state to be able to look at that at some

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2 point.

3 MS. CONLEY: Thank you. Other
4 comments, concerns?

5 MR. HILL: I have to commend you
6 people for all your activities and your work
7 that you're doing. I didn't become interested
8 in this environmental, the HETF until my wife
9 got into it and she says come with me to the
10 meeting. So I come to the meetings. I don't
11 know, maybe she's ashamed of me sometimes
12 because --

13 MS. CONLEY: I think that means no
14 she's not.

15 MRS. HILL: No.

16 MR. HILL: Because I ask a lot of
17 questions. To have the answers come from the
18 way I put it across it makes me understand it
19 a lot better. But you guys are doing a good
20 job. And the question that I have is, is this
21 position appointed or do you go and apply for
22 it?

23 MS. CONLEY: What position?

24 MR. HILL: Like the people employed
25 in this, appointed?

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2 MS. CONLEY: No. Well, my position
3 is but the other, like Jeff's position and his
4 counterpart and my assistant, those are not
5 appointed positions.

6 MR. HILL: You're just the term
7 employee?

8 MS. CONLEY: Well, I was actually
9 with the Department before this administration
10 came in. I've been with the department now
11 for almost eight years. So I worked under the
12 past administration, and when this administra-
13 tion came in I was given this opportunity, so.

14 MR. HILL: You're CSEA then?

15 MS. CONLEY: No, no. MC.
16 Management Confidential.
17 MR. HILL: Because the reason I ask
18 that question, when we have meetings, we had a
19 meeting with the Health Department and the
20 first -- second sentence he says, I am not
21 appointed, he says, I am a member of CSEA.
22 And it seems as though as we go and talk to
23 people who are appointed it doesn't go
24 anywhere. It's the people who are employed,
25 regardless of what party is in office, they

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2 get the job done.

3 MS. CONLEY: Well, I think that I
4 was there before and I'm still there now.

5 MR. HILL: You must be doing
6 something good.

7 MS. CONLEY: I hope so.

8 MRS. HILL: On that note can I jump
9 in here? My name is Bernadette Hill, I'm a
10 clan mother of the Huron Clan, Cayuga Nation.
11 And I too want to thank you very much for
12 including our recommendation in your report.
13 It means everything to us.

14 We are not a nation -- I mean we are not
15 the general public, we are a nation of

16 people. We're the first inhabitants of this
17 continent. We revere Mother Earth. We're
18 very concerned with the environment.

19 I get a little bit emotional because the
20 environment does mean so much to us, all of
21 us. Mother Earth supports all of our needs.
22 The waters are the life blood of Mother
23 Earth. The pollution that has been done here
24 is just terrible. The salt that's being used
25 on the highways is a big concern. The tree

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2 trimming by the Department of Transportation,
3 how they violate the trees, they break them,
4 just to make clearance. They kill the weeds
5 growing along with dangerous chemicals.

6 Probably the most hurtful thing is what
7 happens to our ancestors remains when a
8 highway - when somebody decides they want to
9 put a highway through or dig a salt mine. I'm
10 fully aware that burial sites are known and
11 yet no plan is made to go around them. Our
12 remains have been in museums, on shelves, our
13 ancestors remains. If you know rare objects,
14 people have them in their basements. Our
15 people have been so violated.

16 We're to have a government to government
17 relationship and we cannot, we cannot even
18 meet unless the governor's office gives
19 permission to meet with Indian nations.

20 I want to conclude by saying, I really
21 thank you and we really appreciate your
22 putting the recommendations in this
23 environmental report.

24 MS. CONLEY: Thank you for your
25 comments and I guess I have to thank you as
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2 well because those recommendations came out of
3 the meeting that we held, you know, in 2000
4 where, you know, you expressed those concerns
5 to us. So it was a mutual effort and we
6 helped each other.

7 MRS. HILL: Thank you.

8 MR. HAWKINS: I did have one more
9 question.

10 MS. CONLEY: Now the last one wasn't
11 the last one.

12 MR. HAWKINS: Something that someone
13 earlier was talking about in regards to the
14 classification of what's minority community
15 based on urban and rural classifications. I'm
16 assuming that rural means under 50,000. I see

17 in the footnote here it stays urbanized areas
18 continue to build up area with population of
19 50,000 or more.

20 I live in a small community that I
21 consider rural, where the minority population
22 is probably one percent. Based upon the GIS,
23 I guess data for New York State, if you were
24 to, I know you talked earlier about blocks,
25 but if you were to separate that based upon

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2 city or township data or even if you wanted to
3 go broader and do it on the county bases, and
4 get that 50,000, how many hits would you
5 actually get of minority communities in New
6 York State?

7 MS. CONLEY: How many I can - like
8 how many census block groups would there be?

9 MR. HAWKINS: Right.

10 MS. CONLEY: I don't have that
11 number. I can probably get it for you. I
12 assume that's something that EPA would have.

13 MR. HAWKINS: I did a case study of
14 this, and actually a case study about five
15 years ago in the state of Mississippi and it
16 was probably one of the more difficult things

17 to do because for every county you're going to
18 get basically rural communities and you're
19 going to get that 33.5 percent every single
20 time. So you essentially, following those
21 guidelines you could never build a facility in
22 the state of Mississippi because of using that
23 data or it always become an environmental
24 justice issue.

25 Not to say you could never do it but

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2 always an environmental justice issue but I
3 can recall some of the statistics for minority
4 representation in the State of New York and
5 I'm thinking it's less than, far less than 20
6 percent overall for the state.

7 So I'm curious to know how many hits
8 would you actually get within the State of New
9 York using this criteria?

10 MS. CONLEY: I don't have the
11 number, but picturing in my head the map that
12 I'd seen of the block groups mapped out
13 throughout the entire state, there is, you
14 know, the larger concentrations are around
15 the, you know, New York City, Syracuse,
16 Rochester, Buffalo, you know, some hits in the
17 Adirondack area, some in the Southern Tier.

18 So they're concentrated in the more urban
19 areas. But now there are many. So if you
20 leave me your contact information I can
21 definitely get you that number.

22 MR. PATTERSON: Corner you one more
23 time on my last question and just rephrase it,
24 and also Bernadette said. We're very
25 impressed these are indirect recommendations,

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2 the ones you make. But secondly, is there
3 anything that Mr. Crotty, as Commissioner --

4 MS. CONLEY: Ms.

5 MR. PATTERSON: Oh, Ms. Crotty, will
6 not implement out of these recommendations?

7 MS. CONLEY: Is there anything we
8 know she won't implement? Not at this point.
9 What department staff is doing now, we're
10 holding these public meetings and at the same
11 time we're going through the report to see
12 what's going to require additional resources,
13 what things we don't have technology for yet,
14 what things like we have to propose
15 legislation for.

16 So that we can recommend to her what
17 needs to be done. So at this point, we don't

18 know yet. Like I said, her overall statement
19 was that she was going to try and incorporate
20 as much, if not everything, that she could
21 from the report. But we haven't actually sat
22 down and given her the numbers of how much
23 more money we need, how many more resources,
24 other resources.

25 MR. PATTERSON: So generally we can
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2 expect that out of these recommendations ones
3 that do not require significant amount of
4 resources or additional funds or needs some
5 change in legislation will be implemented.

6 MS. CONLEY: I'm trying to think
7 whether there is, you know, any recommenda-
8 tions in there that wouldn't qualify. I would
9 generally say, yes. There may be something
10 I'm not thinking of offhand, but. Any other
11 comments, questions?

12 MS. RIZZO: Chrissie Rizzo American
13 friends service committee. I too want to
14 thank you and the Advisory Group for the work
15 that went into these recommendations. And I
16 am pleased to see that the work of that group
17 is going to continue. It's clear that
18 permitting is an important place to start.

19 But there are also clearly other issues that
20 are ongoing and currently in existence that
21 need to be addressed over time and I do hope
22 that you and the Committee get to it.

23 I also want to emphasize the intention-
24 ality that needs to go into addressing
25 environmental justice issues. Particularly

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2 when it comes to outreach to communities of
3 color, and, you know, all of the issues that
4 go around that. Reaching people, encouraging
5 the DEC to do educational projects so that
6 folks know how to access information and make
7 their positions known.

8 Translation issues. I was glad to see
9 all those things in there. And some of those
10 things aren't going to require resources. And
11 to address racism on all fronts does indeed
12 require that we put our resources behind our
13 intentions. So I want to make sure that gets
14 into the official record.

15 I also want to express my support and
16 appreciation for the addressing of issues
17 around Native American people's that got into
18 the report. And I hope that the same kind of

19 intentionality goes into meeting and
20 addressing those issues.

21 MS. CONLEY: Thank you. Any other?
22 Got one more? Are you sure?

23 MR. HAWKINS: No, all done.

24 MS. CONLEY: Well, I thank you all
25 very much for coming. Your participation has
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2 been amazing tonight, and we have gotten a lot
3 of great suggestions. And thank you for all
4 for the support and I too hope that, you know,
5 we see good policies and good changes come out
6 of these recommendations.

7 If you have any, the DEC is accepting
8 written comment on the report until February
9 22nd. I encourage you, if you have any
10 questions or comments on the report or
11 questions related to something going on in
12 your community, that you give me a call, the
13 1-800 number is on the table there. And I
14 look forward to working with you again in the
15 future. Thank you.

16 * * * *

17 C E R T I F I C A T E

18 This is to certify that I am a Certified
19 Shorthand Reporter and Notary Public in and
for the State of New York, that I attended and

reported the above entitled proceedings, that

20 I have compared the foregoing with my original
minutes taken therein and that it is a true
21 and correct transcript thereof and all of the
proceedings had therein.

22

23

John F. Drury, CSR, RPR

24

25 Dated: February 20, 2002