

EPA

Moderator: Janet McCabe
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3:00 p.m. ET

Operator: Good afternoon. My name is (Bonnie), and I will be your conference operator today. At this time, I would like to welcome everyone to the Environmental Justice in Permitting Environmental Groups Conference Call.

All lines have been placed on mute to prevent any background noise. After the speakers' remarks, there will be a comment period. If you would like to make a comment during this time, simply press star then the number one on your telephone keypad.

If you would like to withdraw your comment, press the pound key. Thank you. I would now like to turn the call over to Ms. Janet, McCabe, Principal Deputy Assistant Administrator for EPA Office of Air and Radiation.

Please go ahead, ma'am.

Janet McCabe: Thank you and thanks everybody for joining us on the call today, taking part of your afternoon to spend it with us. I'm Janet McCabe from Office of Air and Radiation at EPA. And with me is Carol Ann Siciliano, who is associate general counsel of the cross-cutting issues law office at EPA's Office of General Counsel and we're very, very pleased to be with you all here today.

As of now, we have about 35 people on the line and more people are joining. So, it's great to have so many people interested in this topic. So, today is one of six listening sessions that we are holding on this topic.

This is our third session. This one is targeted towards environmental groups. And I see that we have a variety of people on the line.

And that's great because we want to encourage people to talk to one another and hear one another's views. But this session will focus on getting input from environmental groups. And what I'm going to do briefly is go over the background of the environmental justice in permitting initiative.

And then, we have a facilitator with us here in the room. He will go over the logistics of the call. Our intent today is primarily to listen.

And so, you may not here too much from us in response to your comments. But I want to make sure you know that we really value your input and your feedback today and in other forms will help inform the direction of this important permitting initiative. The environmental justice in permitting initiative is one of the initiatives of EPA's Plan E.J. 2014.

The plan is not a rule or a regulation but a strategy for how the EPA is going to integrate environmental justice into its day to day activities from rule writing to research to enforcement. Plan E.J. 2014 outlines nine initiatives. One of which is the environmental justice in permitting initiative.

We recognize that, although, environmental justice can be incorporated in to the permitting process in a variety of ways. There are significant challenges particularly related to cumulative and multimedia impact, land choices. We're seeking to truly create a culture within EPA and among our federal, state, local and tribal permitting partners, in which engaging on issues of environmental justice more readily translate in – translates into greater protections for disproportionately burdened communities.

And our overarching goals are for disproportionately burdened communities to have full and meaningful access to the permitting process and for permits to address environmental justice issues to the greatest extent practicable. I just quoted to you a couple of sentences from our draft implementation plan for this initiative. We've drafted implementation plans for each of the nine initiatives that are part of Plan E.J. 2014.

These plans were released to the public for comment back in February, and we are hoping for about 60 days. The National Environmental Justice Advisory Council or NE.J.AC has also provided recommendations to EPA on the environmental justice in permitting draft implementation plan. We got lots and lots of comments from a lot of people.

We are very appreciative of that. We are reviewing those now and expect to be adjusting the plan to respond to that really important input and then put out a final plan very near in the future. While we are finishing it up, however, we are moving forward with some of the activities that we include in the draft.

So, that, we don't lose time in getting that work down. And I'm going to tell you a little bit about what that work is and then explain how these listening sessions fit in to that. The environmental justice in permitting draft implementation plan outlines the three-year process for the agency to identify tools for better integrating environmental justice into permitting.

To implement these tools in a few case studies and to share the tools and lessons learned from the case studies with other federal agencies and with state, local and tribal permitting authorities. When I say tools I mean that in a very broadest sense of the word. I don't mean hammers and screwdrivers.

I don't just mean guidance. Examples of tools could be mapping and screening software, case studies, trainings targeted towards different audiences and different skill sets, templates for notices or for responses, protocols, all kinds of different things that people use to make the permitting process more acceptable and more meaningful to communities that want to become engaged. We'd like to take everybody who has provided comments to us so far.

And we are now very much in the mode of beginning the work of collecting tools and ideas. And that's where you fit in and that's where these calls fit in. So, over the remainder of this year into early next year, what we will be doing is collecting ideas, tools that exist already and also things that – ideas that people have that may not have been implemented yet.

And this also includes learning from states and local governments that are head of EPA perhaps in addressing environment justice issues in permitting activities. We will then pull all this information together, the tools, the best practices, the lessons learned and other resources into an E.J. permitting clearing house. We will use some of the good ideas in the clearing house in some case studies that we will identify permitting activities, that we will identify here at EPA.

We will put that clearing house out to you and everybody who is interested for additional input, take comments and revise it as make sense and then finalize it. But I want to emphasize that although you need to have an endpoint and an expected deliverable for a project like this, we recognize that incorporating environmental justice into permitting is going to be a continuing effort. And as good experience happen in the future or bad ones to I supposed, we will continue to learn from them and integrate them into our body of resources for everybody to use and learn from.

So, this particular learning session is intended to solicit input on the types of tools and methods and strategies that we might use that are outlined in our permitting plan. I hope that you have had a chance to look at it. If you haven't, we'll be giving you information about where you can find it on the website.

And as I said before, the audience today, primarily, that we would like to hear from is people affiliated with environmental groups. We've had calls with state, local and tribal governments. We've had a call with business and industry.

We have other calls identified in the future that our facilitator is going to let you know about. And environmental groups input from environmental groups and organizations is a very important aspect of the stakeholders that get involved in permitting actions. Whether you are with a local or a nation group, you play a tremendously important role in the – role in the environmental permitting process.

You know how to raise issues. You know how to ask questions of the permitting facilities or the permitting agencies. You may have access to experts who can help you organizations or the communities where these facilities are being sited to evaluate technical issues.

You know the laws that apply or maybe you don't and you've been frustrating yourself trying to participate meaningfully in a process you so – you could not be a true part of or have a real voice in. Our goal today is to provide an opportunity to hear from you about those experiences, the ideas you have for how to do better and the ideas you have for things that people should never ever do under circumstances because they don't work well. So, let me leave you with a couple of specific topics on which we'd like to hear your feedback.

But that is a no way intended to constrain your creativity or the things that you are interested in and I think we should know about. We may ask a few questions along the way especially if conversation lags to stimulate your thinking on different topics. But please think about this as you're thinking about how you'd like to participate in the call.

We're interested in hearing about existing tools or ideas for new tools that you thing would be useful. We'd like to hear from you about lessons learned or best practices from your own experiences working on environmental permitting and environmental justice. We'd like to hear from you feedback on state or local programs that have addressed environmental justice in permitting with which you are familiar.

We'd like to hear examples of the types of permits whether that's the type of permit or the location of the facility. What types of permits should EPA focused on for case studies when we come to be identifying those? Where the environmental justice tools could be tried out and tested.

So, thanks again for joining us today. I think we have even more people on the call than we – that we did when we started. So, that's wonderful.

And now, I'm going to turn it over to our facilitator, David Babson to explain some of the logistics.

David Babson: Thank you, Janet. David Babson, I'll be serving as the facilitator for this listening session. My role is pretty simple.

It's to keep the meeting focused and going smoothly. So, the maximum number of folks that want to participate will have an opportunity to join the discussion. As Janet noted, this is one of six listening sessions.

This one specifically designed to allow members or representatives of an environmental groups to hear their reviews, suggestions and ideas. As was noted in other listening sessions, six in all will be held. There will be other sessions that have been held or will be early next week including those for state and local government, business and industry, tribal governments, communities and businesses, environmental justice communities and other local community groups, as well as a special sessions for those that preferred a Spanish language.

This particular session is two hours long. We will be ramping up about five. As this in the case on all listening sessions, everyone is welcome to join in as a listener.

However, to be able to make these calls as efficient as possible, we would like you to work with us on a couple of specific items and make this useful as a way for environmental groups to be heard. They are pleased that only individuals, representatives of environmental groups speaks during this particular listening session. Please note on the various announcements the opportunities for you and others in your interest area to have an opportunity to provide comments during other sessions.

Also, within the environmental community, please have one representative of each community or organizations speak. And please identify yourself when you have a chance to come on if the operator does not. And also for the sake of being able to have as many people have an opportunity, speakers please limit your remarks to five minutes or less.

To make this efficient, we're using an operator-assisted conference system for this meeting. The operator will ensure the each speaker has an uninterrupted opportunity to provide the reviews by allowing only one person to be heard at

any one time. Operator, would you please reiterate for us the way that someone can request the chance to speak during the discussion session?

Operator: If you would like to add a comment, press stars then the number on your telephone keypad.

David Babson: Thank you. And the operator will keep a queue of folks that are interested in speaking and we'll call upon you in the order in which you joined that queue. We hope that everybody has enough time who wants to speak to do so today.

However, if you're unable to speak or prefer not to during this listening session or if your comments would take more than five minutes to relay to everyone who's listening, you have an opportunity to provide written comments as well. Please, you can submit any comments on this listening session by sending an e-mail to EPA at the following e-mail address; E.J.permitting@epa.gov. Allow me to give that to you again.

It's E.J.permitting@epa.gov. As was noted earlier, the major point of this session is to listen and obtain your suggestions, feedback and experiences. Therefore, EPA will not be spending time responding the specific questions and lengthy comments during this call.

EPA will also be recording the session to ensure that all of your thoughts are captured. And so, there was a good record for folks who may not have been able to join this call. EPA will be posting the transcript of this session at the following e-mail address; www.epa.gov/air/caaac/meetings.html.

Allow me to give that to you one more time. That e-mail address where the transcript of this session and all the other sessions will be posted is www.epa.gov/air/caaac/meetings.html. And then, just to wrap up, allow me to reiterate briefly some of the suggestions, focused questions that you may want to consider in being able to provide your thoughts and suggestions.

Any other thoughts are welcome, but please think about these as well. As Janet noted, we've loved to hear your ideas for tools and mechanisms to assist in considering environmental justice in the permitting process. In addition, in light of your own experience with environmental justice issues in the context

of facility permits, what are some successes and lessons learned that should be taken into account in establishing an effective program.

What permits either by the type of permit or their location would be good opportunities for EPA in focusing the early stages of this initiative to learn as much as possible. And, finally, as you know some states of developed programs addressing E.J. issues in permitting processes, for example Connecticut, Illinois are two which are known of. What suggestions or recommendations do you have for EPA based on your experience with state permitting programs?

And with that, now, we look forward to your thoughts and views. Operator, would you please open the line for the first speaker.

Operator: Sure. As a reminder, to add a comment, press star one. Our first comment comes from Maricela Mares-Alatorre.

Maricela Mares-Alatorre: Hi. This is Maricela, and I have a comment. I think that best practice would be for EPA to actually follow their own regulation instead of exempting permits from following existing logs.

A good example would be the Avenal power plant that was just approved seven miles from Kettleman City, which is definitely an environmental justice community. I think that we're just, you know, running around in circles here unless these wonderful laws and regulations are actually going to be followed.

Janet McCabe: Thank you very much for that comment.

Operator: Thank you. Our next comment comes from Jesse Marquez of Coalition for a Safe Environment.

Jesse Marquez: Yes. Thank you for this opportunity. I'm located in Wilmington, California within the City of L.A. community where I deal with both the Port of Valley and Port of Long Beach and six major ore refineries in this community.

And going back several years ago, our South Coast Air Quality Management District announced that it was going to be beginning – begin to issue title five permits for refineries. Part of the problem we have is the lack of EPA oversight over the title five permit process. Now, the title five permit process was approved basically back in 2000-2001 where every agency was supposed to initiate doing it where our South Coast Air community did was issue hundreds of permits to every energy you can think of except the number one polluting industry, which was the ore refineries.

We were actually preparing a lawsuit when they got win that we're preparing a lawsuit to challenge because they have not issued any to any major ore refineries. And then, we announced that we're going to be in the process. The next problem we have is that none of us have any experience on the title five permit process.

There is no requirement for any of the agencies to conduct training or classes or seminars for the public before they begin the title five permit process. So, basically, we start with a zero experience in information background. And I struggled.

It was very difficult. It turned out I was the only individual and only organization that submitted title five permit comments because no other organization in the L.A. area have the time to build and invest in research and ability to provide comments. Another problem we have is that, again, it's an oversight situation where the EPA public comment period is concurrent with the public comment period.

So, the problem we have there is that EPA never is aware or reeves or sees our public comments that are identifying all the problems with the title five permit of the South Coast AQMD. So, as a result, we submitted our comments. And actually what happens with AQMD, they basically deny everything.

If there was proper EPA oversight, they would read our comments and see where we were identifying specific issues. Some of the specific issues we were identifying was the inadequate reporting of annual emissions. We found

out that refineries reported one quantity of the emissions to the AQMD and a different quantity to the U.S. EPA for the three database.

Another thing is that they were underreporting data. We identified where AQMD would publish notably amounts of emissions and then they come out with an annual twelve-month total. While in some instances, they have major flaring events.

Sometimes, there was a major disaster where it burned for, you know, 24 hours and put out, you know, hundreds of tons you have somewhat one 24-hour period. Yet, when you look at the annual reporting data, there was no bleep for about a year of any significant new fact. So, again, the EPA had read our public comments.

You know, they were about – they identified question to AQMD as to why are you not reflecting the fact that you had a major disruption. You had probably discovered what the title five permits is what good if the title permit if it doesn't require the facility to reduce any emissions. You're actually wasting my time, our committee's time to comment on a document that's not going to reduce anything when out.

All the title five permit is doing from what our experiences now is representing the permit for them to do business as usual. And that's not what we want. We want a mechanism that's going to force refineries to reduce their annual emissions.

And the way it's set up right now, there is no reason for them to do it because it's a requirement for them to do it. So, as a result, they issue a permit that allows them to continue to even hundreds of tons. The other problem we have is that what are they reporting.

In some years, what actually it is doing is that we did a ten-year trend analysis of all the criteria pollutants and above 20 of the major – of the toxic pollutants. And what we found out is that like in one refinery, annual – the total criteria of pollutants increased every single year for ten years yet nothing was done by the AQMD to investigate as to why. And, again, EPA agreed to

our comments that you could have questioned why this refinery increasing its annual emissions every single year.

Would you look at to a specific pollutants like benzene. Benzene had actually increased that all six ore refineries every single year for the last ten years. And yet the power plant permit got approved.

Business as usual. Nothing along. Everything to get you the – like in the (inaudible). You have the U.S. Army Corps of Engineer.

The U.S. Corps of Engineer, the rears of EPA oversight over them because what they do is all they just rubberstamp whatever the port approves. And if you look back to the issue of the Port of L.A., both the Port of L.A. and City of L.A. lost a lawsuit to the community for their failure to even prepare and release an EIR. Yet, the US. Army Corps of Engineers rubberstamped the Port of L.A. going forward on building this 500 million terminal that they ended up losing both in court; both the City of L.A., Port of L.A. and the U.S. Army Corps of Engineers.

So, where were – where are the oversight of the U.S. Army Corps of Engineers? That needs to be done and then may issue a permit for the port and its project and may oversight over that permit process. Again, it takes the EPA to be able to read public comments and understand the different issues and items that we are challenging and many of them are absolute on a legal technical basis.

And, yet, you know, I've submitted 17 public comments that added up to almost nothing being changed. And I'm talking about my comments ranging anywhere from 25 to 40 pages in length. And so, those are some of my big concerns right there.

The other thing is that we know there are now zero emission technologies coming into the picture. Yet, the permits do not require any facility to incorporate zero emissions technologies. And that is the future and that's what we want.

Then, we have the other issue of BACT, the best available technologies. While we've learned that the best available technologies means nothing, we want to have the maximum achievable push and controlled technologies because an agency can improve, you know, half a dozen – a dozen different companies and the technologies, every one of them better than what the existing technology. But the range can be from 50 percent efficiency up to 95 percent efficiency where there is actually some company technologies that are 99 percent efficient.

But if you have like a refinery.

David Babson: Mr. Marquez?

Jesse Marquez: Yes?

David Babson: Mr. Marquez, this is Dave, the facilitator, if I could please ask – I greatly appreciate your thoughts, but for the sake of other people in the queue, could I ask for the sake of the five-minute limit, that we allow someone else to speak. And then, if you have other comments after others have spoken, you come back on and continue.

Jesse Marquez: Yes, that's fine. I'm sorry.

David Babson: No, we greatly appreciate your thoughts. I mean, you're putting out a great deal for the agency to think about. And it's very important that everybody have the chance to do that.

I just want to be sure that everybody has that opportunity. Is it OK with you sir?

Jesse Marquez: And I did submit written comments on the Plan 2014.

Janet McCabe: Thank you very much, Jesse. This is Janet. We do appreciate that.

And as David said, you raised us a number of things. One key line that you have identified is that many people don't have the knowledge or the expertise that it sounds like you have been able to put the time into gaining to be able to

participate in a meaningful way. We see this as a key need in permitting program and in all environmental programs.

And so, that kind of input is very helpful to us. So, thanks. We will go on to our next commenter.

Operator: As a reminder, to add a comment, press star one. Our next comment comes from Rosalia Guerrero of Air Alliance Houston.

Rosalia Guerrero: Hi, good afternoon. Well, I guess coming from Houston, of course, around the gulf coast, a lot of issues with the E.J. communities. But I would – I think one of the – what we'd like to see is communities always be involved in the permitting process from the very beginning.

In the past, engaging communities in the permitting process was a little easier because we had the contested hearing process, which really wasn't even that ideal but even that's gotten become out of our reach. But if we have a chance, if we could go back and make it even better by making communities a part from the initial in from the application process by having industry contact trusted contacted community through some kind of trusted portal of the community whereby he community would have to sign off on some type of disclosure saying that they understand that a permit is even being applied for because sometimes we don't even know about the application until after it's halfway down the pipe. And then, we're playing catch-ups.

So, we would like begin that permitting process with the industry, so at least one on some level footing. Although, I could hardly say it's level footing. But it gives us an opportunity to have a little time.

And sometimes we don't get – we're not even told about the permit or somehow we're not advised of it. In this way, EPA would have knowledge that we at least knew about the permit because, you know, the community signed off on not agreeing to the permit but at least knowing that it's beginning the permitting process. That's my comment.

Janet McCabe: Thank you, Rosalie. That's a very good and concrete suggestion and one that we've heard others talk about as well. So, that's great to have that input.

Operator: Thank you. Our next comment comes from Margaret Gordon of West Oakland Environmental Educators Project.

Margaret Gordon: So, West Oakland Environmental Indicators Project. Hello?

Janet McCabe: Please go ahead, Margaret.

Margaret Gordon: It's West Oakland Environmental Indicators Project.

Janet McCabe: Yes, thank you.

Margaret Gordon: Alright. My comment go along with the same thing that Jesse has made and the other person has made and said something that we do need the indicators about the process very thoroughly and that will have a better notification. We do need a hearing process.

A real hearing process that like – that we say that the community should be able to decide else on. And it shouldn't be probably up to the business and sales give the dates. And that it should be a whole division having the E.J. process, E.J. understanding, E.J. orientation around rating on the community on this permit process.

And we'll never have that. And also rules around enforcement of the permit. We have – not all of the things going to happen simultaneously.

And I know it will take some time. But we don't want – I'll see then. This is a must.

It's not just a consideration. This is must that I have been asking for three years about what is the permit process. And also, even with for Oakland.

You just did – they are installing their rectification on the box. And we think of the – our local air quality. I'm assuming that with assigner for the construction piece.

We had no idea. No information about when or where or how or whom is doing the – as a community. I had the information as a commissioner.

But who is at construction. But even the city didn't even get to pass off the information about where was their mitigation of what was their enforcement or their effort in understanding the process for the permit. So, as a lot of – there is a lot of parties and also our local public health department have no idea, authority, involved, insight of just permitting process.

So, I'm just – I'm seeing that there is a lot of missing parts and pieces here that needed to be considered and who are the partners, who is the partners in supporting the community and be on this permitting process.

Janet McCabe: Thank you, Margaret. That was very eloquent description of how important a good public notice is and how challenging it can be in complicated communities.

Margaret Gordon: We've got almost of like – we got almost of like a full right from EPA but we never had for the right as – from my last 14 years being involved. And we're focused. So, I'm fin – I was getting notices by specific function like I get in those last permits.

Janet McCabe: Yes. We hear you. Thank you.

Operator: As a reminder, if you would like to add a comment, please press star then the number one on your telephone keypad.

Janet McCabe: Well, you guys are thinking about how you want to weigh in. If people have had good experiences in a permitting process, we'd certainly like to hear about that as well and what made those experiences good.

Operator: Again, to add a comment, press star one. You have a follow-up comment from Margaret Gordon of West Oakland Indicator Project.

Margaret Gordon: Stop the amnesty. This process of permit process is an unknown enforcement. A mitigation piece has not been fulfilled.

You may need different levels. OK? Even you're dealing with water or air.

Multiple levels of permit – of pollution. This has not been part of EPA's environmental justice process. We are hearing that everything else just about what happened.

I'm a lay by who – what group has been part of the permit process. We (inaudible). Jesse had said he has been there.

But they don't do this in Northern California. It's inconsistent.

Janet McCabe: Thanks, Margaret. I understand that you're reflecting your experience and that's what we need to hear. I think that there has been some different sorts of experiences in other parts of the country and to the extent that folks have had those and would like to share them.

That's great. But we're not trying to suggest that your issues aren't entirely legitimate.

Operator: Our next comment comes from Jesse Marquez of Coalition for Safe Environment.

Jesse Marquez: Yes, thank you again for the opportunity. In the permits, we would like to see that EPA not approved a permit that does not – that have a health risk assessment – cancer risk of greater than one in 1 million. We would like to seek permits required at the facilities how an air emissions reduction plan included in the permit that shows when they will achieve a less than significant impact in the community.

We also lead to have the public comment period, which is typically 30 or 45 days extended to 90 days because it does take us a significant amount of time to be able to research permit. And then, we have questions we have to be able to get a hold off Port – I mean, our air quality management district staff. And they all would have different departments and staff members that addressed different types of issues.

So, we need to have more time to be able to be included in this. So, that we can participate properly.

Janet McCabe: Thanks. Those are very concrete and clear recommendations. Thank you.

Operator: Our next comment comes from Rosalia Guerrero of Air Alliance Houston.

Rosalia Guerrero: I guess I just like to make a comment based on the question about any positive, I guess, experiences with the EPA. And I'd like to say at least from a Texas perspective, our relationship with EPA, you know, has worked fairly well. We've had good relationship with local – with the local region, one communication.

And it's not just during the permitting process but all year round, which allows us an open communication. But our problem in Texas is our state regulatory air agency since they are the ones who would directly over us. So, I would like to see if these ideas move forward at the EPA level that somehow they be required as part of any contracts they have at the state level because I would be afraid maybe EPA comes out with something innovative and we – our E.J. communities will benefit from that because our state regulatory agency is going to adapt them for some reason.

Janet McCabe: Thanks, Rosalie. When I ask the question, I didn't mean just experiences with EPA. We recognize that most of the permits of this country are issued by state and local permitting agencies on behalf of EPA or through their own programs implementing the federal environmental permitting program.

So, we're definitely interested in having issues come up both at EPA but also at the state and local agencies.

Rosalia Guerrero: Great. Thanks.

Operator: Our next comment comes from Margaret Gordon of West Oakland Environmental Indicator Project.

Margaret Gordon: I'm just leaving B.C. from the CCA meeting. And adjourn this meeting. The KPC group did a report and one that I was in Houston, Texas.

Right in Houston or Dallas. We're in Texas. And there was a fed member from the pet food (inaudible) of the air quality board there.

And they work our deal, voucher deal with the refinery to do assess the waters and study. And actually this was going to be a trend coming up that they will do this series of fence line margining. What I'm having the impact, the community have been avoiding – understanding the education orientation.

What those are in and especially when it comes prior to this permit process gives to be very flushed out and to an initiative of our program. So, I'll say that this will be a new tool. It's coming up in industry.

The (inaudible) air monitors outdoor area not the indoor air, not educating their people, not understanding a full – one of the full players, decision making process, community driven understanding this different thing – understanding about the process. So, I just wanted to – I'm just giving my experience. What actually comes down the pipe based on this (inaudible) slip.

And I'm...

Janet McCabe: Thank you.

Margaret Gordon: I'm actually – we'll see that will be – that will – this was based on using this and as a method and look. So, we are doing – we are doing something. We are doing this (inaudible) from – doing it before the permit process.

We're sorting to – we're sorting in that we are not the root cause – we are not – we're doing – look at this pollution based on – from their scientist and not have an – and the other thing about this air margin program that – in Texas, they have the public health department. And JA extends on what they were doing. And our – the EPA staff in Texas and region six was in J.A. regional.

So, this was – so, like I see a trend add-on coming up real soon about having this dues and fence line, air margin like a tool in this permit process. But often, we have to be very sensitive and very careful about how they're using – how industry is on the start again and saying what we do on the subject.

Janet McCabe: Thanks, Margaret. I wonder if others have experiences with monitoring these companies have done or that the permitting authority has required.

Operator: Our next comment comes from Rosalia Guerrero of Air Alliance Houston.

Rosalia Guerrero: Again, thanks Margaret from bringing that up. I would like to comment on that. Yes, we have seen that where voluntarily, industry has some fence line monitoring.

But, again, without the input of the community, without the community being part of that process and what happens is that – well, at least from our experience that because they control the monitoring system, they also control the data. Sometimes they share that with the state. That has been our experience.

But then, they have control of how much of that information gets out to the community. So, they – so, I would really suggest that even if it's voluntary, that when an agreement or as part of a permit when there is an agreement that if the understood that that data would be free and open to everybody and the industry cannot restrict the data from going out in the way that the state or EPA would like it to go out because the industry would have different rules in the state.

But the state could never deny us that data. But even they have the data from industry, they would tell us – PCQ would tell us we can't give you that data right now because industry hasn't allowed us to give it out. Yet we have it, we just can't share it with you.

But in the end when PCQ had data that they had collected, that was always free and open to the public. So, I'd really like to thank Margaret for bringing that up because that can be an issue. And EPA just needs to be aware of that that if that's going to continue to be a process, yes, industry should bear that cost.

But then, they also think that it's their way to have control of the data and how the monitors were set up. Thank you.

Janet McCabe: Thanks. That's an important point that you both have raised. Thank you.

The others who have been sitting and listening, feel free please to weigh in.
We definitely would like to hear your views.

Operator: Our next comment comes from Margaret Gordon of West Oakland
Environmental Indicator Project.

Margaret Gordon: Great. I really do see that this is a multiple available authority needs to be put
together for whatever the permit process is. We do need to have our local
public if sitting at the table and have some authority around evaluating or
putting – having the criteria into looking at this permit and also with state
public health.

I think it should not just totally own EPA. I think there should be a multiple
interagency process to – for it (inaudible) to be able to permit. And that the
criteria to do this permit is based on those own principal around public health.

So, I'll be seeing – I mean, just seeing that this interagency into this plan has
happened permitting process and back leading totally up to one agency once a
state agency, our local air district be carried it out. I think I would like to see
all this enforcement process of setting the tables aside of all the different
things.

Janet McCabe: Thanks, Margaret. Interesting comment.

Operator: Thank you. Our next comment comes from Jesse Marquez of Coalition for a
Safe Environment.

Jesse Marquez: Yes, another couple of problems we've had with the permit. For example, a
permit will reference a regulator agency rule. So, in the case of the South
Coast AQMD, it's rule 1118, which is one of the strongest anti-flaring rules.

So, when UCPA reviews, they say OK that's good rule. The only problem is,
is that every refinery currently is noncompliance with that rule. Each one was
opposed to already submitted a flare reduction plan.

They were given five waivers over the last three years now. At least two missed the latest date to do that. And so, as the result, they're in noncompliance.

In addition to a health risk assessment, that's included in the permit, we would like to also have a health impact assessment as a requirement. A health risk assessment provides us almost no information. It tells us how many people might die of cancer over a 70-year period.

It does not tell us how many people have what type of disease, how many have leukemia, how many have myeloma, how many have lymphoma, how many lung cancer. It doesn't tell us who has asthma. It doesn't tell us who has COPD.

So, as a result, we have no baseline. So, when you come back five years later to review the permit, we have no clue disease get better or do they get worse. In the case of one example when I reviewed the L.A. County Department of Health data for the Harbor area and I looked at lung cancer and I looked at one report in 2005, another report in 2007; it actually showed that lung cancer had been increasing 6 percent every single year.

So, what good the HRA do us if we have no clue how many people are being impacted. We have no clue how many are sick with what ailment, for how long they have been sick with what ailment and then how many different illnesses, ailments they may have and at what cost. The other thing is our local HMD only sends notices to those who happened to be on their mailing list.

The do not take advantage of all the free local newspapers, T.V., cables and radio stations, which should be an automatic, no-brainer. But they don't do it. If you're not on the mailing list, you don't get a notice. Therefore, you don't know.

Janet McCabe: Thank you, Jesse. Those are more good concrete suggestions. This is an area that we're very interested in.

If other people have suggestions for ways to get notice out to people, that are maybe not the usual way that people are used to using but that are – would be more effective, it would be great to hear them. Another issue that we're very interested in input on is that many communities are communities where the majority of residence do not speak English or have another language as their predominant language. So, justice that you have for how to overcome that barrier because we know that that isn't done very well, that would be very helpful as well.

And if you have positive or negative experiences with language issues, that would be helpful to hear about.

Operator: Our next comment comes from Maricela Mares-Alatorre of People for Green Air.

David Babson: Maricela?

Operator: Maricela, your line is open.

Maricela Mares-Alatorre: Oh, I'm sorry. It's from People for Clean Air and Water of Kettleman City Green Air. But what I think is as far as the translation, I don't think it's enough to translate the whole document.

I think that it needs to be made, you know, easier to read because a lot of the trends even though you translated, the document is so technical that people have a hard time understanding. I mean, it's something that I don't understand that and he wished so.

Since that's more difficult, I believe, in Spanish even though it might be translated. Another thing that is important is that when there is translation that it not be buried under the 34th page because a lot of people might open up their letter and they see the notice in English that if they don't immediately see some kind of Spanish on it, there could be chance that they just assume that they are not going to be able to understand. So, I think little things like that keeping that mind would be very, very effective other language speakers.

Janet McCabe: That's great input. Thank you. You're right.

Sometimes it seems that seen kind of small that make all the difference.
Thank you.

Operator: Thank you. Our next comment comes from Rosalia Guerrero of Air Alliance Houston.

Rosalia Guerrero: OK. Hi. I just wanted to reiterate what Marcela was saying about language and maybe expand that a little.

The translation itself is just one – just one problem, just one phase. At times, even if you have it translated and on the front page, you're usually dealing with the community that doesn't have access to that kind of technology or terminology, any way. So, I really encourage EPA to work very closely with community groups that already worked with those populations because sometimes they have more – you know, it's more than language and translating it properly.

In Texas, we have a great initiative that we have been doing with the last two years with region six. Actually, through the whole region, which is called, Beyond Translation where a lot of the community groups dealing with environmental justice issues along with EPA get together for couple of days. It's called Beyond Translation because exactly that is how to better reach those populations that are most impacted in our communities.

And it's just a lot of brainstorming. It's a lot of educating ourselves, each other, educating EPA about how best get to a specific community in the area because you can't have one policy for all people. So, it's always at the local level.

So, we do educate ourselves on how best to reach those populations and, of course, translating materials is a part of that. But it is only one part of that overall effort. Thank you.

Janet McCabe: Thanks, Rosalia. That sounds like a very interesting program. And we may well contact you to follow up and get more information about it.

Rosalia Guerrero: We just sponsor that.

Janet McCabe: OK. Well, I worked here in Washington in EPA. I hadn't heard about it.

So, I will look into it. We do still have a number of people on the call who haven't spoken up yet. You're welcome to.

But we don't want to have people hang on the phone listening to silence. Let me remind you too that you're welcome to send the written comments to ejpermitting@epa.gov. We also do have several more calls scheduled for next week for other stakeholder groups.

On Monday, there will be a call from – at 6:00 PM eastern focused – with a focus for the environmental justice community and community groups. And then, we will be holding a call in Spanish at 8:00 PM eastern time also on Monday. Looks like we have somebody else in the queue, so please go ahead.

Operator: Thank you. Our next comment comes from Cynthia Babich of Del Amo Action.

Cynthia Babich: Hi, this is Cynthia. I have not commented on this proposal. But I have been working in my environmental justice community for over 15 years and it's been effected by the Del Amo and monitor Superfund sites.

And in looking over the information that was sent to me for this conference call today, I did want to make some comments. And since it seems that most of the folks' comments from participants have been made, and I will take this opportunity just to reiterate how important it is that we have some guidance and some across-the-board guidance on how cumulative impacts are looked at in the permitting process in our communities. Being in the Los Angeles County area and dealing with what I would say as a pretty corrupt air quality management district, if we don't have allies in the federal government that are helping to ensure that the hard laws and considerations that we've won through our communities are not enforced, then we will be forced to have a life of these endless battles that just go on and on.

And from some of the comments that I have heard, they've really been focused and rightfully so on how you communicate the information to communities, which then once again, we have to fight these battles when we have agencies that as a society, we've mandated to do that particular job. So, it's not the same thing in our environmental justice communities. We won't rise to the challenge to protect us and others because we really don't have any other choice.

And I do feel some concerns about the states raising these issues especially if that's coming from California since many of us have participated in the cumulative impact precautionary approaches workgroup that Cali EPA sponsored and thought that we were making some great strides in that effort with multiple stakeholders just to really find out what this administration chance. There seems to be some step-back and actually coming up with guidelines for our own state.

So, I will participate, for sure on the E.J. call. But I did want to say that I think it's really important that somebody steps up to the play and give us an even playing field across the state. I think that community is really the bottom line is that it's pretty much a no-brainer when your community is saturated with air pollution.

And we try to explain that and we are asked for data and other scientific information to follow that up. And so, then, we try to fit in to your mold when I really think that you need to, as an agency and I know you have in many different areas and perhaps you're doing it here too, sit down with these communities that have a wealth of knowledge and actually want to take the time to continue to work with you and come up with plan and then implement it. Thank you very much.

Janet McCabe: Thanks, Cynthia. So, that was very thoughtful comments.

Operator: Thank you. Our next comment comes from Leslie Fields of Sierra Club. Ms. Fields, your line is open.

Leslie Fields: Thank you for this opportunity. Sorry, my mute button keeps getting stuck. I just like to underscore some of these issues that have been brought up by the

previous callers just how difficult it is when there is multiple permitting conditions between different agencies that hamper the communication with all the stakeholders.

And these communities have such a – is such a burden to have to try to keep track of that and whether it's regarding mountain tap removal with the U.S. Army Corps of Engineer for full permits, the states they issue. Their own photo too. What are discharge permits, which is MPDES permits.

And then, you've got the surface mining reclamation control act permits and the connote – and so, all the coordination and communication across these biographies, community folks are expected to keep track of this. And it's really not a good situation. EPA, we are glad to know that and to see the interagency working group reconstituted last year.

But much of this is – much of the problem is the issue with these state permits, these other agency permits and community folks having to try to catch up, try to keep up, try to impact, try to do all this work, which as the previous caller said, that is the mandate, that is the job of these agencies. I wanted to underscore that. And I also wanted to mention that regarding we were – we were glad that the EPA weighed in on the issuance of the reviewing the draft environmental impact statement for the Keystone pipeline and giving it a two-rating to the Department of State.

But the draft; environmental impact statement; was really, really deficient. And so, we're hoping that EPA really stay on top of this very, very, very large project that is going to impact. Not only that it had been impacting as you know indigenous communities in Canada, but going through the Midwest and coming down to the gulf coast to Houston and Port Arthur in the downstream communities.

And so, the information that EPA has requested from the state department really needs to be complete for the final EIS. And we are expecting nothing short of that and we're really expecting EPA to really be an – really enforce this. There was little information of environmental justice concerns from the

state department, little information on the environmental health impact to the communities, their communities that had not data, whatsoever.

There was very little information on the lifecycle, the greenhouse gases and also wetlands impacts. So, we are hoping that EPA where – that that – that finally I ask on this pipeline will really complete the – and also show the deficiencies of this project because the downstream impacts will be a graceful act to the already cumulative impacts in the gulf coast area where this pipeline will be connected to the Port of Houston and also to Port Arthur. Thanks.

Janet McCabe: Thanks, Leslie. I'll be sure to pass those comments about the EIS onto the right office here at EPA.

Operator: Thank you. Our next comment comes from Jesse Marquez of Coalition for a Safe Environment.

Jesse Marquez: Three other points. Our problem right into is the number of title five permits that get issued. In the case of this South Coast AQMD, they issue over 600.

So, my issue isn't necessarily all 600 but is major ones. For example, I have less than 18 months to comment on 17 title five permits. Six of them were major ore refineries.

And then, remember, ore – for every ore – major ore refinery, there is typically also a separate asphalt refinery and then they might have a sulfur recover facility. And then, you have your other independent fuel distribution centers. So, we would like to have it.

So, that there's only one major facility permit per 90 days, so not to overburden us. The other thing to South Coast AQMD is we're having public meeting. But if you wanted public hearing where there is actually a court recorder to record it.

And then, it becomes official for public record requires to full out a request form and then put down the legal justification while you feel they should have a public hearing. While the average person is in no way capable to be able to,

you know, look up legal justifications to what's wrong with the permitting other to do that. So, as a result, there are no public hearings.

Another thing is that we're referring now to RICRA. RICRA basically takes a narrow interpretation by the EPA and is basically limit to land contamination as in brown fields. But most of us deal a lot with air pollution know that there's this thing such as aerial deposition or atmospheric deposition, which means air pollution that goes up, also lands. So, we consider air pollution also under the umbrella of RICRA.

And then if you look at the RICRA law, it states that, you know, you can go to court and get an order of polluter to stop causing harm to the public and to the environment if there is an eminent and substantial endangerment can be shown. And the reason there was air pollution such as AQMD, which now settle a noncompliance to justify that type of thing. So, again it's an EPA situation where they are taking a narrow interpretation of land contamination when, you know, it should be broader than that.

Thank you.

Janet McCabe: Thanks, Jesse. More concrete suggestions. We appreciate it.

We don't have anybody else in the queue right now. We'll just take another little pause and see if anybody who hasn't spoken up wants to weigh in. And if not, we will – we will – we will wrap this call up and thank you again for your participation.

I wanted to mention that when I – when I talked about the calls on Monday, I left to announce from 2:00 to 3:00 PM Eastern, there will be a call for tribal governments, communities and businesses. So, you're – please feel free to join us then if you want to be on that call.

David Babson: Thank you. Why don't we hold the line open for about another three minutes if other folks want to join us? Anybody who has not the chance to speak, please take the opportunity.

If not, please remember you have the opportunity to send in written comments as well to ejpermitting@epa.gov.

Janet McCabe: Thanks, everybody. We really appreciate the time. Be sure to stay in touch with us on these issues and we will be communicating with you more in the future.

So, thanks again and have a great day.

Operator: This does conclude today's conference call. You may now disconnect.

END