meet 301.2

BEFORE THE

UNITED STATES COMMISSION ON CIVIL RIGHTS LOUISIANA ADVISORY COMMITTEE

In the matter of:

PUBLIC MEETING

STATUS OF THE ENVIRONMENT AND CIVIL RIGHTS IN LOUISIANA

FOLLOW-UP TO THE 1993 LOUISIANA ENVIRONMENTAL REPORT

Best Western-Richmond Suites Hotel 2600 Moeling Lake Charles, Louisiana

Wednesday, September 13, 2000

The meeting reconvened at 8:45 a.m.

PRESIDING:

Roberta Madden, Chairperson Louisiana Advisory Committee

COMMITTEE MEMBERS:

ROBERTA MADDEN, Chairperson, Baton Rouge LORNA E. BOURG, New Iberia DR. ROBERT L. FORD, Baton Rouge SALVADOR G. LONGORIA, New Orleans MICHAEL R. MORRIS, Metairie GLENDA KELLER PARKS, Baton Rouge RUPERT F. RICHARDSON, Baton Rouge FARELLA ROBINSON, New Orleans STACY E. SEICSHNAYDRE, New Orleans



CCR 3 Meet. 301

SPEAKER/AFFILIATION	PAGE
CALL TO ORDER AND OPENING REMARKS:	
Roberta Madden, Chairperson Baton Rouge	414
SESSION III:	
Dale Givens, Secretary Louisiana Department of Environmental Equity (DEQ)	418
Dr. Jimmy Guidry, State Health Officer Louisiana Office of Public Health	464
Dr. John Abraham, Division of Health Assessment and Consultation, Agency for Toxic Substance and Disease Registry (ATSDR)	484
Anne Goode, Director Office for Civil Rights/EPA Washington, D.C.	502
Edward Pritchard, Executive Assistant Nancy Lewis, Legal Counsel U. S. Department of Transportation Washington, D.C.	531
Wilma A. Subra, Chemist Community and Environmental Consultant	554
Diana Ortiz, Acting Director Office of Fair Housing and Equal Opportunity (HUD) Washington, D.C.	587
Nanette Jolivette, Special Counsel for Energy and Environmental Law Matters, Milling, Benson, Woodward Law Firm New Orleans, Louisiana	608
SESSION IV: "WHERE TO TURN FOR CIVIL RIGHTS ASSISTANCE":	
Honorable Randy Roach, Mayor Lake Charles, Louisiana	623
Honorable Charles Reed Mayor Sulphur, Louisiana	646
题的 15° 11° 11° 11° 11° 11° 11° 11° 11° 11°	₹ }[

t

SPEAKER/AFFILIATION	PAGE
James Carter, Director of Investigations Louisiana Civil Rights Commission	651
Tydell Nealy, Program Analyst New Orleans District Office U. S. Equal Employment Opportunity Commission	663
PUBLIC COMMENT SESSION (PART I):	
Charles Atherton Calcasieu Parish Estuary Task Force	675
Mary Morris North Lake Charles, Louisiana	683
Lois Adams Sulphur, Louisiana	688
Paul Geary Lake Charles, Louisiana	693
Robert Charles Rideaux Lake Charles, Louisiana	698
Leroy Julian Lake Charles, Louisiană [*]	70 ³
Pat Hartman Mossville Community, Louisiana	705
Debra Ramirez Mossville Community, Louisiana	709
Lee Sherman Mossville Community, Louisiana	716
Vallery Montgomery Mossville Community, Louisiana	734
SESSION IV (CONTINUED):	
Tim Blanchard, Attorney Office of Civil Rights U. S. Department of Education	729
Bernadette Tyus, Program Director New Orleans Program Center Fair Housing U. S. Department of Housing and	742
Urban Development	-



SPEAKER/AFFILIATION '	PAGE
Monte Eeds, Regional Director Office for Civil Rights U. S. Department of Transportation Dallas/Fort Worth, Texas	765
PUBLIC COMMENT SESSION (PART II):	
Cathy Landry Sulphur, Louisiana	785
REMARKS FROM THE DIRECTOR:	
Melvin L. Jenkins, Director Central Regional Office U. S. Commission on Civil Rights	791
CLOSING COMMENTS AND ADJOURNMENT:	
Roberta Madden, Chairperson	. 795

a.m.)

PROCEEDINGS

-	т.	* ·	(Time	Noted:	9:00

MS. MADDEN: Good morning. The meeting of the Louisiana Advisory Committee to the United States Civil Rights Commission shall come to order. And I'm going to read the same statement I read yesterday for the benefit of those who may not have been here. For the benefit of our audience, I'd like to introduce myself and my colleagues.

My name is Roberta Madden, from Baton Rouge, and I'm the Chairperson of the State Advisory Committee.

Members of the Committee are, from my right: Michael

Morris from Baton Rouge; Lorna Bourg from New Iberia;

Salvador Longoria from New Orleans and; here's Glenda

Parks from Baton Rouge. We have several others who'll be joining us in a few minutes.

Also present with us are: Melvin Jenkins, who is Director of the District Office --

Melvin, where are you?

(Pause.)

MS. MADDEN: There he is in the back.

-- Farella Robinson, who will be joining us, and she will be sitting right here -- she's the civil rights analyst who is responsible for preparing us for this fact-finding meeting --

Ascension Hernandez, would you raise your hand?
(Pause.)

MS. MADDEN: -- Ascension Hernandez, Civil
Rights Analyst, and; Joann Daniels, Administrative
Assistant to the Central Regional Office Director. I
think Joann may be in the back.

We're here today to conduct a fact-finding meeting to assess the progress or the lack thereof regarding the status of environmental justice issues and civil rights in Louisiana since our Committee's report in 1993, "The Battle for Environmental Justice and the People." The focus of our review are the communities in Calcasieu Parish; however environmental concerns in other parts of the State will also be reviewed.

During a major session of our meeting this afternoon, the Committee will also take a careful look at where residents can turn for civil rights assistance related to the environment, housing, education, health and legal services at the federal, state and local level.

I'd like to just mention that the jurisdiction of the United States Civil Rights Commission includes discrimination or denial of equal protection of the laws based on race, color, religion, sex, age, handicap, national origin or in the administration of justice. The State Advisory Committee has no enforcement powers. We

want to make that clear. We are a fact-finding agency.

The proceedings of our meeting, which are being recorded by a public stenographer, Ms. Wall, will be sent to the Commission for its advice and consideration; information provided may also be used by our Advisory Committee to plan future activities.

At the beginning, I'd like to remind everyone present of the ground rules. This is a public meeting, open to the media and the general public, and we have a very full schedule of people who will be making presentations within a limited time we have available. The time allotted for each presentation should be strictly adhered to. This will include a presentation by each participant followed by questions from Committee members.

And I'd like to ask the presenters: If you would, please, just hit the high spots. And I think some of the other detail will come out in our questions. Now, there's no need to read the entire statement, but if you will turn it to us, it will be made a part of the record.

To accommodate those persons who want to make a statement but have not been invited to make a presentation, we've scheduled open periods. And we have another one tonight at the end of the session, which will be at eight o'clock. We will be out of here by nine o'clock. That's our close-out time. If you would like to

25.

make a statement during that period, please contact a staff member to schedule that.

Also, written statements may be submitted to Committee members or staff here today, or you may mail them to the United States Commission on Civil Rights, Gateway Tower Two, 400 State Avenue, Suite 908, Kansas City, Kansas, 66101-2406. The record of this meeting will close on October 13, 2000.

Some of the statements made here today may be controversial, and we'd like to ensure all of our invited guests that no one is defamed or degraded. In order to ensure that all aspects of the issue are represented, knowledgeable persons with a wide variety of experience and view-points have been invited to share information with us.

Any person or any organization that feels defamed or degraded by statements made in these proceedings should contact the staff during the meeting so that we can provide a chance for public response. Also, such persons or organizations may file a written statement for inclusion in the proceedings.

We urge everyone who is making a presentation to be judicious in your statements. We appreciate the willingness of all the participants to share their views and experiences with the Committee. And with that, I'm

6

7

8

9

10

11

12

13

14

15 .

16

17

18

19

20

21

22

23

24

25

going to call on our first presenter, who is Mr. Dale Givens from the Louisiana Department of Environmental Quality.

Mr. Givens, would you come forward and, for the record, please state your name and occupation? And we may need to hand this over to you because we've only got one microphone.

MR. GIVENS: Good morning. I stopped at Burger King this morning and had some breakfast; so I didn't think I was going to be having to eat a microphone.

(Laughter.)

MR. GIVENS: I am Dale Givens; I am the Secretary of the Louisiana Department of Environmental Quality. I'd like to begin my remarks by thanking Mr. Jenkins for inviting me to address the Commission. work that you all are doing to promote and safeguard civil rights in Louisiana is extremely important, and I appreciate your efforts.

In today's world, it is difficult to consider civil rights and environmental permitting without thinking of Louisiana. Contrary to the negative press that our state often receives involving environmental racism, Louisiana is and remains firmly committed to protecting the civil rights of all of its citizens.

This is especially true in the context of the

environment, and I've come before you today to deny the existence of any racially motivated environmental decisions by the Department of Environmental Quality, its employees or myself as its Secretary.

It is my understanding that your Committee is here in Lake Charles as a follow-up to the meeting held in Baton Rouge in 1992, which resulted in the dissemination of a report one year later. This report contained advice and included recommendations on the matters studied.

Although this Committee's recommendations were addressed to the U. S. Commission on Civil Rights, some specifically concerned the Louisiana Department of Environmental Quality.

As a means of follow up, I would like to look at the Committee's recommendations that deal specifically with the Department of Environmental Quality and what the DEQ has done since that time. Please keep in mind that I can only address the recommendations that come with the authority of the Department of Environmental Quality; I cannot nor do I pretend to speak for local government, other State agencies, industry or the Louisiana State Legislature.

The Committee's first recommendation encouraged the Department of Environmental Quality to do several things. First, it called for the balancing of

environmental costs and benefits, along with the social, economic and aesthetic values of affected communities.

This has been codified in Louisiana Revised

Statutes 30:2018. It applies to certain permits and

follows the requirements of the Louisiana Supreme Court

decision which is commonly referred to as "Save Ourselves

versus the Louisiana Environmental Control Commission," or

the IT Decision.

Additionally, regulations implementing these requirements have been promulgated in various media. Air, water, waste and this type of thing is what I'm talking about, rather than television and radio.

The Committee's first recommendation also suggested that the Department provide guidance and technical assistance to local governments on siting practices and involve -- which involve zoning authority.

Here I must note that the Department has no zoning authority; such decisions are constitutionally delegated to local government, and the Department has no authority to interfere. However, if local government were to request our assistance, we would certainly attempt to help them.

The Committee's first recommendation also touched upon the issue of buffer zones. This issue has been addressed in the oral interviews that the Department

staff provided Ms. Farella Robinson and extensive written comments that the Department submitted to the Committee last month.

The final piece of advice that the Committee presented in its first recommendation was that the residents be given sufficient notice of a proposed facility before approval. In response: Residents have always been given notice of proposed facilities through established public notice procedures.

However, since your last meeting in 1992, the Department has improved its public notice procedures in an attempt to ensure greater public participation. These improvements in the public notice procedures are addressed in the written comments that the Department provided to the Committee last month.

The Committee's second recommendation advised then-DEQ Secretary William Kartosek [phonetic] to immediately hold a hearing in response to House Bill 1160. House Bill 1160 eventually became Act 67 of the 1993 Session of the Louisiana Legislature. This act required the Department to hold no less than three public hearings throughout the state to solicit information and comments from citizens on the issue of environmental justice.

The Department did in fact hold four such hearings during the late spring and early summer of 1994,

and submitted a final report on the hearings to the Louisiana Legislature on August 24 of 1994. I have brought this Committee a copy of that report and will offer it into your record.

The Committee's third recommendation sought to address complaints about alleged deficiencies in the Department's technical assistance and responsiveness to citizens' grievances. The Department takes citizen complaints very seriously; it always attempts to resolve such complaints within the parameters of its authority.

In an effort to improve the way the Agency handles complaints, the Department recently undertook an re-engineering of its internal processes. One important goal of this re-engineering is to provide better service to our customers, the people of Louisiana.

Our customer service department is always ready to help citizens with questions and complaints and, with the help of 24-hour toll-free access numbers, endeavors to make around-the-clock assistance available to citizens in all areas of the state. Also, with the advent of the internet, information about the Department and specific environmental-related issues is now only a mouse click away.

The Department has made extensive progress regarding the Committee's fourth and fifth

recommendations. These recommendations concern outreach efforts and participation of African-Americans, particularly those living in industrialized areas of the state, and in the environmental permitting and enforcement process.

The 1990s witnessed a tremendous amount of outreach between the DEQ and the black community in the state. In 1994, the DEQ began a first-of-its-kind . environmental justice pilot program.

This program attempts to provide an avenue whereby residents of environmental justice-sensitive communities could meet with plant managers of the nearby industries. These meetings are professionally facilitated, occur in a non-adversarial, neutral setting, and are designed to foster an open exchange of ideas and concerns.

The Environmental Justice Program provides an opportunity for frank discussions and for the citizens to learn more about the health, environmental and economic issues of particular interest to them.

When ever issues of health arise, the

Department, as recommended in the Committee's sixth

recommendation, contacts the Louisiana Department of

Health and Hospitals Office of Public Health, as well as

other medical experts, to offer health, education and

outreach to community members. .

Three environmental justice panels were initially established, serving several predominantly Afro-American communities throughout the state. These were Mossville just across the river from Lake Charles, Mount Airy and Garyville, Lines and Reser -- and Lines End at Reser. Excuse me.

Today, there is one active panel serving the communities of Norco and New Sarpe in St. Charles Parish; however, the Department is considering establishing another panel in a predominantly Afro-American community near Baton Rouge.

To better clarify what transpires at these meetings, I'm providing the Committee with minutes from some of the Mossville meetings for the record. If the Committee would like the minutes from other meetings, I'll be happy to provide them for you.

In addition, the Department established a group within the Agency with an environmental justice focus.

This group, the Community/Industrial Relations Group, helps African-American Louisianans -- or any Louisianan, for that matter -- in dealing with their environmental complaints, securing information of interest and identifying resources. This group has provided assistance to African-American residents of Lukeville, Allendale and

Freetown, among others.

Working with all available resources, including historically black colleges and universities, the Department's Community/Industrial Relations Group has provided technical assistance and sought grants to assist minority communities in the state with environmental issues.

And, finally, from 1998 to 1999, I had the privilege of chairing the Mississippi River Corridor Task Force. This task force was created by executive order of the governor and studied environmental justice-related issues in the Louisiana industrial corridor along the Mississippi River from Baton Rouge to New Orleans.

Members of the task force included residents of the predominantly Afro-American communities, as well as three representatives of the NAACP; the input and insight of these particular individuals provided to the task force was invaluable.

By the way, the Mississippi River Corridor Task Force recently issued its report to the governor on its findings and made some very specific recommendations that the governor and LDEQ are presently studying. I brought with me today a copy of this report, and I would like to enter it into the record of these proceedings.

In conclusion, environmental justice and civil

rights are very important to the Department of
Environmental Quality. Despite any allegations of
environmental racism or violation of civil rights, the
Department is making every effort to protect the
environment for all citizens of any race or socio-economic
status. Moreover, we at the DEQ are constantly looking
for ways to bring more ordinary citizens into the
environmental permitting and enforcement process.

I urge this Committee to study the entire record before coming to any further conclusions. Thank you, all, very much.

MS. MADDEN: Thank you, Mr. Givens.

Are there any questions?

MS. MADDEN: Mr. Morris?

(Pause.)

MR. MORRIS: Mr. Givens, yesterday, we heard testimony about your budget. And -- we heard testimony yesterday about your budget. And we were led to believe or we were to understand that your budget -- \$14 million was cut from your budget from State government and that \$14 million had to be made up from industry and that the proportionate amount of budget for your agency is 75 percent from industry.

And is that correct, or -- can you give me a breakdown of the percentages of your budget and where that

money comes from?

MR. GIVENS: Yes, sir. I'll attempt to do that. While not having specific numbers with me this morning, I can tell you that, at the present time, the Department has less than \$1 million worth of general fund tax dollars.

In round numbers: About 14 to 15 percent of .

EPA grant dollars, and the remainder are self-generated monies through fees for permits and annual surveillance and monitoring fees when we go out and do inspections of facilities. This is all factored into the total budget that we operate off of.

MS. MADDEN: Other questions?

MS. SEICSHNAYDRE: I have a couple.

MS. MADDEN: Yes, Ms. Seicshnaydre?

MS. SEICSHNAYDRE: Yes.

Good morning. Yesterday, we heard allegations concerning intimidation practices undertaken by DEQ employees against community-based organization engaged in efforts in opposition perhaps of DEQ permitting or siting decisions.

And I just wanted to ask you: What procedures does your office have in place for dealing with complaints of that sort, any sorts of perhaps abusive practices by DEQ personnel against community-based groups or persons?

5

6

7

8

9

10

11

12

13 14

15

16

17

18

19

20 21

22

23

24

25

Do you have any sort of mechanism for dealing with those kinds of complaints?

MR. GIVENS: Any time that we have a complaint lodged against the Department or an employee of the Department, we investigate that very seriously. And I suspect -- in fact, the only complaint that I know of that would fall under the qualifications that you're talking about was one a couple of years ago that -- I personally received a call from a state representative about -during a meeting that was going on in north Baton Rouge.

I found out what he was -- the issue was. I called up the facility and talked to somebody that answered the telephone at a community center. And he in turn got the employee that was in question on the line, and I asked the man to voluntarily leave the meeting.

Now, what you may not have been told was that the meeting was called by a group within a church of which -- my employee was a member of that church group. And the notice that went out for the meeting did not limit who could attend the meeting; it was passed out, as I understand it, during the church proceeding, and it was an open invitation.

So the gentleman went to the meeting as a member and concerned citizen not only of the community but of the church where it took place. There was a heated

debate, as I understand it, that went on. I talked to folks on both sides of the issue after the meeting. And I don't believe that type of thing will happen again.

MS. SEICSHNAYDRE: Do you have any procedure in place to or any -- have you undertaken any affirmative efforts or do you have any policies in place designed to prevent that kind of activity?

MR. GIVENS: We have a policies and procedures memorandum that governs a wide variety of activities by the Department and its employees, including ethics, conduct and this type of thing. There is not a specific memorandum dealing with that particular issue; I believe that it's covered in the other issues that we already have and that we have sufficient information on it.

MS. SEICSHNAYDRE: And I wonder if we could maybe get a copy of what you think your -- how you think your procedures may address the issue of intimidation.

MR. GIVENS: Certainly. We'll be glad to furnish that to you.

MS. SEICSHNAYDRE: Okay.

MS. MADDEN: A question?

MR. MORRIS: Yes.

I want to follow up with the budget still. And
I want to find out from you if you have any information or
you can share any information with us about the percentage

of budget that your agency dedicates toward public participation so you can actually hear the public.

I heard yesterday that there were some concerns that the public's voice is not being really heard by you and that there is a -- there may be some gate-keepers down the chain of command in your agency that might prevent that. If -- can you share that with me? If there is a real strong commitment to hear the public voice, there should be a strong budget for that.

MR. GIVENS: Yes, sir. I'll be glad to try to get a copy of the budget figures and break out from that what is a set-aside for that particular area. I have no idea what the -- Mr. Morris, what the total dollars are. And I can tell you that it's integrated into the individual program areas. So it may not be as precise in trying to break it out as I might like.

MR. MORRIS: Yes, sir.

MS. MADDEN: Ms. Robinson?

MS. ROBINSON: Yes.

Thank you for coming today. And --

MR. GIVENS: You're welcome.

MS. ROBINSON: -- thank you for the information that we had requested from our Regional Office, on behalf of the Louisiana Advisory Committee.

I would like to follow up on Mr. McMorris' --

Michael Morris' question regarding the budget. Could you clarify a little bit further on industry's involvement in your budget aside from the penalty assessments that are involved?

MR. GIVENS: Ms. Robinson, could you explain that just a little bit more for me?

MS. ROBINSON: We were advised on yesterday that a certain percentage of your budget stems from industry that is beyond the penalty assessment fees, and then you get a certain amount, a percentage, from another area. We would like to know specifically how much of your budget stems from industry's donation in terms of your operating procedures and that kind of thing.

MR. GIVENS: Perhaps you weren't in the room when I explained to Mr. Morris a few minutes ago that I have in the budget make-up less than a million dollars worth of general fund tax dollars, approximately 14 to 15 percent of EPA funds, and the remainder of the funds are self-generated. Now, fines and penalties monies are not part of any agency's operating budget, to my knowledge.

In our case, fines and penalties monies first accrue to the hazardous waste site and clean-up fund.

That has a \$6 million cap on it; if that cap is exceeded, then the dollars in the excess and above that we would collect flow to the Environmental Trust Fund, which is the

fund that we draw our monies from each year for our operating budget.

However, those monies could not be used for recurring expenses such as salaries and that type of thing, but they could be used to help us build a better computer system or do something of that nature that was a non-recurring type of cost.

so if you look at that, somewhere between 80 and 84 percent or 83 percent are monies of a self-generated nature that come from, first, permit fees and then fees for the annual surveillance and monitoring operations that we conduct around the state. And those fees are paid by the people that have permits, be that a municipality, such as Lake Charles here, or an industry, such as PPG across the river.

MS. ROBINSON: Okay. I have one more question that does not relate to the budget. It relates to the rails. We are trying to get a better sense of who governs in the State of Louisiana the rails. What is DEQ's responsibility in terms of rails that transport and store hazardous waste or carry hazardous waste?

MR. GIVENS: The primary area will be in the area of storm water run-off permits required to make sure that any run-off from that type of facility would be properly treated. We have no regulatory authority over

the siting of a rail yard or anything of that nature or the operation of the rail itself. We have no authority in that regard.

MS. ROBINSON: Is there any other State Agency that has any governing responsibility in terms of safety inspections to ensure that the rails are operated in a safe manner in the state that you are aware of?

MR. GIVENS: As far as the safety and operations of the rail, I'll have to state that this is a personal opinion and one where I make an assumption, rather than speaking from fact.

MS. ROBINSON: Okay.

MR. GIVENS: I believe that is governed primarily by the Federal Railway Administration.

MS. ROBINSON: Okay.

MR. GIVENS: Now, however, our State Department of Public Safety Office of the State Police does have regulations dealing with the transportation of hazardous materials and substances and inspection and that type of thing. And I would suggest that we contact them to see where the authority lies with respect to the railroads.

MS. ROBINSON: Okay. Thank you.

MR. GIVENS: Yes, ma'am.

MS. MADDEN: Mr. Givens, I wanted to ask you. You had mentioned that three environmental justice panels

active?

had been set up, including one in Mossville and one in Norco. And I forget where the other one was. And then you mentioned that the one in Norco is still going. What happened with the one in Mossville? It's not still

MR. GIVENS: No, ma'am, it's not.

MS. MADDEN: It seems that there are still some problems in that area. We heard from a number of people who live there. Is there any thought being given to reviving that --

MR. GIVENS: Well, actually --

MS. MADDEN: -- to keep the dialogue going?

MR. GIVENS: Actually, Ms. Madden, some -- I guess it's -- probably close to two years ago, there was some information that came to light concerning levels of dioxin in the blood of a number of individuals in the Mossville area. Governor Foster, upon learning of this, immediately ordered that we put together a work group similar to the one that we had done earlier down in the Grand Bois area.

And that work group includes State and Federal Agencies. It includes the Department of Health and Hospitals, as well as DEQ, on the State side as the two primary agencies. It includes EPA. On the -- and the Office -- excuse me -- the Agency for Toxic Substances and



Disease Registry, on the Federal side, is a primary tool.

And there are others that from time to time have a role in the process.

And so there is a concerted effort being made to look at conditions in the Calcasieu Parish area, the Lake Charles area, as a greater whole. And in part of doing that, for instance, we are about to kick off a three-year enhanced air-monitoring program in the Lake Charles area. And in doing that, one of these new, enhanced monitors will directly be in Mossville.

So right now, while we don't have the EJ panel work group or have not re-initiated one, there is a very concentrated effort by all the agencies in this area to include Mossville.

MS. MADDEN: Thank you.

Ms. Parks?

MS. PARKS: I don't have anything.

MS. MADDEN: Oh.

Ms. Bourg?

MS. BOURG: Good morning.

MR. GIVENS: Good morning.

MS. BOURG: I have a number of questions to ask you. Is there such a thing as a penalty matrix in DEQ that sort of outlines or grids, if you will, the type of offense or the seriousness of it and the fine so that

1.5

there is a relationship with repetitiveness of infractions or exceedences and seriousness correlated with fines that might be given? Is there such a thing that exists?

MR. GIVENS: Thank you, for asking about that because, prior to about a year ago or slightly longer, such an instrument did not exist. In fact, it -- as a part of our re-engineering of the Agency, one of the things that we focused on was the enforcement issue.

And in 1996, when we assumed or were authorized to operate the State equivalent of the National Pollutant Discharge Elimination System, we agreed to put together such a matrix for water violations. As a part of our reengineering, we expanded that to cover the whole Department.

So now, we do have formal penalty regulation that addresses the things that you're talking about, and that also flows from a specific provision in the statutes that tells us what we have to look at. There are nine factors spelled out in the State law that we have to look at before or to help determine whether or not a penalty is due.

And then we have the regulation now that ranks violations and gives it a weighting process so that we can go through that. It's not a chart that you could look up and see that if I discharged one pound of BOD, it's going

to cost me X dollars. But it is a formal process that we 1 go through. And we'd be happy to get that for you. 2 MS. BOURG: Do the community groups and 3 panels -- do they have access to that? 4 MR. GIVENS: Certainly. It's a public 5 document. And like I said, it was promulgated and had 6 legislative oversight, and all that stuff. 7 MS. BOURG: You issue compliance orders? 8 would assume that's part of your authority to do that. 9 MR. GIVENS: Yes. It is. 10 11 MS. BOURG: And can you tell me roughly the number of compliance orders issued in, let's say, this 12 13 year? MR. GIVENS: No, ma'am. 14 MS. BOURG: Have there been --15 MR. GIVENS: I can certainly get it for you. 16 just don't --17 MS. BOURG: Have there been any? 18 19 MR. GIVENS: Oh, yes, ma'am. MS. BOURG: There have been some? 20 21 MR. GIVENS: Absolutely. MS. BOURG: And what about penalty notices? 22 you issue those regularly? And do you --23 24 MR. GIVENS: Yes, ma'am. MS. BOURG: Could you get the Committee the 25

Now, I can tell you, for instance, that we had a penalty against a facility up in Shreveport, Louisiana, called Reclaim Environmental. I'm probably going to trip over my dollars, so, if you take offense a little bit, don't add it up and don't shoot me; I can get you the exact figures on it. But I believe the penalty was \$1.7 million.

And that -- I believe 500,000 of that was direct cash for benefit of non-compliance that we could back up to invoices that the company had received payment for for illegal, in our opinion, acceptance of hazardous waste.

MS. BOURG: The Committee seems to have received a lot of testimony yesterday relative to complaints by companies like Conoco, PPG and Condea Vista. And I was wondering if there had been any -- and it was especially in reference to perhaps a chief aquifer and air quality. Have there been any penalties for those three companies that you know of in the last five years by DEQ?

MR. GIVENS: Ms. Bourg, I believe that there have. But rather than sit here and tell you yea or nay and then, like I said, put my size 15 in my mouth, I will check and get back to you. And I --

MS. BOURG: Thank you, very much.

MR. GIVENS: And I assume that you were saying

that the complaints were about those facilities, and not by those facilities.

MS. BOURG: Well, they probably had some, too, but they -- no. I was referring to the citizens' complaints. Thank you.

MR. GIVENS: I thought so.

MS. BOURG: I understand, also, from reading and hearing the testimony that the loading docks -- any releases or incidents that occur there are not part of the toxic release inventory program. Would you know anything about the loading docks and the releases and the exposures that might occur there? And how does DEQ deal with that? And would you be in favor of the loading docks being part of the TRI program?

MR. GIVENS: I am not familiar right off -- at the spur of the moment on whether a dock is covered under that or not. That's easy to verify. As far as being concerned about docks, I think that I can unequivocally say that the Department is very concerned about loading operations and has gone so far as to require or otherwise encourage industry to put in vapor recovery systems and this type of thing at those types of facilities.

We also, like, particularly on the Mississippi River, where I've spent a lot of time on this thing, closely watch and monitor those operations for spills and

releases because any time that you're involved in a transfer like that, you have a greater chance for accident than when you're dealing with a stationary tank or a pipeline or something of that nature.

MS. BOURG: I have a few more questions if I might. I wanted to follow up on my colleague Mr. Morris' comments -- questions earlier about the money, and I'm not quite sure I've got it yet. I think I understood that the DEQ does have some of its budget that comes from permits, from the issuance of permits.

MR. GIVENS: Yes, ma'am.

MS. BOURG: And does that have any sense or flavor to you of a possible conflict of interest in the granting of permits, especially if your budget gets tight and the general fund monies have been cut? Would that sort of pre-dispose or would it give the appearance of pre-disposing the DEQ to issue permits, be certainly more leaning toward that, because of the collection of the dollars in the permitting process?

MR. GIVENS: Well, I think that that largely depends on the eye of the beholder, because I can tell you that it does not influence the Department's decisions on permitting. Our regulations hold specifics on how and when and what we should do with respect to give a permit. These flow first from the federal regulations and statutes

that then are enacted or parallelled to it at the State level, and they have to be at least as stringent as the federal ones.

And I understand, also, that yesterday -- and I'm not trying to get ahead of somebody, but -- there was some question or statement about air toxins. And I can point to the fact that Louisiana for a number of years now has regulations dealing with 100 specific air toxic compounds that the federal government doesn't have. So in some places, we are more strict than EPA.

MS. BOURG: Could you --

MR. GIVENS: Now --

MS. BOURG: I'm sorry.

MR. GIVENS: -- the budget dollars that you talk about on that -- the majority of them come not from permit fees but, rather, from the annual fee that we charge for the people that have permits. And that's where we factor in the total cost of the Agency doing business, that is: What it takes us to run our computer operations, what it takes to go out and inspect a chemical plant or a petroleum refinery or whatever. And it's a fee for a service, and that's exactly what it is.

So at one point in time, the Department actually could profit by the number of penalties that it issued. And this was changed back in the '80s sometime on

the thing. And I think that that was definitely bad business. That was parallel to the effect of a speed trap that you might have for a small town. And I don't think that that's good.

I would certainly like to see more general fund tax dollars in the Agency, not because I'm concerned about an image or the fact that we charge a fee for the service but, rather, so that the State would stand up and stand tall and say that, We support this and believe it's an integral part and an important part of what we're doing.

MS. BOURG: Thank you. Would you support or would the Department support no new or modified permits until an out-of-compliance company would sign a clean-up agreement?

MR. GIVENS: That's a very broad-based question, and I cannot respond to it other than to say that we operate within the regulations and what our regulations allow.

As far as a moratorium type of a situation is concerned, that is not provided for under the present regulations, but, rather, the operative is the fact that we have to include a review of the compliance history of a facility before we can issue a new or modified or reissued permit for that facility.

So there is a specific provision in our

regulations and statutes to do that, but it does not set up a process where I can arbitrarily say that, Well, because you've had three violations instead of two, we won't take any further permitting action.

MS. BOURG: Do you support continued tax exemptions for out-of-compliance companies?

MR. GIVENS: The legislature determines tax exemptions -- not the Department.

MS. BOURG: And has the Department ever given testimony to the legislature on that issue?

MR. GIVENS: I'm not aware of ever having been asked. In my tenure of over 34 years with the Department, no, we have not.

MS. BOURG: I have a final question.

MR. GIVENS: Yes, ma'am?

MS. BOURG: Aren't you glad it's the final question? Do you support zero off-site impact? And if so, would you support fence-line monitoring to ensure that that was the case, both in terms of or -- in terms of all media?

MR. GIVENS: The question there, again, is a very broad one. And philosophically, I think that I understand where you're coming from.

On the other hand, the regulations, be they for water or air or waste, do not provide for zero impact.

They provide for maintaining and protection of an established standard. And so from that standpoint, I have to refer back to the regulations, both Federal and State, and say that we apply those equally across to all.

With respect to fence-line monitoring, fenceline monitoring is required in certain cases for certain types of facilities. And it's a very valuable tool for us as regulators.

MS. BOURG: Thank you.

MS. PARKS: Good morning.

MR. GIVENS: Good morning.

We've heard some serious testimony that was given, and we've heard a lot of emotional testimony. The issues I see are: Healthy citizens in communities, economic impact and good science. And I know you're a scientist, and I wonder: Can you address the role of science and maybe how best we get a good balance between these issues that we're looking at?

MS. PARKS: And thank you for being here.

MR. GIVENS: I can try to do that, Ms. Parks, and thank you for the opportunity.

MS. PARKS: Solve all our problems here.

MR. GIVENS: All too often, the term "good science" is used as nothing more than a cliche to stall looking at something other that may need a closer look or

where concerns have been brought by citizens, or whatever, on a particular matter. And as a scientist, I certainly support and believe that we should have a good foundation in science for the decisions that we make.

And if you look at the charter, the legislation, the constitution and other parts of the mandates that I have to operate under and our Department has to operate under, we predicate what we do based on a good-science explanation of what it takes to protect the health of the people and the environment of the State.

Now, it comes sometimes where the voice of the people will override, if you want, or raise to a higher level the concerns based -- rather than just based on what good science would say.

And that, I think, is why the constitution provides that the local government be the zoning authority -- and not somebody sitting in Baton Rouge -- for it's all too easy to say that, "Science says that this won't cause a problem for you," but, yet, we all know that we really don't want to set up a saloon on the adjoining property to a church or a gaming facility -- I have to be careful because we don't allow gambling in Louisiana -- a gaming facility next to a grammar school.

MS. ROBINSON: And I'm a gaming regulator. I'm listening very closely.

MR. GIVENS: I understand, so I have to be careful about that.

So what I'm telling you is that, sometimes, you have to look at issues above and beyond the pure science part of the situation. And I believe that we have checks and balances in the system that normally provide that type of a situation.

So our issues -- when we go to look at whether or not we should issue a permit or we should change a standard, or whatever we do, we refer first to the science and the body of knowledge that we can find that says, "This is good," or, "This is bad," or whatever the case may be. And then we promulgate that into a regulation, or the legislature may adopt it into a statute.

But when we get ready to have a public hearing or to get the next step of outreach beyond the technical review on that, we have to look at things in a broader -- what the legal people call an environmental trusteeship issue.

And that was pretty much codified by what I referred to earlier, the IT Decision, the Supreme Court's decision that said that we have to look at siting and needs and things of that nature, which are less of a black-and-white issue for us; they're more nebulous and more difficult for us to deal with.

2.2

MS. PARKS: Okay. Thank you.

And while I have the mic, I have one more question.

MS. MADDEN: Okay.

MS. PARKS: I know that DEQ has undergone a major restructuring and re-organization. Can you touch on that a little for us?

MR. GIVENS: Yes, ma'am. I'd be glad to.

The Department was formed in and became a department, I believe, in March of 1984. And before that, there was an Office of Environmental Affairs under the Department of Natural Resources that had essentially the same functions, and then there was a policy and decision-making board called the Environmental Control Commission.

That Office of Environmental Affairs came into effect on January 1 of 1980. Prior that, the environmental programs in Louisiana were dispersed between a number of State agencies. The water program, where I started my career, was under the Department of Wildlife and Fisheries, with a water pollution control program there and a stream control commission, which was an exofficio body that issued permits, or enforcement actions, if you want.

Air control was under the Department of Health . at that point in time. And there was an air control

commission.

So what I'm doing is laying the foundation on where we came from, and that was a media-based program from several different agencies that came together under a common budgetary umbrella.

But what I found when I became Secretary in

January of 1996 was that we were in many cases inefficient
in what we were doing, and not being able to deliver
services at peak performance that I thought that we should
be able to do. And, of course, the budget factor entered
into this; we saw no manna from Heaven on the horizon or
big increases in the budget, so we figured that the best
thing we could do was try to manage the resources we've
got more effectively.

so I looked at things like ground water remediation and found that there were five separate sections within the Agency that had some standard or some requirement, or whatever, or some say-so about ground water remediation. And while one of them might be busy one day, the other ones might not have anything to do.

So I brought in a consultant firm that had some experience in looking at these things in some of the other states, which was a relatively new concept. And I said, I want you to go out and do a series of interviews and come back and tell me what our strong points are and what our

1 |

weak points are.

And I don't know if you know anything about nails, but a four-penny finishing nail's pretty small, and they used a 16-pound sledge to drive that nail home and say where we were strong and where we were weak. And based on that, we looked at six areas in the Department and set up process improvement teams to figure out how to do a better job and how to deliver a better service than what we were doing.

And we deliberately did not put key management people on these teams. You've heard of the blank paper scenario? That's what we did. And it took a couple of times to go back and say, We don't want you to tell us how we've been doing it for 20 years; We want you to tell us how to do it better, how to do it best. And that's what we did.

And as a result, we introduced or had sponsored a piece of legislation -- I think it was some 57 pages long -- that moved the Department from a media-based individual silo or fiefdom type of situation, where we had air that talked only to air people and water that talked only to water people -- and waste, and so forth -- to one that was function-based, rather than media-based.

For instance, the enforcement area: We now have all of our enforcement operations centered in a

division that does just that. In that same office, we also have the people that do the surveillance and the inspections, and they come together under one Assistant Secretary that can provide attention to that key area of the Department.

But first and foremost, instead of starting at the back side of the thing, we were interested in customer service and customer focus. So we set up a process so that it's a one stop type of thing to where if you want information about how to get a permit or what to do, or if a school teacher needs a piece of information, they can come to one place in the Department. And that location would be responsible for going where ever in the rest of the organization to get the information.

We're trying to get a single point of contact so that if somebody comes in and says that they want a permit to do something, or whatever, that's regulated by the Agency, then we'll have a team approach in looking at it, rather than having to go to four or five different divisions and offices, each with a separate application, and this type of thing. And to facilitate that and to make it possible, we have invested heavily in technology.

We have one of the earliest internet sites out there right now, and we continue to receive compliments on the amount of information that we have available to that

site. And we continue to improve that. We have a very active team in the Department that's looking for ways to get more information out to the public. And of course, with internet access now being in all of the libraries around the state and in many of our schools and a very high percentage of the population, it's a good tool, but it's not the only tool.

To that end, we have put together a team that are working on a -- I hesitate to call it a magazine or a newsletter, but -- a periodical that will come out every other month that will further be distributed to education groups and citizens or anybody that calls in or mails in and wants to be put on that mailing list to help get that information back out to the public.

So we believe that in the re-engineering process, we have indeed streamlined what we do and that the end result will be much greater availability of the information and service to the public. For instance, I told you about technology. I failed to mention that we had by survey over 25 million documents in the Department of Environmental Quality. And we're the youngest State Agency, so I hate to think of what some of those that have been around a lot longer have.

So for the first time, we went out and realized that not only did we have trouble finding documents when

we needed them but that we had people from the public telling us all the time that, We can't find this information; We need this somewhere. And it almost always turned up on a permit writer's desk or in a folder or something or other, where it just had not been returned to the stacks yet, or it wasn't actively being worked.

So we looked at the budget and said, Well, you know, we've had to use students and secretaries and anybody that we could, including permit writers, to go do filing from time to time: A pretty inefficient process.

Again, we didn't see any possibility of big budget increases coming down to hire more staff to do that. So we took an initiative and went out and looked at what some of business is doing outside and found out that in many instances, this type of service was being out-sourced.

And so what we did is we entered into an agreement after a multi-stage procurement for a service to do -- a company to do facilities management of our filing system. We bought the equipment. We're now scanning to optics all of the information that's in the Department. And as they complete a file room, that company is taking over freeing up the person that was responsible for that to go back and do typing, or whatever the case may be.

And in a short period of time, you will literally be able to sit in your hotel room or your house

or your school or your office, where ever it is, and look 1 at any document that the Department has received, which 2 will greatly facilitate the availability of the 3 information for the public to be able to use it and better 4 educate itself as to what's going on. 5 MS. MADDEN: We need to move along rather 6 quickly; we're almost 30 minutes behind already. 7 MR. LONGORIA: Okay. I have a couple of quick 8 9 questions. MS. MADDEN: I think we have one quick question 10 here, and one here. And then we're going to move on. 11 12 Okay? 13 Mr. Longoria. MR. LONGORIA: In terms of jurisdiction, just 14 to -- for my understanding, once the EPA designates a 15 super-fund site, like the agriculture land fill in New 16 17 Orleans, is DEQ out, or is there an overlap? MR. GIVENS: Well, I would think it would be 18 more of a coordination than an overlap or being out. 19 MR. LONGORIA: So DEQ is still involved in 20 21 terms of the --MR. GIVENS: In fact --22 MR. LONGORIA: -- ongoing issues? 23 MR. GIVENS: In fact, once a super-fund 24 25 designation takes place, the State is obligated under law

to provide 10 percent of the funds that it takes to clean it up. And I guess I would say, worse than that is:

We're stuck with the long-term maintenance and operation of the site to make sure that it stays where it is.

MR. LONGORIA: In terms of the information that your office gave us of the applications for the permits for air permits, water permits and hazardous waste and sold waste for '98 and '99, I may have misunderstood the information, but I understood that two solid waste applications were denied in that '98/'99 period. Were any hazardous waste or air permit or water permit applications denied?

MR. GIVENS: There has not been as I recall an application for a facility like waste management, Chem Waste Management here at Lake Charles or the old Rollings facility, where you're trying to set up a major, commercial TSD type of facility for hazardous waste. So any hazardous waste permits that would have been covered in that time frame would have been for on-site operations.

And as a result, those are normally part of the process, and what we're doing is trying to make sure that the process meets the regulations under RCRA. And so there is usually a long series of notices of deficiencies to correct any concerns that the Department has, and it does not routinely result in turning down a facility a

permit that -- as you might have with a solid waste facility or something like that.

so I don't have a number before me today to tell you that there was one or not one or more that were turned down during that period, but the process of notices of deficiencies normally takes care of the concern so that the end result is a facility that operates within the parameters of RCRA and our regulations.

MR. LONGORIA: And I'll turn the mic over, but, I mean, from my information, we had eight hazardous waste, 46 solid waste, 22 86-Air permits and 22 65-Water permits. My information shows that two solid waste applications were denied. Could you find out whether any of the hazardous waste air or water permits were denied at all during that two-year period, please?

MR. GIVENS: Sure. And what was the time frame?

MR. LONGORIA: '98/'99.

MR. GIVENS: Okay.

MR. LONGORIA: Thank you.

MS. MADDEN: And I think we do have one more question for Mr. Givens.

But let me ask you to be brief if you would, Ms. Richardson, and then we'll move on to our next presenter.

MS. RICHARDSON: My questions will be brief.

It's my experience even having come in late that these answers that are long -- these are going to be questions that could be answered with some brevity. And there are only two.

But, firstly, let me apologize to you, Mr.

Secretary, and to the panel for my lateness -- it was of a civil rights work mixed with breakfast that detained me -- and, certainly and particularly to you, the audience, who have been so faithful with us in this fact-finding process.

Firstly, I was not sure that you answered the Chairman's question to the extent or -- I can't say to the extent that she hoped, but, certainly, I missed something there when she asked about work groups and ongoing dialogue and people in the Mossville area, having been very concerned about the cessation of those. And as I understood your answer, you said that some corrective measures were being taken.

Is there any reason that those corrective measures cannot be taken while dialogue goes on? Are they mutually exclusive?

MR. GIVENS: Ms. Richardson, I suspect that there are a lot of things that ran together in my responses to Ms. Madden and other members of the Committee

this morning. As I understood the question, it was whether or not the original work group that we formed in Mossville still existed. The answer to that was no.

We had three, I believe, it was that I mentioned, or four: Mossville, Mount Airy and another one that I'd have to go to my notes to look at and see. And those were set up, and ran for a period of time. And then we moved on to the next one. They were not all a concurrent type of a situation.

And then I talked about the concerted effort by a number of different agencies and folks about what's going on in the Lake Charles and, specifically, the Mossville area. There is or has been for two years now a quarterly meeting between EPA and State agencies and the citizens in the Mossville and Lake Charles area. That takes place over here in Lake Charles every quarter. That's an ongoing process, a dialogue, that goes on.

As a part of the investigations into complaints that were aired by the residents in Mossville and other citizens here in the greater Calcasieu area on that, there were some differences of opinion on how to do things. For instance, I told you that the governor had ordered the agencies to put together a work group like we had done down at Gran Bois and to work with the community in looking at that.

And as a part of that, we identified some key areas or work groups that we felt had to be -- have input into to get the answers that we were needing on public health issues, public information issues and so forth.

And I think there were half-a-dozen, roughly, in round numbers of that.

When we sat down and shared that information with some of the folks in Mossville, there was a difference of opinion in the community on how to do that. And one of the vocal groups decided that the only way that they would participate would be if they dictated what work groups were established on that and that the agencies and who ever else basically had to come and work within that frame work.

Our job is to get to the heart of whatever problems or concerns of a thing and not be dictated to by any one particular group. That group splintered. There was a separate group with a similar sounding name that was formed, and some of the other folks in the community stood up and said, The first group don't speak for us; We want to work with the agencies.

So that is part of the ongoing dialogue that is going on. We have not turned anybody off. We have not shut any doors. And we stand ready and willing to work with anybody within the constraints of our authority and

our resources to try to address the problems in the area.

MS. RICHARDSON: So considering a big umbrella or big tent approach, it might be possible that these could be re-established as discussion groups or dialogue groups?

MR. GIVENS: Well, like I said, we have quarterly meetings over here right now. We have some work groups that we try to do conference calls and meetings within that. There is one particular group that is still trying to dictate, you know, the direction and process of how we go. We will work with them to the extent that they want to talk and work with us, but we're not going to back and be --

MS. RICHARDSON: No. That was my question: If you would be willing to work with them to come up to some resolution. Let me move quickly, please, sir.

I'm -- if you have given this information

previously, then I can get it from other sources. But it
is my experience that the most good comes out of a diverse
number of persons having input: Diverse backgrounds,
diverse race, gender and whatever.

Could you comment briefly on the make-up of your staff as far as race, gender and those kinds of things are concerned and, secondarily, the contracts that you give out, to the extent that you can tell us, what

percentage go to predominantly black groups or firms, female-based/female-owned groups of firms?

It's in the contracts, it has been my experience, that the most money is given out, hopefully, to do the most good. And I would appreciate your comment on those, please. Thank you, sir.

MR. GIVENS: I will attempt to address that, and I certainly don't have any numbers here in front of me to quote you statistics on. So let me state first that with respect to contracts, we are a technical regulatory agency, and have very few if any contracts that are awarded for research or any other type of outreach type of a situation or something to where there would be any type of competitive situation that we're looking at.

We had some \$200,000 worth of general fund money this year for -- to go to litter abatement in and around the State. And we had applications in from communities all over the State. And those dollars were awarded based on that to the various communities that applied for that.

As -- with respect to the make-up of the staff, just look at the executive staff, if you want, the appointed staff at the present time. I have three assistant secretaries and a deputy secretary. Of course, I think I'm male. I have a deputy secretary that's male,

and I have two assistant secretaries that are female and one that is male. The one that's male feels outnumbered.

I have a General Counsel for the Department
that is black, and he was previously an appointee in the
re-engineering to follow suit with what most State
Agencies have. Civil Service recommended that we move the
General Counsel function up to the Office of the
Secretary. And so Mr. Herman Robinson, who was formerly
the Chief Administrative Law Judge for the Department and
was Assistant Secretary, is now my General Counsel.

Under the re-engineering that we've done, we've set up some regional manager positions around the State, something that has never been done before. We have one in Shreveport, one that covers the -- that's based in Monroe and covers the Monroe/Alexandria area, one in Baton Rouge, one in New Orleans and one in Lafayette. And we're scheduled to have one here in Lake Charles; that position has not been filled at the present time.

Now, all of those positions were filled within the Department based on the experience and qualifications and the civil requirements that came up. The Monroe and Shreveport Regional Managers are white, as is the New Orleans Regional manager.

The Baton Rouge Regional Manager is one of, actually, our relatively newer employees; he has only been

with us about two years. He is black, and he has a wideranging experience in industry and in consulting firms. The manager in Lafayette is white.

What we find is that we promote or we hire folks based on their credentials and their experience, and try to get the best person for the job. I hired the first professional black in the Department of Environmental -- excuse me -- in the Department of Wildlife and Fisheries' history. That gentlemen is one of our Managers today and is still with us.

But we have a dearth of applications from folks with a scientific and engineering background from the minority community, and we find that a problem. And we haven't --

MS. MADDEN: Mr. Givens, if you have some of these statistics available in your files, if you would, send that to us.

MR. GIVENS: Sure.

MS. MADDEN: And we'll make that a part of the record.

MR. GIVENS: Sure.

MS. MADDEN: I really think we need to move on; we are running behind schedule. And what I'm going to ask that we do in order to keep from getting too far off will be to cut about five minutes from each one of the next

minutes -- each one of the presentations is supposed to be 1 30 minutes, and we're going to try it in 25. And we'll 2 shave a little bit of time off our lunch hour. 3 Our next speaker is Dr. Jimmy Guidry. Is he 4 5 here? (Pause.) 6 MS. MADDEN: Dr. Guidry, please come forward. 7 Dr. Guidry is with the Louisiana Office of 8 9 Public Health. And I'd like to ask the Committee members to please keep your questions brief. 10 And, also, Dr. Guidry, if you would, keep your 11 12 responses as brief as possible. 13 MR. GIVENS: Thank you, all, very much. 14 MS. MADDEN: Thank you. DR. GUIDRY: Good morning. 15 16 MS. MADDEN: Good morning, Dr. Guidry. Would 17 you please state your name and occupation for the record? And you'll need to speak directly into that microphone 18 19 right there or get pretty close. 20 (Pause.) DR. GUIDRY: I'm Dr. Jimmy Guidry, and I'm the 21 22 State --23 MS. RICHARDSON: It's not working, Dr. Guidry. 24 DR. GUIDRY: It's not working?

MS. RICHARDSON: I mean it's not carrying.

25

(Pause.) 1 DR. GUIDRY: Testing. Can you all hear me now? 2 MS. MADDEN: Yes, if you speak right into it. 3 DR. GUIDRY: Right into it? 4 MS. MADDEN: Yes. It's uni-directional. 5 Okay. I'm Dr. Guidry. I'm the DR. GUIDRY: 6 State Health Officer, and I'm the Medical Director for the 7 Department of Health and Hospitals. Good morning. 8 MS. MADDEN: Good morning. 9 MS. RICHARDSON: Good morning, sir. 10 DR. GUIDRY: Thank you for the invitation to 11 present today. I will try to be brief. Any subject that 12 I'm going to mention we could probably go on with for 13 hours, but we're going to try to get through it real 14 quickly so we can answer questions. 15 Next slide, please. 16 On the agenda today, I'm going to try to very 17 quickly go through these issues, and, as you can see, each 18 one would take about two minutes: Influencing Factors on 19 Health Status; Health Disparities in the United States and 20 Louisiana; Toxins Exposure and Health; Department of 21 Health and Hospitals and, also, the Public Health and 22 Environmental Risk Assessment Function; Mossville Health, 23 and; DHA Progress with Mossville Committee -- Community. 24 25 I'm sorry.

Next slide, please.

MS. MADDEN: You can take that mic out and --

DR. GUIDRY: I can take it out?

MS. MADDEN: -- just hold it directly in front of your mouth where ever you move your head.

DR. GUIDRY: Okay. Thank you.

(Pause.)

DR. GUIDRY: The first thing I wanted to show people real quickly is that when you look at health care and you look at people's -- the factors which influence their health status, it's a number of different things, and you really can't separate them out. It's complicated, and it's real hard to decide what affects what.

Lifestyle and behavior, people's choices,

affect 50 percent of their health status. Medical care?

Many of us think that access to medical care is important,

and it is, but it only affects 10 percent of your health

status; environment, 20 percent, and human biology, or

genetics, 20 percent. And that makes it real difficult to

decide what affects what when you start looking at health

indicators and health status.

Now our next one. This is just one of many.

I just came back from Dallas last week, where I met with the federal and local folks on health disparities. When you look at the country as a whole,

there are disparities when you look at minorities and whites -- and this is just one, in cardiovascular disease -- and they're looking at a number of those and measuring those for the whole country.

Louisiana happens to be 49th or 50th when you look at these health disparities. If you remove minorities from the Louisiana health indicators, that ranking goes up to 14th or 15th. So there's no doubt about the fact that when you look at the health of minorities, their health is not as good as that of other folks.

And so they are compromised when it comes to health for a number of complicated reasons, but this is just one that shows at the national level, as well as the State level, that the black minorities have more deaths from cardiovascular disease than the whites.

Next slide, please.

What part of health is affected by toxic emissions? From a race standpoint, the health of minorities is already lower. Disparity in health is acknowledged nation wide.

From the environment, we need to compare those individuals that live near industry and those not living near industry to determine which ones toxic emissions might affect. The relegating factors, of course, are the

19.

existing disparities in health and the complexity of their health, as I had talked about previously.

A little bit about the Department on dealing with the issues that we're here on before the Committee today. The environmental risk assessment function -- our function there is: We gather information, whether that's environmental information or health information, we get experts to analyze that data, and then, once we analyze the data, we provide education for the public and for professionals.

Some of the databases we currently have in the Department of Health and Hospitals and Public Health? We look at vital records, which is birth certificates and death certificates. We look at the LSU Tumor Registry to look at the incidence of cancer. We look at the registry of Birth Defects, which is new. It has been legislated and is now being developed, and this is going to look at how our children are born with birth defects.

Reportable Diseases, which has been around for a long time, is mostly about infectious diseases; it's not about diseases that are caused by things other than infection. Hospital discharge data, which we've been doing for about two years now, looks at what people get discharged out of a hospital with. So here's a way to look at, What are the health indicators from people that

have been admitted to the hospital?

In the section of Environmental Epidemiology and Toxicology, which is the one that deals with the issues such as the ones we're discussing today, they use existing databases to monitor human exposures and health risks from events related to chemical agents in the environment.

The Programs? They look at toxic substance investigations. They look at disease cluster investigations, where a community might say they have more of one type of cancer or one kind of illness. They look at health and fish consumption advisories to look, say, at mercury in fish and other toxins that might be in fish.

They look at emergency response if there's a spill. They look at indoor air quality investigations which -- we work along with DEQ to investigate the indoor air quality in homes and businesses, mostly in businesses and public places. We actually don't have the ability to go in homes at this point through policy.

Health? We also look at related pesticide incidents. The function is to assess situations, to assess different chemical and different environmental issues, to do surveillance -- and that is: To keep track of things -- and to do education, that being to the public, the communities and, also, the professionals.

مارد مارد

Now, that sounds like a huge task when you talk about Louisiana, and it is. And this is what we have to work with.

We have about 15 professionals who are able to work with us and look at all the issues that come across our desk of which I just gave you a short list. Our budget is about 1.2 million; half of that is from State funds, and half of that is from federal funds which come from the Agency for Toxic Substance and Disease Registry, who we have a cooperative agreement with, and we work closely with them out of Atlanta, from the CDC.

The cost of an investigation can range from a minimum of 50,000 to 250,000 per year. And that's critical to understand because, sometimes, a community says, Well, can't you just look at this? Well, just looking with the professionals and the cost of time, people, with the number of sites, there is no such thing as just a cheap look or a quick look. And in science, you have to get all the information and have good information to make these types of decisions.

An investigation may last several years. A lot of people want answers immediately, and that's really difficult to deliver when you look at all of the complications of these issues. The cost scratches the surface of the problem usually, and, usually, it ends up

more and more, costing us more.

Ten years ago, we had 100,000 to run this seat.

In ten years, we've now gone to 1.2 million. And of course, this doesn't even come close to what we need to do our job.

Next.

Okay. This -- in Mossville, I want -- we've had demands from the residents of relocation, money, a health clinic and free health care via insurance cards. These are some of the things that they asked to us when we met with them. And you heard a lot about this yesterday. And I'm sure that the list is a lot longer, but they gave you a good picture of that yesterday.

Our proposal to the residents is this: We need to look at the exposure of dioxin and work to reduce or eliminate the exposure because the treatment for dioxin is to see where it came from: Is it current, or is it in the past? It's to stop the exposure. You really can't take it out of the body. You need to make sure it's not continuing to go into the body.

We've done a residential needs assessment,
where we've gone into the community and had them answer
this survey or this questionnaire, to look at what their
health care needs are or what their health care access is,
where they get their food, and all these types of

2.2

questions. We did 300 households in the past two months, and we're presently going through all this data to see what this information means. And we'll be coming back to the community to share that information with the community.

We want to identify clinical resources. Now, when I say that, the question is: What clinical resources are we looking at? Well, we're looking at those resources that are already here, we're looking at resources we can bring into the area, and we're looking at trying to get the experts that are needed to address the health concerns of that community.

We've also done a cancer statistics review, and it's very near completion. We've done it for Calcasieu and Mossville, looking at those statistics in this area.

And as soon as that study is complete and has been reviewed by all our experts, we'll be coming to discuss that with the community.

We are wanting to provide environmental health education to the physicians that are in this area, the ones -- the providers that are already here. So we've already made -- had a meeting set up with the State -- the area medical society here to come, with an environmental expert to talk to them about dioxin and other environmental health issues, because, as a physician, I

1 .

can tell you that environmental health education in medical school is not what it needs to be to address all of our issues that we're dealing with today.

So we're going to provide some education for those existing here, and we're also hoping to identify resources to enhance access to a clinic. We've offered technical assistance to the community to help bring an environmental physician to the community to address their health concerns.

Last line.

Since -- last year, since June, we've reviewed cancer statistics. We're -- that's just about completed. We've looked at birth certificates to look at incidences of births and miscarriages and those types of things. That's almost completed. We've conducted a residential needs assessment that's under -- being looked at by the experts now.

We've worked with the community to develop a residential steering group -- and this has happened in the past few weeks -- where we have invited certain members that represent the community to sit down with us and help us, steer us, on how to meet their health care needs.

We've identified environmental physicians who might be experts in dioxin, who may come and work with us, with the community and with the providers in the area.

We've offered technical assistance to a community for a HRSA grant for a clinic in that community. At this point, we're working and need to work with the community to see if we can get funds for that.

We've met with the community of Mossville in

June of '99, November of '99, May of '99 [sic] and June

27. And we came back on July 13 and gave an update on the progress in the community.

Again, I had -- we scheduled a meeting with the medical society in Calcasieu to train providers and educate providers about environmental health issues, and we've also talked to the community about education for child health insurance and the LACHIP [phonetic].

We've talked about Medicaid access, and we've talked about Medicare. And of course, this doesn't answer all medical needs because you have to look at the uninsured population, who don't qualify for these services.

That's a thumbnail sketch of the things I thought you might be interested in. We have provided a lot of information to the Commission from our Department on questions from the 1992 report, so I'm here for questions about anything that you might have.

MS. MADDEN: Thank you, Dr. Guidry. We appreciate you keeping the report succinct. And when the

we're within -- we have less money. So what we're saying

25

is that there's going to be some things on other issues 1 that we've found not to be that important that we're going 2 to have to let go by the wayside, but environmental health 3 issues are actually going to gain more prominence in the 5 future. MS. RICHARDSON: Thank you, sir. 6 DR. GUIDRY: Yes, ma'am. 7 MS. MADDEN: Any other questions down here? 8 (Pause.) 9 MS. MADDEN: Mr. Morris? 10 11 MR. MORRIS: Thank you. Dr. Guidry, I'd like to know: When the 12 13 issue -- health issues concerning the environment and 14 industry -- is it -- could you tell me: Could it be or should it be possible for industry to help you bear some 15 of that expense? 16 17 (Pause.) MS. MADDEN: Hold it up closer to your mouth. 18 MR. MORRIS: Could it be or should it be that 19 20 industry should help you bear some of that expense? 21 DR. GUIDRY: That's an issue that I've been 22 dealing with since I've been looking at these issues, and 23 that is: Who pays for all this health evaluation, or who 24 helps pay for it? At this point, I'll share with you how 25 my budget is spent.

And the thing that I've come to find out is that it certainly would be nice of industry to help pay for some of this evaluation, but I've found that a lot of communities don't trust your findings when you get funding from industry. So you're kind of stuck between a rock and a hard place, and that is: We need the money, but where the money comes from sometimes taints the evidence.

So I don't know the answer to that question except that it's very expensive work. It takes a lot of money. We're in a poor state; there are a lot of poor people. And it's real hard to answer some of these questions without having that kind of an investment.

MR. MORRIS: Right.

MS. ROBINSON: Thank you for being here, and thank you for sharing your information prior to this meeting with our Office, on behalf of the Louisiana Advisory Committee. Let me get to the heart of the matter. We are well aware that there has been a lot of anxiety and frustration regarding the Mossville investigation, and I know this is sort of a new thing to do: Community-based, you know, investigations.

What have been some of the problems? We hear over and over again that the ball has been dropped by the government agencies, that you refuse to meet with the Mossville group, that the working groups have been

_

discontinued, abandoned, and no work is being done.

Please give us your perspective on that and what the true facts are based on your information.

DR. GUIDRY: Okay. Thank you.

I think the answer to that question is that, as I've shown you today, in Mossville, we're doing a lot of things there. In spite of all the feelings that people feel, that we're dragging our feet, for government, that's a lot in one year for a small community. And it needs to be taken to a higher level.

So I think we are going to continue to participate and actually expand that from Mossville and the surrounding area, because I don't think -- when the tests are going to be said and done, I don't think it's going to be dioxin just in Mossville. That's my personal opinion.

MS. ROBINSON: Thank you.

DR. GUIDRY: Okay. But what I think the problem has been is that, One, we had so many stakeholders -- that being the federal government, the state government and the community, and the community had a lot of different stakeholders in the community -- that there wasn't a whole lot of feeling that we were all working together. And so it wasn't working like a well-oiled machine.

And I think we're in unchartered territory. So
I think that's a struggle we go through and try to figure
out, Who's saying what, and what does it mean? I think
what we have to do for this thing to work because -- as a
physician, I find it real difficult because what I want to
do is help people, and here I am, trying to help people,
but they don't trust me because I'm government. And
that's a real tough place to be in.

I think what it boils down to is: Instead of saying what we did wrong, which -- we should learn from our mistakes and continue to say, "We dropped the ball, and we didn't do this" -- we should come together and say, "Where do we go from here? Let's put that in the past. Yes, we've made some mistakes; we can all admit we've made mistakes, and it's the mistakes that have kept us from becoming what we need to do. And let's see how we can work in the future."

I think a lot of it has been this distrust factor, and different people saying different things. I showed you about four or five meetings with the community. We've had a number of conference calls between state and federal agencies to try to get our act together, because we have different agendas; they have a national agenda, and we have a state agenda, and we have to work together to make things happen for the community.

_

And what I've come to realize is that perhaps we need to work with each other, knowing what we're doing, but, to come all together, there are so many issues, it becomes nothing happening. This is going to have to be done piece by piece.

MS. ROBINSON: By piece, yes.

DR. GUIDRY: And so the health piece is what I want to work on. We're going to look at exposures, and we're going to look at chemicals, but the regulatory piece is not in my purview. And that's not something -- if I'm sitting in a big meeting and that's the big issue, the health piece never gets addressed.

So I think what we're going to do is work with the community and different groups but keep each other aware of what's going on, especially in the community.

MS. MADDEN: Thank you, Doctor.

We have five more minutes. Okay?

(Pause.)

MS. MADDEN: Ms. Bourg?

MS. BOURG: Thank you, Dr. Guidry, for coming and for your testimony. I have a question about the burning of sugar cane, and the mills. I know that there has been a concerted effort in the industry by the mills and by the farmers to try to do something about that; there has been adjustments of machineries, and so on.

But by and large, we still have doctors in our communities who are coming forward and saying that when the mills crank up and they burn any of the cane, especially if it's standing cane, it's like an epidemic. Their, you know, waiting rooms and emergency rooms are just overflowing. Can you address that, and are you -- have you done any studies on it? Are you concerned about that?

DR. GUIDRY: Yes, I can. What they've done -they came up with a machine that really mulches these -mulches the sugar cane. And supposedly, this was a better
of harvesting and wasn't going to require as much burning.
What they found it is that it requires burning before the
process and after the process to get more product.

So it became an issue that we all -- we're probably doubling some of the burning, instead of decreasing it, to get more product. Now, it's going to affect people's health because this smoke, obviously, is going to be in the air, and you're going to breath it, and, if you have asthma or any kind of health problems, it's going to make that worse.

So there has been groups of people, including people from our Office, that have provided this information to some of the communities. And they've been meeting with agriculture, with DHH and folks to try to

1.1

figure out how to address this issue.

Here, again, a balance between an industry that is one of the biggest industries in south Louisiana and the fact that it affects people's health and -- there's going to have to be some point where we figure out, How can they do their business and not affect health?

I mean the ideal would be that they could get the crop and get everything done and get the same amount of product without having the burning. And those negotiations and discussions are ongoing as far as I'm aware of.

MS. BOURG: So you have a regulatory capacity there with regard to agriculture and its impact on human health? And -- I mean I'm hearing a little bit in your answer that the weight is, "Well, how much profit will we make," in the industry and, "How much health impact can we endure," in the community.

DR. GUIDRY: And that's -- you know, as far as the Health Department's concerned, we can give advice and talk about health and -- but it's really regulated by agriculture. And the industry and the communities are going to have to work that out. We don't have any regulatory authority over that industry.

MS. BOURG: Do you have it over the -- any of the other industries?

, in the second

Is Dr. John Abraham here?

(Pause.)

MS. MADDEN: Dr. Abraham, please come forward.

He's with the Agency for Toxic Substance and Disease Registry.

(Pause.)

MS. MADDEN: Dr. Abraham, would you please give your name and occupation for the record?

DR. ABRAHAM: Good morning. My name is John
Abraham; I'm Chief of the Exposure Investigation and
Consultation Branch with the Agency for Toxic Substances
and Disease Registry. The Agency for Toxic Substances and
Disease Registry, ATSDR, is part of the Public Health
Service under the Department of Health and Human Services.
I've been there for 15 years.

I have a packet that I've given everyone on the Board and the Chair. And I just want you to have this.

And for the sake of brevity, we have some information on getting on our web site, some other information on any kind of -- information with regard to our products and services, a facts sheet about ATSDR, a facts sheet about the results of the Mossville exposure investigation, a facts sheet of the exposure investigations, as well as the health consultation that went final in November of 1999.

involved with hazardous waste_issues. ATSDR is responsible for preventing and reducing exposure to hazardous substances on human health. We are the agency created by Super Fund, and, in essence, we are the public health umpire. And it's interesting that I use the words, Public health umpire. How we got to -- we were formed in 1980, and we were funded in 1985.

Manufacturers Association and the American Petroleum

Institute looked and were realizing that there were a lot of concerns about health effects of hazardous waste sites.

And then they looked at the legislation, and they said,

There's this Agency for Toxic Substances and Disease

Registry; If they could be funded, they could look at these things and agree with us that there are no health effects from hazardous waste.

On the other side of the coin, there was the Environmental Defense Fund, who looked at this and said, There's a lot of health concerns by people who've felt that they were having health problems with regard to hazardous waste sites, from cancer to non-cancer effects. And they said, Look at this Agency for Toxic Substances and Disease Registry; If we can find -- get them funded, they could address our concerns and be able to side with

us.

So politics, as you know, makes strange bed fellows. CMA, API and EDF got together and sued the federal government, and -- that's why I'm here today, I guess -- the Agency was funded in '85.

We make public health judgments. Again, we are non-regulatory. We provide technical assistance and public health advice on health impacts of hazardous waste sites and toxic spills to all our requesters. We work closely with the Environmental Protection Agency, other federal, state and local agencies and communities on environmental health problems related to environmental contaminant releases from sites.

Our products and services are: Providing a health assessment, conducting exposure investigations, conducting health studies, providing health provider education, providing community health education and providing and producing toxicological profiles on some of the most dangerous chemicals that we have found in hazardous waste sites.

Our funding is \$60 million. We have 400 people in our Agency. We have cooperative agreements with about 23 states, and we find that is a way to leverage our resources better and get more involvement. We have a good relationship and a close relationship with the Louisiana

Department of Health and Hospitals.

It's important before I get into Mossville to tell you what we cannot do, what we -- what -- because we have no legal authority. And the two major things that we cannot do is -- we cannot provide medical care or treatment to people who have been exposed to hazardous substances. Instead, we refer for treatment. We refer to their practicing physician or their family practitioner. We cannot relocate people. We are prohibited from doing that.

With that general background, let me talk to you about my specific job. As Chief of the Exposure Investigation and Consultation Branch, my goal is to determine whether exposure is existing in a community and to provide a smooth transition to any kind of follow-up public health activities. We try to deal with the what is's, rather than the what if's.

Exposure is the key. And too often, people are concerned about environmental contaminants and leap right to health effects. The cascading events that we have to look at as public health professionals is: To look exposure and find out if we can measure that exposure in the body; If we can measure that exposure in the body; If we can measure that exposure in the body, can we find an adverse sign, such as an increased liver enzyme, as a result of that exposure; And if we can, is

there an adverse health affect resulting from that.

That is a long and, unfortunately, arduous process. Let me specifically refer my comments to Mossville.

In October of 1998, we responded to a request from the Environmental Protection Agency Region Six, in Dallas, regarding pool data results that were done from an independent group. We wrote a health consultation on that in October of '98 saying that this seemed to be abnormal and that we wanted to investigate further. So toward the latter part of 1998, the people in my branch recommended an exposure investigation.

An exposure investigation is not a study; it is basically there to ask the question, Given that we've found dioxin levels in a pool sample, is it possible that people are exposed to dioxin at higher-than-normal levels? We worked with cooperative agreements with the State of Louisiana in Dr. Guidry's group and went to the community and proposed this investigation.

We recruited 28 people, looking at older people and people who had been residing in Mossville for a long period of time. We did not do children.

And the reason we didn't do children is that to sample dioxin takes 70 millimeters of blood, and that's a lot of blood to -- for a child. That's like five of these

little vials or six or seven of these vials. So it's prohibitive, and we didn't feel it was worth the effort, and we wanted to concentrate on an older, more of a biased sample to see if we could find any kind of results.

We worked with the Centers for Disease Control very closely, and the National Center for Environmental Health, which is the laboratory that measured the dioxin levels in blood. They have a world-wide reputation, and their QAC is beyond reproach.

We've found out that out of these values, there were some elevated levels, high levels. And when we found that out, we got together with our stakeholders, both at the State and at the Federal level, and explained that we found elevated levels of dioxin in our public health opinion.

We went down to Mossville in April, and for a number of reasons: One, to meet with our government stakeholders, meet with the community and, also, meet with the individual people who volunteered for this investigation, and gave them the results on a one-on-one basis and provided some kind of advice on where to go.

In April, we had a meeting with the community, who voiced some strong concerns about toxic pollution and their health effects. And from about April, we released -- I think we released the health consultation

that you have before you, in draft, for a 60-day public comment period to get people's concerns.

In the meantime, our Division of Health,

Education and Promotion contracted with an environmental

physician, Dr. Peter Orris [phonetic], from the University

of Illinois at Chicago to come down and, upon request,

review the medical results and the medical records of

these individuals and be able to determine whether he felt

that these -- the results would lead to kind of -- would

be causing health effects.

In his opinion -- and we agree -- these kinds of levels, although elevated, would not in our opinion cause clinical health effects from an acute standpoint. However, the question is: Would this exposure address possible health effects in the future? And that's a question that we are working on to try to address.

We released the document. Before we released the document final, we did a number of things. We provided to the physicians in the area health provider education. We provided community health education through the Louisiana Department of Health and Hospitals.

And we also realized that to date, no large scale study on dioxin levels in a statistically based sample of the United States has ever been conducted. So we and other researchers have often cited reference ranges

.4

۷.

tabulated from studies conducted in the 1980s.

And since dioxin levels in the environment and in human populations have been decreasing, the use of such studies to derive comparison ranges for present day populations is really not appropriate. Therefore we worked with the Centers for Disease Control to develop some kind of comparison levels for blood dioxin levels in the United States based on studies conducted recently, in 1995 and 1998.

We did that and realized that these values were still elevated. And the question we're faced with now is:
"Is this due to a current exposure, or is this due to a past historical event," and the source of that exposure.

So we are working with our stakeholders and the community to try to get to the heart of the matter to address this, and we have some -- plan on doing some follow-up work here in the very near future.

That's all of my formal comments. I'm happy to answer any kind of questions.

MS. MADDEN: Thank you, Doctor.

Are there questions from the Committee, questions here?

(Pause.)

MS. MADDEN: Ms. Bourg?

MS. BOURG: The Committee had received a

statement from some Mossville residents that, at some time, your office put out some flyers in Mossville saying that they [sic] wanted to meet with you, and, when you came -- they indicated that -- you just wanted to, quote, "Herd us into little rooms, like cattle, to find out if we support Mossville Environmental Action Now, Incorporated." Do you have any knowledge of that meeting or of that incident?

Or -- certainly, there's some concern about a community of, I guess, since that -- you wanted to know more about their environmental activities than their health. That's what I'm getting from that particular statement.

DR. ABRAHAM: Let me try to answer that. And the way we look at sites is -- we look for exposure. And the way at exposure is: We rule out all different types of environmental pathways. We look at air and water, and we look at information that's gathered by the State. And if we need to supplement that information, we do, and try to find out where this exposure's coming from.

So in order to answer their questions sometimes, we need answers, and we need to get some fact finding. What we historically do at most sites is: We conduct public-availability sessions to get at the heart of the matter. We don't live here; we're outsiders. And

we try to come in here -- and I want to tell you that there are 400 people and 500 sites that we address every -- throughout the country.

This is one of 500 sites that we deal with.

And it is a priority site. But to free up people to come in here and try to get the best information we can and make sure we get some kind of idea where to go next -- yes, I think I can understand why people felt that way.

And all I can say is it's a bumpy road, and we're trying to get some answers.

And I think -- I do understand that, you know.

And I -- you know, I apologize for that. But it's trying to be efficient with our time and getting information to be able to go to the next step.

MS. BOURG: Thank you. You've been, I think, present during all of the testimonies, I believe, since yesterday, when we started. And you just heard and probably seen some of the tape and other testimonies by the citizens from Mossville in relation to two different industries, and they were really pretty heart-rending and emotional and very serious situations. And I -- are you a medical doctor?

DR. ABRAHAM: I have a PhD in environmental epidemiology.

MS. BOURG: An epidemiologist then. Do you

2 3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

have some recommendations, after hearing all of that, for this Committee?

DR. ABRAHAM: Yes, I do. I really think that -- I'm from the -- I'm from outside, and I think -we're the federal government. And what we need as we provide technical advice to people with concerns, and make recommendations to state agencies -- I have no regulatory authority, but I make those kinds of recommendations.

What has to happen is -- I think you cannot go into a community such as Mossville and not feel changed. Something is going on there. Okay? It may be due to the environment. It may be due to something else. But my angle is looking at it from the environment and being able to say, "There is no exposure; We don't think it's due to environmental concerns," or, "We do think it's due to environmental concerns."

But if we don't, we need to find out what area it is due to, without invalidating their health concerns. These people say they're sick. They're sick. Okay? And I've been in this business 15 years, to know not everybody in this country's nuts. And I also know that people won't go into a community and be able to come up in front of a lot of strangers and talk about their health concerns.

So you have to think about that, and you have to find out what's going on. And I'm coming to you -- I

guess the answer I would have for you is that we've got to find out what we can do as a local community. You can talk about what about your differences, but talk about what you do agree with. And start with that and move.

There's an old story about two cannibals sitting down at dinner. And one says to the other, I can't stand my brother-in-law. And the other one says, So just eat the noodles. So maybe you just need to eat the noodles.

(Laughter.)

DR. ABRAHAM: Seriously, I think it needs to be done at a local level. Communities need to sit down, talk out their differences, find out what the steps are, get involved with their local county health officers and their elected officials and then, when they need us for technical advice in regard to these things, call the appropriate agencies to support them.

MS. PARKS: I have a question.

MS. MADDEN: Ms. Parks?

MS. PARKS: I have a question about dioxins.

And please know that I have no expertise in this area.

But it's my understanding that there has been technology around in the last few years to control dioxin. I understand that carbon can encapsulate or stop dioxins.

And I wondered if you knew anything about this process.

Does it hold any positive possibilities for the future, or is this just-something that I saw in a bulletin that --

DR. ABRAHAM: I have no understanding of that.

MS. PARKS: Okay.

DR. ABRAHAM: I'm aware that one of the things we're going to try to do is start talking about follow-up actions: Okay; Is this problem only relegated to Mossville, or is this more of a grander event; Is it going on in some of the other, some of the neighboring, communities?

And one of the things that is intriguing is looking at the different dioxins and number of different kinds of congeners and looking at, for lack of a better term, a finger-print and be able to find out, Number One, "Is this going on in younger people," because some of these congeners don't stay in the body as long as some other congeners.

So, you know, there may be ways to be able to address what I'm looking for as to whether this is current exposure. And we're working with the different agencies to rule out the different pathways and, also, see if we can find out if this is related to a historical event and, from that, determine what the source is. I'm sorry, but I think that's more an answer -- a question for the environmental agencies.

MS. PARKS: Yes. Thank you.

MS. MADDEN: Ms. Robinson?

MS. ROBINSON: Thank you.

Dr. Abraham, I have two questions. You indicated that you would -- your Agency will be returning to Mossville at some point in time. Do you have a general time frame established of the process that you intend to implement and go through once you return? And, Number Two: What is it that you need, your Agency needs, to get the job done from the community?

DR. ABRAHAM: Let me see if I can answer those questions. I have a time line in my head, and I have priorities in my branch.

And there are other branches throughout the Division that have time lines and priorities, and I've got to make them think that this is a priority. And they do think it is, you know, but it's being able to juggle your schedule and say, "This is the priority; And this is the funding we're going to need, and coordinate with my Agency to develop some kind of overall plan on proposed follow-up activities.

The second thing we need to do is coordinate with the different agencies to get their views on things and try to achieve some kind of consensus on where to go.

And I say, "Consensus," without meaning compromise.

so that means I have to work with our partners in the State, as well as in the Federal Agencies. Then, once we get something like that, I think we need to incorporate work with communities or work with communities at the same time to say, Okay; This is what we're proposing.

The second thing I think we don't do well -and we realize, you know, that Dr. Guidry was talking
about new, cutting-edge kinds of things -- from a process
standpoint is we don't use the community as a resource. I
mean I'm all for involvement of the community, but -using the community as a resource.

Some of the things that I don't think we do
well we never ask the community to take a shot at. And I
think that's something that we need to explore a bit
better, you know. And I think a lot of the frustration of
these work groups and stuff is just that, Number One,
we're not trained to be inter-dependent; we're trained to
be independent.

And there is also a political trust factor:

It's tough to come in from out of town and say, Here,

trust me. And conversely, it's the same thing: It's

tough for me to say who speaks for the community. And I

think we need that, for the community to be a resource,

and trust them to do certain kinds of things.

It all boils down to trust. And also, I don't think -- my own person view after being in this business for awhile -- public health is politics. And too often, public health is synonymous with managed care. And it's not.

And you talk about good science. It's public health, because public health drives science. We can't wait for the bodies to drop to say something is statistically significant; we've got to make a public health judgment, and, by making a public health judgment, if we have to err on the side of caution, we do.

So I don't know if I've answered your question, but I think the second thing we've got to find a way in is in involving the community and using it as a public health resource to provide something for the table which we can use in working together on this. But -- it's simple, but it's not easy.

MS. ROBINSON: Yes. And I think, moreover, based on my discussions with some of the community persons, they need to get a better understanding of what you can do and what you cannot do, and be real clear on those issues, such as that you cannot relocate them and you cannot provide treatment, per se. And I think there needs to be a better education of community members about what the various agencies can do and what their

responsibilities are.

DR. ABRAHAM: Well, this is -- I appreciate those comments, but the thing that is kind of new ground is -- as I understand it -- and I've heard this before -- a lot of concerns by the community in Mossville are compensation, relocation and free medical care. Now, to say, "I don't do that," is not enough, and I can appreciate that.

We've got to find out a strategy to go to the certain kind of person who does do that kind of stuff and get them down here to help those folks. It's like if you came into a store and I was selling shoes and you wanted to buy bread. I'd say, I don't sell bread here. But what I should do is take you by the hand and say, "Hey, let's go," and, "There's where the store is," and then lead you. And I don't think we do a good job of that.

MS. MADDEN: Dr. Abraham, I have a question about dioxin. In the facts sheet that you gave us, there's a piece on the back, "How Can Dioxin Affect Me?" And it talks about Chlor-acne and increases in liver enzymes. We were hearing from the people who live in Mossville that there's a lot of cancer. Does it cause cancer?

DR. ABRAHAM: I guess the straight answer is yes. It causes cancer in animals, and there's some good

14 ·

evidence by the federal agencies that it causes cancer, yes. And I think some of the things that are being done by our partners, specifically the Louisiana Department of Health and Hospitals, who work closely with us -- to be able to do a health cancer statistics review of what kinds of cancers are elevated in the area and to be able to associate those.

Anybody who says they're an expert in this business, you need to take your hand and cover your wallet and run because this is -- this requires -- if you could appreciate why this is so difficult -- you need people who see the elephant from a whole different side. And you need different disciplines.

A physician can't do it alone. A toxicologist can't do it alone, nor a sociologist. It's all these disciplines working together and doing a specific job that adds to the greater good. It's a very difficult situation. And, again, it takes a lot of time and a lot of resources to accomplish this. This is cutting-edge kind of information.

MS. MADDEN: Thank you, very much.

Does anyone else have a question?

MS. BOURG: Just --

MS. MADDEN: We really appreciate your

testimony.

This is the last question. 1 MS. BOURG: Well, actually, I don't have a 2 question. I just wanted to say just what our Chair did. 3 As an individual member, I've heard a lot of testimony. 4 And I'm especially grateful for your approach, as well as 5 what you've said. And I would imagine the citizens are 6 lucky to have you in our communities here. Thank you. 7 DR. ABRAHAM: Thank you, ma'am. 8 MS. MADDEN: Thank you, Dr. Abraham. 9 Our next presenter is Anne Goode from the 10 Office for Civil Rights at EPA. 11 Ms. Goode, would you come forward? 12 (Pause.) 13 MS. MADDEN: Please identify yourself for the 14 record, and give your occupation, Ms. Goode. 15 MS. GOODE: Good morning. My name is Anne 16 Goode: I'm Director of the EPA's Office of Civil Rights. 17 I've been the Director since 1998, and the Office of Civil 18 Rights is housed in the Office of the Administrator within 19 EPA. 20 MS. RICHARDSON: It's not carrying, Anne. 21 MS. GOODE: It's on. 22 MS. MADDEN: Hold it real close. 23 (Pause.) 24 MS. GOODE: All right. My name is Anne Good, 25

Director of EPA's Office of Civil Rights; I've been the Director since 1998, and EPA's Office of Civil Rights is housed within the Office of the Administrator in EPA. I thank you for the opportunity to come and present before you today. I will address the issues of concern that have been laid out to me that are of importance to the Commission.

The first issue that has been identified is the status of Title Six guidance implementation. In 1998, the Agency issued its first guidance on how the Office of Civil Rights in the Environmental Protection Agency would process Title Six complaints.

That guidance was met with a great deal of concern and controversy by various stakeholders concerned that they had not been consulted and that the guidance did not reflect important issues of concern.

In March of 1998, we established a Federal

Advisory Committee that was made up of a broad range of

stakeholders that included complainants -- Title Six

Complainants, industry, people from academia, people from

the environmental justice community and business

representatives, among others. That group met for six

meetings and produced a report; though not a consensus

report, in March of '99, it was a report of written

information and recommendations to the Administrator with

10,

regard to Title Six concerns.

During the last two years, we have also done extensive external outreach to community groups, to business groups and to the states to work with them to discuss issues of concern relative to the guidance.

In the spring of 1999, with the information from the Federal Advisory Committee, we additionally approached some other constituencies, namely the civil rights community, the Leadership Conference on Civil Rights and the Lawyers' Committee for Civil Rights, to provide a briefing and to request their oversight, input and information with regard to the policy structure we were beginning to embark upon.

In the summer of 1999, we worked with the -within the Agency at the highest level, the top political
appointees and top career people, to present a policy
frame work. We went through a very iterative process in
terms of receiving input and doing briefings. These
briefings included the Deputy or then-Acting Deputy
Administrator for the Agency in each instance.

And in September of '99, we developed a range of possible policy options that were then presented to a small group of stakeholders that included complainants, industry and State representatives for input. We asked them as individuals to give us their recommendations --

personal recommendations with regard to the options that were before us.

With that information, we began drafting probably six or seven drafts of the document. From Day One -- that goes back to 1998 -- we have worked with the Civil Rights Division and Bill Lanlee [phonetic], who has been personally involved, at the Department of Justice, as well as the Environmental Division of the Department of Justice, in the crafting of the guidance document.

At the end of June, that document was published as a draft. It contained two parts. One, for the first time ever historically, we provided guidance to recipients of federal funding about how they -- we thought they should comport themselves such as to create the greater likelihood of there not being legitimate Title Six concerns on the back end of their respective permitting processes.

Additionally, we provided a much more detailed guidance document with regard to how the Office of Civil Rights in EPA would process Title Six complaints. With the publication of the draft documents, we embarked upon a six-city public listening session primarily aimed at soliciting comments from the communities about this document.

I did presentations in Washington,

Philadelphia, New York, Dallas, Oakland and Los Angeles.

Additionally, I have continued to hold a series of

meetings with a balanced group of stakeholders about

issues of concern and to dialogue about the document.

The document comment period closed the 28th of August, and we have received to date 89 sets of comments. Those comments will be posted very shortly in total on our web site, which is a very robust web site that was developed in 1999.

And we will continue meetings with respective stakeholders during this fall period to discuss various issues as we begin redrafting the document based on the input. The goal at this point is to have a finished document published in the <u>Federal Register</u> by the first of the calendar year.

I've also been asked to provide information about the status of complaints in Louisiana.

Historically, there have been eight complaints sent to us on issues in Louisiana. Of those eight, one has been rejected, and that was in 1994.

Three of the current complaints that are in our inventory remain pending because -- they are among the approximately half of the pending complaints that we have that are affected by the rider language that Congress gave us in 1998, '99 and, again, for 2000. And we're expecting

l

the same language for 2001.

That language basically says that we cannot use appropriated funds essentially to do anything under the old guidance, the interim guidance, with respect to any complaints received after October 1998.

This is problematic for several reasons: The Agency has a clear policy with regard to riders that hamper our ability to function freely; it hampers my ability to work potentially strategically to bundle or group like complaints or like issues, either geographically or by issue, if I've got some that are affected by the rider and others that are not; it is troubling precedent with regard to civil rights enforcement to have language that in fact constricts our ability to execute our legally mandated rights.

Three of the seven complaints that are potentially acceptable complaints are affected by that rider language, and approximately half of the complaints that I have pending in my inventory are affected by that language. We have an active investigation in only one of the Louisiana complaints at this point in time.

In terms of the complaints nationally, historically, since 1992, when we received the first Title Six complaint, we have received as of the first of September 103 complaints in total. Forty-seven of those

complaints have been closed, four have been dismissed after some level of investigation, and 43 have been rejected.

The rejections have been based on procedural grounds with regard to whether or not they comply with the basic threshold requirements set out in our regulations.

Often, timeliness or the failure for there to be a federal recipient of financial assistance on the other end is the basis for the rejection.

Approximately 57 complaints are pending, meaning there has been no final action on them. And approximately half of those are impacted by the rider language.

Another area of concern that the Committee has expressed an interest in is the staffing in the Office of Civil Rights. There were concerns in the early '90s in your initial set of recommendations with regard to staffing.

Since 1998, official full-time staffing for Title Six has slightly more than doubled. In 1998, in the Office of Civil Rights, we had five full-time employees devoted to Title Six concerns; the number in the Office of Civil Rights currently is six full-time employees with another senior-level person outside of myself who has some significant level of responsibility for Title Six.

Commission

My time has been very much devoted to Title Six in the last two years. Additionally, I have recently gotten approval for the hiring of four temporary, full-time employees -- their appointments are not to exceed two years -- to assist me in addressing the issue of the Title Six backlog.

Additionally, the Agency has created an Office of Civil Rights in the Office of General Counsel to provide legal support for Title Six activities in my office. Approximately four full-time LTEs are devoted to Title Six work; these people are attorneys. I have often used them not only for legal assistance but, also, to assist on program issues where we just simply need more hands.

There are several other attorneys in that operation that are devoted to Title Seven concerns. And depending on the issue, we often pull them to assist on Title Six.

Additionally, we have created Title Six

Coordinators in every region in every media office. So

the Office of Water, the Office of Air and all the other

media offices have Title Six Coordinators. These people

are at very senior levels in the organization, serve as

our primary points of contact and devote some portion of

their full-time jobs to Title Six concerns. This has

facilitated our ability to coordinate issues with the respective media offices and regions.

Additionally, we have drawn upon regional and media office resources in a very robust manner to assist us with Title Six investigations; while these people are not formally Title Six employees, they have provided in some instances full-time assistance and, in some instances, for months at a time.

This includes not only the regions and the various media offices but, also, the Office of Research and Development that has provided a significant level of assistance. Additionally, these offices have also utilized their contract vehicles to assist us in doing analyses or research on issues of concern.

In 1998, we had zero contract dollars that were devoted to Title Six in the Office of Civil Rights; in 1999, I was given \$500,000. That figure has remained stable. The Office of the Administrator's budget has been cut for '99, 2000 and 2001. In each instance, the decision was made that my office would be the only office within that organization that would not -- that would be held harmless. And that is the current status.

Our contract dollars are being used for a variety of issues. We have a contract, for instance, that we have just let recently that has three primary

objectives. One is to provide direct vehicle, rather than borrowing off of other contracts, like the Office of Research and Development, to do the analyses needed for our complaints.

Another issue is to identify, using pollution prevention as a primary touch-stone, ways of doing reductions of toxins issues such that if we're in the problem-solving mode, we can offer concrete recommendations for techniques and ways of achieving necessary reductions.

Thirdly, it is a long-term goal to develop the kinds of tools that are available to the communities, to the states to the industry that are universally available that will allow people, using computer-based tools and information pulled from the internet, to do analyses.

This will be an empowering tool for communities.

It will be an empowering tool and a consistent tool that can be used across the board. This will be to determine whether or not there are potentially adverse impacts.

The Commission has also indicated in the desirability for information about how complaints can be filed. We have a very robust web site; it's www.epa.gov/civil rights.

In that web site, we have information about the

current inventory of complaints and any decisions that are rendered or posted on that site. We have linkages, "Hot Links," to the actual underlying legislation for all of our activities. We will be posting all of the comments that we received on the guidance there.

And, additionally, there is a page that provides information about filing a complaint. Complaints are filed with U. S. EPA, Office of Civil Rights, at 1200 Pennsylvania Avenue, Washington, D.C. And, again, the other particulars are evident in that web site.

We have done training over the last couple of years of all of the Title Six Coordinators and anyone who has been associated with the program, including DOJ investigation training for all people who are currently handling complaints.

In my current staff, I have three people who are Case Managers that are handling complaints. The intent is that the four additional temporaries will also be directed to case handling.

I am also working with the regions, some of whom have given me people for full time, to assist in complaint investigations and to provide additional assistance in that regard. And I am hopeful that I will get at least a couple additional people as a result of that effort.

Let me just check and see if I have covered the issues that were identified for me. (Perusing document.)

There was a question about recommendations for solutions to systemic problems that exist with regard to government decision making in the environmental justice arena. And I do not pretend to speak authoritatively on the entire environmental justice issue; that is the responsibility of a separate entity within EPA, but we do work very closely with them.

There are several major things that I would suggest. One is an improved cross-Federal coordination and information sharing. A number of the compensations that we have involve other Federal Agencies. We are -- have a draft memorandum of agreement with Housing and Urban Development. We've had a very effective working relationship with them, and that's being codified in an MOU.

We have some new experience working with some other Agencies that has proven to be more challenging.

And that coordination, both in terms of lessons learned and information sharing, is critical. We have spoken with the cross-cutting Division -- Coordination Division at the Department of Justice about assisting us in serving in that role and bring us together as Fed's.

Certainly, on the environmental justice side,

داستانیک

O

that's a critical issue. And the Office of Environmental Justice is working in a cross-Federal vein to make that happen.

The last presenter talked about the need to be able to be responsive to communities even if the issue does not fall in your bailiwick. The Federal Government is viewed as a separate entity, not various pieces, and we should be more effective in working with each other and identifying cross-Fed concerns and bringing ourselves together to help communities address issues.

Foundation pieces is an important issues: The complexity and the cutting-edge nature of the questions that are being asked by communities and the challenge of the juxtaposition of the complexity of the environmental issues with the civil rights piece and the absence of case law experience and other touch-stones, such as tools.

In the first decision we made and in the investigation of the Shintech Case, we had to literally devise an analytic tool, submit it to the science advisory board and re-tool it consistent with their recommendations before we could proceed further. We are not certain that that won't be the case with other issues that are going to come up.

These issues are challenging. They're unique. The questions that are being asked are legitimate, they're

With that, I will answer any additional questions that might be helpful.

MS. MADDEN: All right. Are there questions? (Pause.)

MS. MADDEN: Yes, Ms. Seicshnaydre?

MS. SEICSHNAYDRE: Can you help us understand the scope of the reg. or the guidance that is going to be issued or that is proposed to be issued in January of 2001? We heard some testimony yesterday that there were aspects of or -- there were concerns that were not going to be addressed in that, namely intimidation and retaliation issues, as well as enforcement issues, but that siting issues and permitting issues were going to be addressed.

MS. GOODE: The focus of the guidance has always been permitting, which, obviously, leaves some other important areas not yet addressed. That's not to say they aren't important or that they won't be addressed. The reason for the focus on permitting has been that three-quarters of the complaints received to date have been complaints relative to permitting. So issues of enforcement and retaliation are there.

Now, having said that, that does not mean that

8.

those issues will not get addressed. For instance, in Louisiana, we have three retaliation concerns that have been raised as amendments to original complaints. In one instance, EPA did not have the funding thread to address it; what we found was that the Department of Justice did. And we referred it to DOJ, and they referred it back to us for investigation.

We are going to pursue those issues. There is enough guidance and information out there that would enable us to do that. It's not that the issue would languish; it would be part of the consideration of the overall complaints.

So the comments are absolutely correct. It does not provide guidance on enforcement or other areas of concern. And it's a guidance, not a regulation.

MS. SEICSHNAYDRE: Okay. But there would not be -- it would not be the case that a complaint would simply have to be put on the back burner until such guidance was adopted?

MS. GOODE: What we would have to do -- the whole issue, with the backlog, is a huge -- it's a huge issue. In determining how we're going to proceed through the current backlog, the enforcement issues conceivably could be referred to our office of Enforcement and Compliance Assurance for assistance. And they have in the

past provided assistance to me in some of these cases.

MS. SEICSHNAYDRE: Is there anything in the guidance or in any of the regulations under which you're operating that imposes any time lines at all on handling these complaints? I know, in other civil rights statutes --

MS. GOODE: Right.

MS. SEICSHNAYDRE: -- EEOC and Fair Housing, you've got definite time frames by which investigations must be conducted. Is there anything like that being imposed on your Title Six investigations?

MS. GOODE: Absolutely. Our regulations -- our model regulations are drafted from the model regulations of the Department of Justice. They are similar to those of all other Federal Agencies. Our time frames are no different.

The issue is that we have not met those legally required time frames. And while there are lots of reasons why that hasn't happened, the 180 days that is not only applicable in Title Six but, also, the Title Seven arena has presented some very real challenges, given the complexity of these complaints.

But the time frames that both we and complainants are required to abide by are clearly articulated in the regulations. And that is repeated as a

matter of information in our guidance document.

MS. SEICSHNAYDRE: We also heard about different, just to put it bluntly, levels of aggressiveness being demonstrated by regional office versus headquarters.

And although that's not anything that surprises me necessarily, I'm wondering: What training, what message and what guidance has your office provided to regional offices to make sure that they're on the same page with you in terms of how they're going to be -- how they should look at complaints, how they should analyze complaints? And if complaints are not analyzed at the regional level in the same way as your office might analyze them, what recourse would a complainant have?

MS. GOODE: My office is the only office that has legal authority to handle Title Six complaints. We have had -- I know of at least one or two SNAFUs at the regional level -- and with the coordinators in place now, that should never happen again -- where a regional operation thought they had authority to address a complaint and, in fact, opined that something was, you know, an acceptable complaint and that they would deal with it, when in fact it was not. And, too, they had no authority to do that.

There are two sides of the equation, and we're

working very closely with the Office of Environmental Justice. There are issues that we're trying to deal with on the front end that are environmental justice concerns until and unless they end up in our arena. We are working, once things enter the Title Six process, to try to resolve them informally.

For instance, we have money sequestered now in an alternative dispute resolution umbrella contract that will allow us to get trained neutrals to assist the communities and to assist the State in working together to resolve their issues in an informal manner. Our letter of acknowledgement, in fact, encourages that. Our reg's encourage informal resolution. So there are a lot of things that are being done on the front end.

There are issues with regularizing, how we approach environmental justice, across EPA. And some of the comments may have arisen from some of the different ways that they're being handled at the regional -- at the various regional levels in terms of EJ guidance. But EJ guidance and Title Six guidance are very different.

They're very different.

MS. SEICSHNAYDRE: Just one more question. I'm curious about the extent to which your office has jurisdiction or if, in the Title Six process, you can look at a State's action -- the State regulators' actions and

impose any penalties with regard to State regulators

perhaps playing a role in what is being complained about

in Title Six complaints.

MS. GOODE: Well, the complaints are against the States, the recipients of the EPA funding. So while the issue of the permittee is a very prominent one, the complaint is really an allegation that the State is running its program in a discriminatory manner and that the permit simply serves as the trigger for the State's actions.

Your question, I think, raises the issue of compliance review as one means of getting at the States' actions in a broader way. We are investigating now to understand better how other Federal Agencies handle the compliance review process. That compliance review is where we would want to move to address things early on and to look at the patterns that are developing in some states that have a preponderance of complaints, to look at them in total, rather than on a piece-by-piece basis.

Having said that, that raises a whole other issue of concern, and that is that we don't have guidance about how to do that and would have to articulate the standards against which we are going to be making these judgments.

Now, we're in the process currently -- right

~

now, my Outreach Coordinator -- in gathering information about how other Fed's do it to see if there are some lessons learned in terms of our being able to incorporate and, rather than going through another two- or three-year process, to try to develop something from scratch. But the bottom-line answer to your question is: They can and should be held accountable.

MS. SEICSHNAYDRE: Thank you.

MS. MADDEN: Any other questions?
(Pause.)

MS. MADDEN: Any questions here?

MS. BOURG: I have.

MS. MADDEN: Ms. Bourg, of course.

MS. BOURG: What recommendation, I guess, real simply would you give the citizens to make their best case on discrimination or environmental issues so that they would be most likely to be successful in bringing their complaint?

MS. GOODE: I'd -- the best advice that I could give is to simply look at both the guidance and the regulations in terms of the threshold considerations. The threshold is fairly low -- it's very low for being able to file a complaint. And there is a good reason for that. The burden -- it is not the citizen's burden to be the technical expert, to be able to demonstrate that there is

in fact a problem.

They need only articulate their concern about there being a problem, consistent with the requirements in the regulation: That it be in writing, that it state a claim that, you know, with regard to race, color or national origin, that there be a point of contact -- I mean there are a couple of very basic points.

We have accepted complaints that are two paragraph-complaints; we have other complaints that are much more sophisticated in terms of their articulation.

MS. BOURG: So what evidence, though -- aside from that help on filing the complaint, what evidence would be most likely to help them be successful in their complaint?

MS. GOODE: That's difficult to answer because it's going to depend on the nature of the complaint. And part of the issue of both contention and complexity is how we would go about determining whether or not, One, there is something adverse going on and, Two, then look at the disproportionality in terms of how that adversity is shared.

We have articulated in the guidance how we will look at impacts and the menu of options that we would consider in terms of there being some sort of link, but not the -- I mean the first and ideal is direct causal,

human health impact, and our chances of finding that are pretty slim; I mean the science just isn't there.

So we didn't stop there: Potential risk,
exposure, toxin-weighted information, looking at things on
a chemical-by-chemical basis and then looking at, How does
all of that add up?

We are looking -- and the Science Advisory

Board told us, To understand the increment that is being complained of, we have to understand the base-line. And the base-line includes the totality of impacts on that community. That includes stationary, as well as other, sources.

So it's a complicated process and one that, from the community's perspective, we have made more complicated. From the community's concern, what we've heard very clearly in the public comment sessions and the listening sessions this summer is that their preference would be to deal with proximity and number of facilities, that that in fact would constitute a prima facie case for a violation of Title Six.

From our perspective, there needs to be something more to that, and the issue is not creating a new standard of harm, but, rather, looking at how you calculate harm differently, the totality of impacts, accumulative impacts, on the community and whether or not

that exceeds a threshold of concern. 1 MS. BOURG: Thank you. 2 MS. MADDEN: I think Mr. Longoria has a 3 question. 4 MR. LONGORIA: Just one question maybe you can 5 answer. Have any Title Six complaints been upheld? 6 (Pause.) MS. RICHARDSON: Have any Title Six complaints 8 been upheld? 9 MS. GOODE: Meaning has there been a finding 10 for the communities? 11 MR. LONGORIA: Correct. 12 MS. GOODE: There has only been one finding in 13 14 eight years, and that was a No Finding. MR. LONGORIA: We had eight in Louisiana. And 15 16 you said one was rejected, and three were pending --MS. GOODE: Right. 17 MR. LONGORIA: -- and one was an active 18 investigation. What about the other three? 19 20 MS. GOODE: They're pending. The pending --21 the rider means that I cannot even go through the accept process. I could reject things, but I can't even -- I 22 23 can't use resources to even analyze them to determine whether or not they are acceptable complaints. 24 25 MR. LONGORIA: And that figure you gave us of

103 total, that's the national figure?

MS. GOODE: That's the national figure in eight years. Approximately 50 percent of those have been rejected. And the rejection has been procedural: No funding link, timing, or other procedural issues.

MR. LONGORIA: Why has there not been one finding, upholding, on behalf of the community?

MS. GOODE: Because there has been no investigations that have been completed other than the one. There are not -- it's not a statement that EPA asserts that there are no legitimate issues or that there aren't legitimate complaints in the inventory or even that the complaint that was rejected was not a legitimate complaint.

It was a legitimate expression of concern: The manner in which we went about determining whether or not there was adversity -- that is: Was there a threshold of concern, first of all, that was exceeded in the impacts in that particular area. And the answer that we came up with was that there was not.

MR. LONGORIA: So you think that within the pending, non-concluded investigations, there are or may be legitimate complaints, but that goes back to Stacy's concern about the time factor or, at least, your concern with the investigations dragging on?

MS. GOODE: No. I think there are two things.

One, I consider the complaints that we get legitimate

complaints; they are not frivolous complaints. They are

legitimate expressions of concern. They're legitimate

issues are there. Whether or not they rise to a Title Six

violation is another matter.

And the short answer to your question -- do I think we have complaints in our inventory that may rise to a level of finding -- is yes. Now, that's an intuitive response; we have not completed other investigations.

MR. LONGORIA: If complaint is upheld, what happens?

MS. GOODE: Voluntary compliance would be required of the State if we get to the point -- the final point of making a finding. At that point, we prescribe what must be done to come into compliance. If a state -- the state has a right to appeal. The appeal process is embodied in the regulations.

There have been complaints that there's no appeal process for complainants, but the regulations do not provide for an appeal process for complainants. And we have not envisioned, nor has DOJ, at this point in time opening up the reg's.

If they appeal, they appeal to the Administrator and they appeal to an Administrative Law

.6

Judge. If they are not satisfied with the response there, they can go to court. We have to present to the Congress any fund termination -- I mean the penultimate nuclear response is fund termination. It is targeted to the program of concern. It is focused. And that is kind of a nuclear option. We must present our intent to do so.

The Department we -- first of all, we forward to the Department of Justice a request that they pursue this fund termination. And it's presented to the Congress.

You know, we would hope that through either informal resolution, where we would have to do a substantial level of investigation to ensure the fact that if the State presents a proposal, it is in fact a proposal that would meet the legitimate concerns expressed in the complaint -- you know, we can talk with the state about doing that.

If, however, we complete our investigation, there's no more talking or options for the state; they are required to do what we dictate as part of the voluntary compliance.

MR. LONGORIA: Last question. Is there any kind of requirement of exhaustion of the Title Six complaint procedure within the EPA before that community group -- if that community group wants to litigate, for

example, in court, do they have to have some kind of 1 determination from your Office prior to going into court 2 in terms of exhausting administrative remedies? 3 MS. GOODE: No. The 180-day limit -- I mean we are in violation of that in almost every -- on every 5 instance -- at least complaints that have not been filed. 6 They have a right --7 MR. LONGORIA: Once that happens, they can go 8 to court? 9 10 MS. GOODE: They have a right to go to court. 11 It is not -- that's certainly not a desirable option. The communities don't have funding to do that. And while it 12 may be their right to do it, it's not an option that many 13 are going to pursue. 14 15 MR. LONGORIA: Right. Thank you. 16 MS. MADDEN: We have a couple of questions down 17 here, and then we're going to stop this portion of it and 18 move on. And I ask you to keep your questions brief and 19 the answers as brief as possible. 20 Let me start with Ms. Robinson. 21 MS. ROBINSON: Do you --22 DR. FORD: I don't need to -- my question was 23 answered. 24 MS. MADDEN: Speak up. 25 DR. FORD: My question was answered.

MS. MADDEN: Okay.

MS. ROBINSON: Okay. I just have two questions.

One is -- Anne, thank you for being here. At some point in time, how will your operations work? Will you have full-fledged investigators that go out in the field and conduct interviews, or will your investigations basically be desk reviews and desk audits?

MS. GOODE: The investigations are not nor will they be desk audits; there's no way that you could meaningfully conduct an appropriate investigation. The investigations that have been done to date, for instance, in Shintech, in 1998 alone, I visited with the community, I believe, two or three times down there, in addition to people on my staff and on the staff of the Office of General Counsel going down to Convent and going and talking with a variety of folks.

In the Select Steel decision, we went to Michigan. We worked with the complainants. We asked them to identify other people that we should interview in the community. We went to the DEQ. We brought a technical person from our enforcement division to go through their files to look for information.

There will always be a combination of literature revenue, information review, modeling, analysis

and field visits. That's the only credible way to

Okay. Very good. My only other question is this -- you indicated in your statement that there are other stakeholders involved in this environmental issue, concerns, that involves other Federal Agencies that are crucial to resolving problems.

We are aware of some of those Federal Agencies that you now currently work with on a coordinated basis. What some of those other crucial Federal Agencies that you identified that need to be a part of the picture?

MS. GOODE: Well, our Title Six process -- I mean we're looking at the DODs, the DOTs, the -- and, you know, the HUDs of the world. We are -- certainly, it's important, the ATSDRs and other federal organizations that are being worked with primarily on the EJ side by our Office of Environmental Justice. And we will derive the benefits of their efforts in terms of better research, better data collection and more experience in helping us

MS. ROBINSON: Okay. Thank you.

If there are no more questions, we thank you, very much, Ms. Goode, for sharing with us.

We have two more presenters before our lunch

hour, and that's: Edward Pritchard, Executive Assistant, and Nancy Lewis, Legal Counsel to the Railroad Administration, U. S. Department of Transportation. We will go until 12 o'clock, and then we will take a lunch break from 12:00 to 1:15.

(Pause.)

MS. MADDEN: Please identify yourself and your occupation for the record.

MR. PRITCHARD: Good morning, Madam Chairman and members of the panel. I am Ed Pritchard; I am the Executive Assistant of the Associate Administrator for Safety at the Federal Railroad Administration, U. S. Department of Transportation in Washington, D.C. And with me today is Nancy Lummen Lewis of FRA's Office of Chief Counsel and Carl Ruiz, our Director of the Office of Civil Rights, also out of Washington, D.C.

As requested, I have provided the Committee with 15 copies of my complete testimony, which will take more time than what I've been allotted. We have shaved off the five minutes that you requested earlier today --

MS. MADDEN: Thank you.

MR. PRITCHARD: -- to keep you on schedule.

And we appreciate the opportunity to address the Committee and, also, the citizens of Louisiana.

The Federal Railroad Administration, which I'll

refer to as FRA from this point on, operates under a delegation from the Secretary of Transportation of statutory authority to implement a comprehensive of railroad safety regulations.

Most of these regulations specifically address one of the three major elements of the railroad system:

The rolling equipment, which includes freight cars, tank cars and locomotives, track, the signal systems over which it operates and the rules for conducting such operations.

Many of these regulations also impose duties to report information to FRA or to apply for FRA approval for actions specific to the area addressed.

The remaining stand of regulations requires reports to FRA on all accidents and illnesses occurring in all phases of the activities of the railroad. And I might want to preface right here that there is a criteria for accident reporting. So it's -- it has to meet that certain criteria.

In addition, FRA has issued a variety of procedural regulations used by the Agency in promulgating rules, deciding waiver applications and enforcing the railroad safety regulations. And they are found in the Code of Federal Regulations, 49 C.F.R, Parts 200 to 300.

In a similar manner, the Federal hazardous materials transportation laws grant the Secretary of

Transportation authority to issue regulations for the safe transportation of hazardous materials in commerce. And those regulations are found, again, in the Code of Federal Regulations, 49 C.F.R, Parts 100 to 199, and they not only cover railroads; they cover all modes of transportation, including pipeline, and they're also headed up by the Research and Special Programs Administration under the Department of Transportation.

And just a little side note here: There are ten operating administrations under the Department of Transportation, and FRA, Federal Railroad, happens to be one of those. Based on this authority granted by Congress, the Department of Transportation has developed comprehensive regulations for the safe transportation of hazardous materials.

The central premise of those regulations is that the offering, acceptance and transportation of a hazardous material in commerce is prohibited unless certain standards are met. Because the standards apply to any person or entity that offers a hazardous material commodity for transportation, including any railroad carrier, whether they are common, contract or private, the reach of the regulations is quite broad.

In many cases, more than one person may be responsible for offering a shipment of hazardous materials

in transportation; under the regulations, each person in the chain may be held jointly and severely accountable for these shipping responsibilities. FRA thus has jurisdictions over railroads, offerers and other entities for the purpose of inspecting and monitoring for compliance with the regulations. This authority is supplemented by the power to subpoena persons and documents and to hold hearings and conduct investigations.

To carry out our regulatory enforcement program, FRA uses a force of about 400 safety professionals that are distributed across eight regional offices in the United States. Many states are also active in FRA's Safety Participation Program, which allows the states the opportunity to employ rail safety inspectors to inspect and enforce the federal regulations in all areas of railroad safety. I will explain the State program in further detail in a few minutes.

Our inspection force monitors railroads and hazardous materials shippers to determine their level of compliance and -- with the relevant rules. And it is important to note here that we do not perform inspections for railroads and hazardous materials shippers.

Our resources would never permit FRA to regularly inspect freight cars, signals and every mile of track on a regular basis; instead, railroads and hazardous

materials shippers have duties under our rules to perform their own safety inspections of track, equipment, signals and hazardous materials shipments and to monitor their employees' compliance with federal safety rules.

We inspect to determine whether the railroads and/or shippers are finding and fixing the most important safety deficiencies, and to take action to encourage improved compliance where necessary. We focus on the root cause of safety problems, not just their immediate symptoms.

Under our Safety Assurance and Compliance

Program, which we refer to SAC-P -- and, as you know, in

the Government, they were very good on acronyms, and this

is another acronym -- we work cooperatively with railroads

and their employees and rail labor to identify root causes

of problems and develop plans for their solutions.

Because careful attention to safety is in the best interest of railroads, shippers and their employees, the railroad industry generally has a very impressive safety record. And these entities are normally very cooperative in solving safety problems. However, at various times and places, compliance slips to an unacceptable level, and FRA uses its enforcement authority vigorously to address the situation.

FRA inspectors and the state-participating

inspectors, our partners, have a variety of enforcement tools at their disposal to bring a company into compliance with federal rail safety laws and regulations. Our inspectors may choose to informally discuss with the company non-complying conditions and training assistance.

Or they may choose to recommend the issuance of a formal warning letter, civil penalty assessments, compliance orders, emergency orders and even invoke criminal sanctions. The discretion to use a particular tool is normally with the inspector as he or she seeks to achieve the highest possible degree of compliance with the federal safety standards.

Besides informal consultations and training assistance, the most widely used tool for promoting compliance is the civil penalty assessment. In Fiscal Year 1999, FRA inspectors and state inspectors submitted roughly 2,000 violation reports, which are recommendations for civil penalties, against railroads and hazardous materials shippers. In that same year, FRA collected over \$6 million in penalties.

Once penalties have been assessed, the railroad or hazardous materials shipper or consignee is given a reasonable amount of time to investigate those charges.

The safety statutes allow FRA to adjust or compromise initial penalty claims based on a wide variety of

mitigating factors.

Large railroads usually make their case before FRA in an informal conference, covering a number of violation reports and assessments that have been issued and investigated since the previous conference. The settlement conferences include technical experts from both FRA and the railroad, as well as lawyers for both parties. These conferences allow the two sides to make their cases for the relative merits of the various claims and discuss any ongoing compliance problems.

Smaller railroads, as well as shippers of hazardous materials, usually prefer to handle negotiations through the mail or over the telephone, often a single case at a time. The vast majority of our cases are settled through such negotiations, focusing on the safety issues involved, rather than through litigation.

Now let me get back to our state participation program, as I mentioned earlier. FRA monitors compliance with railroad and hazardous materials safety regulations through the efforts of approximately 400 safety professionals, including regional administrators, program managers and safety specialists from each of our six disciplines in rail safety, and approximately 300 of those professionals are rail inspectors operating throughout the country.

=

There are currently 12 FRA inspectors assigned to conduct safety rail inspections in Louisiana as part of their duties. They cover all six disciplines of railroad safety, and those six disciplines include: Track -- we have track standards for train operations -- signal and train control; motor power and equipment, which, as I mentioned earlier, deals with the freight equipment; operating practices, which is the drug and alcohol testing; engineer certification and operating rules; grade crossing safety and, of course; hazardous materials.

The ranks of railroad inspectors are increased by the addition of employees of states that have chosen to participate in FRA's State Safety Participation Program.

Under statutory authority, FRA is allowed -- is permitted to allow states to participate in investigative activities under the federal safety laws through an annual certification or agreement and to recommend enforcement action under those laws.

In addition, a state participating in the program has the right to itself seek injunctive relief or impose civil penalties for violations of the rail safety laws if it recommends such action to FRA and FRA fails to act within a specified period of time.

FRA has issued rules, and they're covered in 49 C.F.R, Part 212, that explain the basic principles of the

1....

program, discuss the joint planning of inspection activity and establish qualification requirements for state inspectors in the areas that I mentioned earlier.

Thus, every state has the opportunity to employ rail safety inspectors in all of the areas of railroad safety in which FRA has inspectors and, through its inspectors, to participate directly in inspection activity and enforcement of the federal railroad safety regulations. These state inspectors are funded entirely by their respective state governments and may be given other duties and assignments as their agencies deem.

At present, there are 30 states participating in the program, and they employ a total of 155 inspectors. FRA believes that the state rail safety inspectors are crucial to rail safety and that its relationship with the states that assist in the enforcement of the federal railroad safety laws is very important.

Louisiana was a member of FRA's State Safety
Participation Program until 1990; the State is no longer a
participant in the program, and FRA would welcome and
encourage Louisiana to renew its participation in the
program that we have.

I would like to turn briefly now to the subject of environmental justice. In 1994, President Clinton issued Executive Order 12898, instructing each Federal

Agency to make environmental justice part of its mission and to identify and address any programs, policies or activities of the Agency that may have a disproportionately high and adverse human health or environmental effect on minority and/or low-income populations.

In response to that order, the Department of
Transportation issued its strategic -- "Strategy for
Addressing Environmental Justice Within the Department."

Later, the Department also issued a Department-wide order
describing the process to be used by each operating
administration, including FRA, to incorporate
environmental justice principles into existing programs,
policies and activities.

Accordingly, FRA revised its procedures for considering environmental impacts of any proposed major FRA action. The new procedures, issued in May of 1999, require FRA, before taking any major action, to consider a number of potential environmental effects, including environmental justice, that the action may have and to identify all reasonable alternatives to the proposed action.

The procedures further require the Agency to prepare an environmental assessment for each proposed major action to determine whether or not an environmental

impact statement must be prepared. If it is found that a particular proposed major action justifies the preparation of an environmental impact statement, the statement must address the environmental justice considerations, in response to Executive Order 12898.

enforcement policies have a disproportionately high and adverse human health or environmental effect on minority populations and low-income populations. On the contrary, FRA rules focus on preventing accidents and injuries anywhere and everywhere trains operate in the United States. They are applied equally throughout the United States without regard to race, color or economic circumstances of the population where railroading is conducted.

Our program focuses on reducing overall safety risks, and our goal is zero tolerance. And it is not limited by the race or income level of those who live in close proximity to rail lines.

In fact, to the extent that railroad routes may run through low-income neighborhoods more often than through other neighborhoods, FRA's safety program may have a disproportionately positive, not adverse, effect on those neighborhoods most impacted by railroad transportation.

I hope this brief explanation of FRA's safety program assists the Louisiana Advisory Committee and the staff of the Central Region of the U. S. Commission on Civil Rights in its inquiry.

protection of all employees and citizens from the potential dangers inherent in the movement of dangerous chemicals. We look forward to working with you to ensure the safest national transportation system possible.

And before we end, Ms. Madam Chairman, what I'd like to do is to make you aware that we do have a web site; it's www.dot.gov. And in that, all of the ten operating administrations are easily accessible.

We also have a 1-800 number for anyone to call, and I'll give you those -- there's two numbers. 1-800 -- in headquarters -- this is the Washington number -- it's 1-800-RAIL-990. Again, we're being creative, trying to use RAIL in our 800 number.

Also, Louisiana falls under Region Five, which is Hearst, Texas, which covers New Mexico, Oklahoma, Texas and Arkansas. And that number is 1-800-RAIL-995.

Thank you for giving you the opportunity to address this group. And we're willing to answer any questions.

MS. MADDEN: Thank you, Mr. Pritchard. Did Ms.

Lewis have a statement? 1 MS. LEWIS: No, ma'am. 2 MS. MADDEN: All right. 3 It's open to questions, and we have about ten 4 minutes. Anyone on this side? 5 (Pause.) 6 MS. MADDEN: Ms. Richardson? 7 MS. RICHARDSON: Thank you, Madam Chairman. 8 And mine certainly are not time-consuming. 9 Sir, we did hear you speak to the fact -- in 10 fact, your printed text tells some things that you do that 11 are regulatory where hazardous materials are stored. 12 13 have had -- heard testimony for the past day and -- I don't today, but for several sessions yesterday that 14 hazardous materials are not stored because it is not cost-15 effective. Yet we have had citizens to say that the cars 16 set there for days and are marked with "Hazardous 17 Material." 18 The fact that you have something here addresses 19 storage says that there must be an element of truth in the 20 claims of the citizens. To what extent are hazardous 21 materials stored? And please explain further your 22 23 responsibility as you articulated it in this, which I know 24 is a highlight summary kind of statement.

MR. PRITCHARD: Okay. Yes, ma'am. Hazardous

_

materials are stored. And how they're stored is -- our regulations allow a certain amount of storage to be done.

Number One, we have what we call the 48 Hour Rule. And I'll make it very simple. From getting from Point A to Point B, from the point where a shipper makes a shipment to where it's going to be consigned, the railroad has 48 hours in which to make that movement, excluding holidays; Saturdays and Sundays to not count.

And if a railroad only runs one train on that line and they miss that connection, it has to wait for the next train for that week. It could stay longer than 48 hours. So it's a rule of thumb, for 48 hours.

If the shipment gets to the consignees plant and the consignee cannot accept it because they have a backlog of cars inside the plant, the railroad is permitted to -- under our regulations to leave it on a track in a yard under storage. And it comes under our regulations. It's -- the track, the cars and the hazardous materials is all ours.

MS. RICHARDSON: And what exactly are your responsibilities for these stored materials in order to protect the community? I ask that because, contrary to what you seem to imply, the tracks are usually -- you've heard the reference to "the other side of the tracks," but, usually, both sides of the track are in the African-

-4

American or whatever the large minority community is.

There has to be some risk, and my question is: What do you assess as the degree of risk, and what are you doing to protect the people in those areas?

MR. PRITCHARD: Okay. All of our track standards --

MS. MADDEN: Will you use the mic, please?

MR. PRITCHARD: I'm sorry. I'm just about to eat this thing.

Our track standards that are covered in Part
13 -- 113 --

MS. LEWIS: 213.

MR. PRITCHARD: -- 213 of 49 C.F.R are safe for any movement of hazardous materials, whether it's at five miles an hour or at 150 miles an hour, Number One. So we regulate the tracks in the yards. So we're watching and, you know, we're making sure that the railroad are complying with the track standards.

On the hazardous materials side of it, we have made a number of enhanced -- enhancement to tank car construction. Back in the late '60s and early '70s, there were a rash of derailments all across the United States involving towns burning down as a result of derailments.

We required head shields, thermal protection, shelf couplers, thicker tank car shells. And as a result

of that ongoing program -- we have not stopped yet -- we are still looking at enhancing tank car safety. There are approximately 230,000 tank cars in North America. And when I say, "North America," that includes Canada and Mexico.

So we know where all those tank cars are at or -- not where they're at, but I mean we know when they were built. We have -- we're part of the Tank Car Committee of the Association of American Railroads. We have regulations governing the construction, repairs or alterations to those tank cars.

What our inspectors are looking for when they're in those yards are: Compliance that the cars are within the test dates; the safety valve tank test dates have been made; they're battened up and secured; there's no leakage of the material; they're properly placarded; they have documentation for emergency responders in the event that there is an incident and; that the railroad train crews are also trained to recognize that there are hazardous materials in those cars, and they have the responsibility of notifying their management

So it's a two-edged sword. It's -- our regulations apply for the shippers, the consignees and the railroad employees to make sure that when a shipment is made, whether it's in a tank car, a cylinder, a box or a

MS. RICHARDSON: Oh. When we opted out, we --1 MS. ROBINSON: We only had one? 2 MR. PRITCHARD: You only had one at the time, 3 4 yes. MS. ROBINSON: Oh. 5 MR. PRITCHARD: I'm sorry. I didn't make that 6 7 clear. MS. MADDEN: Ms. Bourg? 8 MS. BOURG: I wanted to ask you a question 9 about Union Pacific incidents and not so much about the 10 incidents as your Agency's response to those. Have there 11 been any formal warning letters ever in the last five 12 years issued to Union Pacific? And what about compliance 13 orders or emergency orders or violation reports on Union 14 Pacific in the last five years? 15 MR. PRITCHARD: There's violation reports 16 17 against Union Pacific, yes. There have been no emergency orders that I'm aware of that have been issued against 18 Union Pacific Railroad. In the history of FRA, we've only 19 20 issued --21 MS. LEWIS: Twenty-two. 22 MR. PRITCHARD: -- 22 emergency orders since It's -- that's -- one of the tools that we use for 23 1970. 24 very serious non-complying issues is emergency orders.

MS. BOURG: Is it possible this Committee could

get the violation reports for the State of Louisiana for 1 the last five years? Is that -- it possible to get that? 2 MS. LEWIS: I don't know about the reports 3 themselves. 4 MR. PRITCHARD: We -- if we have it, you will 5 get it, yes. 6 MS. BOURG: Thank you. 7 MR. PRITCHARD: I don't know how far back we go 8 with records. 9 MS. LEWIS: We -- I'm sorry. 10 MR. PRITCHARD: Go ahead. 11 MS. LEWIS: We may not have the violation 12 reports themselves going back five years; I believe they 13 get purged after a year or two. Once they're settled and 14 the fines are collected, the files are disposed of. We're 15 running out of room. 16 What we do have going back even more than five 17 years are how many violation reports and civil penalties 18 were assessed against the Union Pacific, you know, going 19 back all those years. So we can get you those numbers. 20 MS. BOURG: Yes, and that would be helpful. 21 Any on rails within the State of Louisiana. 22 MS. LEWIS: In Louisiana? Okay. 23 24 MR. PRITCHARD: Something else I'd like to add

to that: You can -- we can also provide to you the

hazardous materials releases in the State of Louisiana. 1 MS. BOURG: That would be excellent. 2 3 you. MR. PRITCHARD: And that goes back to 1983. 4 And it's not only for rail, but you could -- again, you 5 can get that through the web site. But we'll do it for 6 the rail portion. How far do you want, five years? 7 MS. BOURG: Five years. 8 9 MR. PRITCHARD: Okay. MS. BOURG: You know, you can imagine how 10 community residents feel where they have their day-care 11 centers and their houses and -- gee, you know, if these 12 gang folks -- you know, what they call taggers, I guess, 13 can get to these rail cars, it kind of makes you 14 15 understand why they might be kind of nervous about having real toxic storage tanks on wheels parked in their 16 communities and next to their day-care centers. 17 18 And I mean it's -- it just seems like it's just 19 ripe for not only accidents and releases but sabotage and 20 arson. And how are you addressing that? I mean that must 21 surely have an enormous impact on just the mental 22 composure or peacefulness for communities in and along the rail lines. 23 24

MR. PRITCHARD: We -- as you know, we don't have any regulations on that, the proximity to schools or

hospitals, on such storage. FRA has, though, worked with the railroads in the communities in assisting in moving or trying to get the railroads to move those storage areas away from heavily populated areas where possible.

And, fortunately, to date, have had no -- since my career with FRA, since 1970, we have not had any vandalism at all at any of our hazardous materials rails or tank car shipments.

MS. MADDEN: Thank you, very much.

Other questions?

(Pause.)

MS. ROBINSON: I have a question.

MS. MADDEN: All right. Ms. Robinson?

MS. ROBINSON: Yes. I have two brief questions.

MS. MADDEN: Okay. And then we're going to break.

MS. ROBINSON: Okay.

This is a very unfamiliar territory for the Committee. As you know, when I talked to you, I needed, you know, to discuss with you the fact that our information on this was very limited -- our backgrounds -- in working with the Department of Transportation.

However, it's still not real clear to us what State and local agencies govern in any way the rails. Are

there any agencies, local or State, that are involved in safety in the State of Louisiana? And if so, who are they, and who do your inspectors work with in any way from the State or local level?

MR. PRITCHARD: The closest would be OSHA, and that only deals with railroad employee safety. So OSHA would be the only one that has jurisdiction on certain issues of rail involvement that we do not touch.

MS. ROBINSON: Could you clarify further what you believe -- because I think indicated that you would recommend that Louisiana participate in your safety program. What are the benefits of that, based on your knowledge and experience, for states that in fact participate in this program?

MR. PRITCHARD: California is one of the biggest in numbers as far as inspectors. They have like 12 inspectors -- State inspectors in the State of California. But I have to tell you that in the State and Federal participation program that I'm talking about here, there is no funding. We do not fund the states for those inspectors. So you need to know that.

MS. ROBINSON: Okay.

MR. PRITCHARD: What the benefits are?

Obviously, the State of California finds a benefit to hire

12 inspectors to keep on top of what's happening in their

state and work with Federal inspectors.
Mg. ROBINSON: Thank you.
MS. MADDEN: Thank you, very much, Ms. Lewis
and Mr. Pritchard.
We will adjourn now for lunch, and we will be
back here at 1:15. Rupert Richardson will be presiding
over the afternoon session.
(Whereupon, at 12:05 p.m., this Committee
Meeting was recessed, to reconvene at 1:15 p.m. this same
day, Wednesday, September 13, 2000.)

1	AFTERNOON SESSION
2	(Time Noted: 1:40 p.m.)
3	MS. MADDEN: Some of the State Advisory
4	Committee are still waiting to be served at a restaurant;
5	we just came from there, and we got served first. And so
6	I think our next speaker is in that situation. Ms.
7	Ortiz she has not been served.
8	So we will move on to the next speaker, who is
9	Wilma Suber.
10	Is Ms. Suber here?
11	(Pause.)
12	MS. MADDEN: Yes? Would you please come
13	forward?
14	(Pause.)
15	MS. MADDEN: Thank you. And we apologize for
16	getting started a little bit late.
17	MS. SUBRA: Okay. I have some
18	MS. MADDEN: Hand-out material?
19	MS. SUBRA: Yes.
20	MS. MADDEN: All right. Thank you, very much.
21	MS. SUBRA: And then these are the hand-outs.
22	MS. MADDEN: Okay.
23	(Pause.)
24	MS. SUBRA: Okay. The overheads
25	MS. MADDEN: You'll need to speak directly into

this microphone. 1 This one? MS. SUBRA: 2 MS. MADDEN: That one. 3 MS. SUBRA: Okay. 4 MS. MADDEN: You can take it off, and it might 5 be a little easier to handle. 6 MS. SUBRA: The overheads that I was going to 7 present are on the hand-outs, so we can just do it from 8 the hand-outs. 9 (Pause.) 10 MS. SUBRA: Okay. We're going to do the 11 Calcasieu one first because I was --12 THE REPORTER: I need you to state your name. 13 MS. SUBRA: Okay. My name is Wilma Subra. 14 15 have a chemistry lab and environmental consulting firm in New Iberia, Louisiana; I provide technical assistance to 16 citizens and victims of environmental issues. 17 I also provide technical assistance to 18 19

20

21

22

23

24

25.

Louisiana Environmental Action Network, which is an umbrella organization of grass roots groups throughout the State of Louisiana, and I serve on national committees representing Louisiana Environmental Action Network. serve as Co-chair of the EPA Standing Committee on Industrial Sectors. I do ones dealing with toxic release inventory, with petroleum refineries.

I'm on the NASEP [phonetic] Committee which is the one that directly advises Carol Browner. And I'm also on her National Advisory Committee, which deals with trade and the environment as a NAFTA side-agreement, directly to Ms. Browner.

The first one is the one on Calcasieu Parish.

I was also asked to fill in for Peggy Grandpre on the

Agriculture Street Landfill, and that is the second

package that was handed out. Since we don't have the

overhead, we'll just do it from the hand-outs.

The first one is a map of Calcasieu Parish, to give you some perspective of how many industrial facilities are here in the parish. It's one of the heavy industrialized parishes. And it's unlike, the ones on the Mississippi, where -- it's not located along the Mississippi, but it's located all around the Calcasieu Estuary.

On the map that you have in front of you, there are 42 industrial facilities listed by name and location.

As you can see, they're located around the estuary and along the ship channel.

The next page deals with Toxic Release

Inventory. Toxic Release Inventory is a program initiated

by EPA in response to the Bopahl incident in India, where

thousands of people were killed and hundreds of thousands

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

of people were injured.

When EPA asked, "Could it happen here," the first answer was, "No," and the second answer was, "Yes." And, in fact, some of the industrial facilities in Calcasieu Parish deal with the same chemicals that caused the incident in India.

These are the facilities that report. have to be certain manufacturing facilities. So where there were 42 facilities on the previous map, only 29 of these are required to report under Toxic Release Inventory. And I listed them in descending order. So the one with the most emissions into the air is the Citgo Refinery, and then we go down from there to Firestone and PPG.

The circled numbers are the ones that increased air emissions from 1997 to 1998. So where industry may come before you and say, "We're decreasing our emissions," all those that are circled actually increased from the last year to the current year that the data is available. In addition, there are new requirements. So the starred ones are facilities that just reported for the first time in 1998.

I want to call your attention to the, "Fugitive Versus Stack," column. For many, many years, we've been working on the fugitive emissions, but we've been focused

Kining

on what's coming out of the stack in getting the permits to be tightened. So all of a sudden, we see that we have reduced the stack emissions, but some facilities, including Citgo, have many, many more times fugitive emissions than stack emissions.

These are all toxic chemicals. They're known to cause cancer, reproductive impacts and neurological impacts. So these are the bad chemicals. And here, in fact, it's 1.79 million pounds that's released from fugitives. Fugitives are released into the air from valves, flanges, leaks -- close to the ground, close to the community, much more impact than from stack, which is released high up and does have some mix in it.

On the next page, this is going to be sort of the primer. These are the chemicals that we will focus on as we go through this.

The first one is benzene; it's a known human cancer-causing agent. Chloroform: "Suspected, human." EDC is one of the big things from the plastics manufactures, and it's a, "Suspected, Human," and it's a genetic toxin.

Vinyl Chloride is a human cancer-causing agent, causes developmental and reproductive toxins. And you'll see that the list goes on and on. And here are the standards which Louisiana has established for these

chemicals.

The next page is the ambient air-monitoring station. In Calcasieu Parish, we have one. The others are listed throughout the State. Louisiana does not have nearly enough monitoring stations, and that will be one of my recommendations.

But the one we do have in Calcasieu is called Westlake; it's to the far right-hand column of the bar graph. And I wanted to call your attention to the four chemicals that are listed there. The first one is 1, 2 dichloroethane; it's also known as EDC. And in fact, you will see that it has the highest concentration of any toxin in the air in any of the stations in Louisiana.

So when -- you did Cancer Alley and talked to those people. Look how much higher the annual average is here.

The next one is vinyl chloride, a known cancercausing agent. It is half of the standard, whereas the
EDC exceeded the standard. Chloroform is the highest in
the State, and 1, 1, 1 is the highest in the State.

Everyone agrees -- including the EPA and the

Health Department -- that this monitoring station is in

the wrong location, that it's too far and it's not in the

right wind direction. But look at the data. It is the

worst station in the State of Louisiana. It exceeds

ambient air criteria.

So I hope that when you went on a tour, you breathed some of our toxic air over here, because the citizens, sitting behind me and that I've worked with, for many decades have had to breathe it all the time.

The next one shows you the results of the ambient air-monitoring stations by year. The, "1, 2, Dichloro," is the EDC. And as you will see, in 1996 and 1998, for the entire years, the average value exceeded the criteria. And it's the circled values.

And then, in 1999, it was the highest value of any recorded: 17 parts per billion. These citizens,

Debra and her community behind me, are the ones that have to breathe this -- these chemicals in the air.

And then we have benzene, a known cancercausing agent. And you see how many -- how much of that
chemical is released.

The next one is the page that looks like this with all the numbers. This is the last data. This is 1999 for the Westlake Station. I want to call your attention to the large number of chemicals found in the air. This is not the air on the industrial facilities; this is the air in the communities.

So we have a cumulative impact that is not being looked at by people. And we would like you to also

consider doing a recommendation that someone has to evaluate the impacts of cumulative effects of all these chemicals on the communities.

In addition to the permitted releases, we have frequent accidental releases and upset conditions that heavily impact the citizens living and working in this area, as well as the adjacent workers.

Here I did the data from March through August of 1999. And in this case, there were 41 -- 51 total chemical accident releases: 51 chemicals released, a total of 172 actual reported incidents. There are a lot more than that, but the ones that exceed the reportable limit are the only ones that have to be reported.

So out of 172 events, 51 chemicals were released. And you see which chemicals were the most frequent: The ethylene, the sulphur-dioxide -- that rotten egg smell that you'll hear a little bit more about -- vinyl chloride and chlorine. These are the ones that were released over and over again with the large quantity of pounds.

Now, which facilities were responsible? The next one shows you that PPG was responsible for 24 of these accidental release reportings.

I'd like to tell you that -- you heard Jerry
Clifford yesterday. I've prepared many reports for Jerry

Clifford, trying to educate him on what's going on around the State and in the nation on accidental releases. And he finally got tired of hearing me and seeing me beat up against him and sticking him in my car and driving him around these facilities. He tasked his staff to see if what I was saying was right.

So EPA Region VI, which is Texas and all the States that surround it, looked at the National Response database, and they found that 24 million pounds were released during accidental releases, not permanent -- just accidents -- over a five-year period. 24 million pounds, and, of those, more than half were released by only 11 facilities in all of Region VI. Five of the facilities were in Louisiana, and six were in Texas.

PPG is one of the magic 11. They called in these facilities and said, We're either going to enforcement or you can do something voluntarily about cutting back on the number of accidental releases. I'd like one of you-all's recommendations to be to come up with mechanisms for cutting back on the accidental releases, because these people sitting in the audience have to live with it on a daily basis.

The second one was Condea Vista, which impacts the Mossville community. It had 22 over this time period. Citgo had 21. Conoco -- again, the Mossville community --

_

18; Westlake Polymer, 17; Lyondell, 14; Westlake Petrochem -- it just goes on and on and on.

The verification of what's going on in the community and the air in the community was acknowledge by .

EPA when they sent their Tag-A-Truck Trace Atmospheric

Analyzer. It's a mass-spec. in a Winnebago. It has got a little kazoo out the top and all these little guys inside, and they approach running the mass-spec. And it rolls into town as one in the nation, and industry knows when it's coming.

It was here for ten days. Industry knew it was here. Very, very few accidental releases. No accidental releases of the chemicals that that mass-spec. Tag-A-Truck was looking for.

This first one is North Lake Charles; it's just about two blocks from here. I think you heard from Lois Malvo when she talked about the trains parked and about the spill in her community that occurred. And we'll talk a little bit more about that.

But this is Lois Malvo's. And North Lake

Charles is also known as Fisherville. And when the Tag-A
Truck went by, it constantly picked up toluene and xylene
in this community. And this was many, many trips around
the community. And the line up at the top that's dark?

That's also the rail line where the spill occurred.

when Lois attended a work shop that I did, she said, Well, those aren't the chemicals from the spill. So suddenly, we had to figure out what facility that was.

And we went and looked up the data, and we found one of the facilities in her neighborhood that was located on Appaloosa Street -- and you see Appaloosa's up here -- and it emitted into the air toluene and xylene.

So that facility -- if you look at the arrows for the wind direction, it made the connection. The releases from that facility are impacting the air in the community where Lois and her family have to live and breathe.

The next one is the interstate, and you'll recognize that; it's crossing the lake. Lake Charles is to the right, Westlake is sort of in the middle, and Mossville is up in the left. And as you see, as that Tag-A-Truck went by here, many, many times, vinyl chlorides were hits every time. These concentrations of vinyl chloride are over the ambient air criteria, many, many times over the ambient air criteria.

This is along Interstate 10, along Medina Road. There are people in residential areas all along in here. The new river boats are over on the Westlake side. All of these people are being exposed to vinyl chloride off the industrial facility's site.

And the next one is south of Sulphur; it's down where Citgo and Westlake and Louisiana Pigment and those facilities are located. And here you see the benzene levels. You see benzene and styrene as you come down 108, and then, as you turn the corner by Citgo, you start picking up toluene. And then, as you move to the Westlake facilities, you start picking up the benzene again.

EPA, in addition, did some closed path monitoring around the Citgo refinery, and they found that sulphur dioxide was twice the standard. So one of the things that we need is a sulphur dioxide monitor because this area is in non-compliance for sulphur dioxide, but we need enough data to prove it.

And then one of the locations for a proposed new monitor is in Cathy Landry's front yard, because of all of the benzene that's coming off of the facility, and it was proven by the Tag-A-Truck. It has been proven by the open path monitoring, and it has also been proven by the citizen sampling.

Citizen sampling starts on the next page, the one that has two circles on it. This is Cathy Landry's front yard. As you will see, there are a large number of chemicals that are emitted into the air.

This is sampling performed by the citizens; they paid to have it analyzed. And benzene exceeded the

. 11

14、

standards. The standard is 3.76. She had a benzene level one time of 22, and 870. So she is exposed to excessilevels of benzene, living in her house and walking out in her yard.

The next citizen sampling is the community of Mossville. And here you start picking up exceedences of vinyl chloride from the poly-vinyl chloride facilities, Condea Vista and PPG. You pick up the EDC. And out in the right-hand column, it tells you, "V," is for Vista, "P," is for PPG, and, "C," is for Conoco.

So it tells you which facilities put out these chemicals. And again, besides the ones exceeding the criteria, which are the circled ones, there are also all these others. So you have the cumulative health impacts because these are all toxic chemicals.

In your Commission report last time, you talked about the need for buffer zones. Since that time, the Federal legislation has required that you do worst-case scenarios. Each industrial facility has to evaluate and determine, What is their worst-case and in how big a zone?

Twenty-five miles is the biggest zone. As we sit here in Lake Charles, the vulnerable zones for the industrial facilities in Lake Charles extend to the Texas border and extend to Roanoke. And if you go back towards Baton Rouge, you will find out where Roanoke is; a lot of

2

3

4

5

6

7

8

9

10

11

12 13

14

15

16

17

18

19

20

21

22

23

24

25

rural area but a lot of heavily populated area.

So the industry said, Wait, wait, wait; We have all these bells and whistles and controls and safeguards, so we don't think we'll ever have a 25-miler. So they did. Planning Case. And Planning Case dealt with what kinds of bells and whistles they had and whether or not they could control it.

This is the best they can control it. One of the facilities has a vulnerable zone out to four miles. All the others -- the people of Mossville live in three, four or five vulnerable zones. So these people are being exposed to permanent releases into the air, accidental releases, upset conditions and then potential worst-case scenario or planning case scenario accidents. And they do happen because -- I'll show you the data.

So here you see the big circle is a vulnerable zone, as well. It extends almost to this hotel. Now, how much warning do you think as we sit here in this room if they had the planning case -- they're not going to notify They're going to notify the people closer in, and, hopefully, that works. We're going to die sitting here because it's phosgene gas, or nerve gas, that causes the big vulnerable zone.

The next planning case is the industrial area south of Sulphur, and you see many, many overlapping

vulnerable zones. How do you prepare? How do you evacuate? How do you evacuate schools? How do you evacuate hospitals? How do you do nursing homes? How do you do the elderly that don't have transportation?

So the next page is an actual tabulation of their worst case by facility by chemical. And here you see that Lyondell had the 4.3. It was phosgene gas. And I looked to see whether, If we made a buffer zone of a half-mile, would that be enough? No. If we made it a mile, it would be enough except for facilities like Lyondell. So there is a need to separate the industrial facilities from the community.

You could argue that the industrial facilities communicate very well back and forth and they can be prepared when an incident happens, but there should not be a community member living within one mile of these industrial facilities.

The next one shows you -- they had to report as part of this their five-year accident history. And I just put this one in here to show you Condea Vista asked the Mossville community to shelter in place for 20 minutes in January.

Can you imagine if over the last couple of weeks anybody had to shelter in place? I mean shelter in place means cut off the ventilation system, cut off the

air-conditioning and shut all your windows. You would have died in place, much less dealing with the chemicals.

In March of '95, Condea also asked the community to shelter in place, for 50 minutes this time.

And then the one on the next page shows where the workers at the adjacent facilities were impacted. Workers at nearby facilities were instructed to shelter in place as precautions. One of those workers was sent to a hospital.

Down at the bottom, four workers at the Lyondell facility had to get first-aid for chlorine inhalation. If they can't even deal with the workers at the adjacent facility, how are they going to deal with the community?

The next one is the community of Fisherville, which is just a couple of blocks from here; this is where Lois Malvo lives. And this is the train derailment, the perchloro-ethylene, the dry-cleaning fluid, that was spilled in the early '80s. It's a sinker. That means that when it's spilled and goes into the ground, it sinks down.

Historically, DEQ and the company were only looking very, very shallow and -- until two years ago, when we started putting pressure on them. They looked really deep; they looked down 120 feet. And do you know they found it? They found it under the interstate, away

from the railroad track. And now they're trying to figure out, Well, what are we going to do?

And I know you had a presentation by the rail company, but these -- the three levels -- you have three separate ones in yours, and I had made the overhead as one. It's contaminated all along the rail. It's contaminated under these people's houses.

These people have water wells, some of which are not used any more, but the wells are still there: It migrates down the outside of the well into the deeper aquifers. It's a sinker, and little is being done to remedy this situation.

Now we'll do the Ag. Street, which is the other hand-out. Okay?

Ag. Street is in New Orleans East. The landfill located on Ag. Street was operated by the City of New Orleans from the very early 1900s, about 1906, until 1960. And then the City of New Orleans, with HUD funding -- and I was hoping the person with HUD would speak before me -- developed housing on top of the landfill. And in your hand-out, it will tell you how many.

There are 67 individual-owned homes. And if I had the overhead, it would show you the green area. There are also a large number of rent-to-own homes, and then

there's an old folks' home where they have individual apartments. They have a Moton Elementary School, they have a Press Park Community Center, they have a McGruder facility, and then they have a large amount -- the cross-hatching is the undeveloped area.

So half of the facility was developed with HUD funding. The other half was developed -- was undeveloped.

What happened was it became a Super Fund site. The City of New Orleans is the responsible party, meaning it put the waste there, it operated the dump and it built the housing. EPA tried to get the City of New Orleans to come in and do part of the remedy or fund the remedy; the City refused.

On a fall-back position, if the city can't do it, the State is supposed to do it. The State of Louisiana refused. So EPA had to do it as an emergency action, which meant it was a Band-aid effect.

The same chemicals and the same concentrations are north of Lake Ponchetrain at Super Fund sites there. At those facilities the waste was actually excavated, treated and then put back in a cell with a RCRA cap, just like a landfill.

Here they removed two feet of soil and replaced it with good soil, but they only did it in the exposed areas. So in fact, only 10 percent of the facility was

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

excavated and removed; when they put the clean soil back in, all the contaminated soil on the sides just migrated back into the clean soil.

It's a clear case of an environmental injustice. We've gone everywhere with that community. I was the technical advisor through the Super Fund process for that community. We've gone to HUD, we've gone to the Federal rep's, we've gone to the mayor, we've gone to EPA and everything, and the only remedy we could get was this Band-aid.

The Band-aid remedy, two feet of removal over 10 percent of the site, cost \$20 million. It would have only cost 12 million to relocate all of the people that you see living on this map, and, yet EPA absolutely refused.

So these people are still living on top of waste that extends down five to 17 feet below their houses. All they did was remove two feet and put back two feet of clean in just 10 percent of the site. They still own homes on top of a landfill.

So when we talk about buffers, for these people behind me, a buffer is really important. But the Ag. Street people are living on top of it. They would love to be living adjacent to it. They would love not to even have a buffer. They don't want to live on this landfill;

they want to be relocated. And it's only fair. The whole community is African-American, and so they always get the short end of the deal.

(Applause.)

MS. SUBRA: I have a few recommendations based on your previous report. One of the recommendations, listed as Number One, in your 1993 report said, "The State and local governments should adopt regulations specifying set-back distances, or buffer zones." Landfills are required to have a 200-foot buffer zone. It was in place in '93, when you made that recommendation. DEQ frequently dismisses that buffer zone.

Hazardous waste requirements are a 200 feet buffer for hazardous materials and 50 feet for ignitable and reactive waste. It was also in place in '93. DEQ also frequently dismisses that.

There are no other buffer zone requirements. So none of them have been promulgated as you requested that DEQ do.

In Louisiana, we just went through the GTX

Marine Shale debate. DEQ actually permitted that

facility, with hazardous waste treatment and storage

units, 20 feet from the property line. So there's a need

to continue and require that buffer zones be required.

There are two parishes that have zoning:

_

Calcasieu and St. Charles. And in fact, St. Charles has a buffer zone requirement, but only for new industrial facilities.

And then your other recommendation was that,
"You develop comprehensive State regulations to balance
environmental costs and benefits, along with the social,
economic and aesthetic values." DEQ has not done that.
The citizens of Mossville have been exposed to the
expansion of Conoco to take in Venezuela sour crude.

They are now going to be exposed to the TR-2 Rule, which will give us all cleaner burning gasoline and make the air quality in the whole United States better.

And in order to do that, the community of Mossville and the other communities around refineries all over the United States will have to have excess sulphur emissions, because they're having to take it out of the gas before they sell it, and these people are going to be the ones that suffer.

The Vietnamese community in Amelia, near the GTX facility, will have to suffer once that facility operates. They suffered during the whole Marine Shale facility. And nobody cares about the Vietnamese community; they are totally expendable.

In Monroe, a merchant power plant is being proposed; it's called the Perryville Power Plant. An

African-American community and church are located near it.

No one is dealing with environmental justice issues.

In Ruston, an African-American community is near another merchant power plant. These plants will generate electricity to be sold out of Louisiana. They will use our vast resources of natural gas and ground water, pollute our air and sell the electricity out of the state.

And then we have the expansion of industrial facilities and siting of new facilities in the Alston community -- 'they were one of your case studies last time -- constantly, new facilities moving into Alston, and expansion. It's worse in Louisiana, not better. And it's getting worse every single day.

And then the siting of Shintech? It didn't go in Convent; it went in Dow. Dow had to move the Marsonville community, and Dow is expanding and allowing the Shintech facility to come in.

In addition, you need to make a recommendation dealing with fugitive emissions. I've just touched the ice berg of it, but it's a huge, huge problem. If there were 24 million pounds from the accidental releases, there were a lot more from the fugitive releases. You need to require additional ambient air-monitoring stations.

We're one of the most toxic states in the

United States. And on that one bar graph, you saw all the toxic monitoring stations we have in Louisiana. Texas has many, many more.

We need enforcement. You heard from Jerry Clifford yesterday. DEQ is not doing the enforcement. Nobody really loves EPA, but EPA is all we have. We turn to EPA when the state's not doing the enforcement. All of the industrial facilities should be in compliance with their permits. And in the State of Texas, those facilities need to be out of the grandfather clauses and into full permitting.

Buffer zones should be equal to the worst-case scenario. Nothing less is acceptable.

Dioxin investigation -- I know you heard about that constantly yesterday. We need to determine where it's coming from and what we can do about it. And sampling the air isn't going to get it, because the concentrations in the air are too small; it's a bio-accumulation effect. And we need to investigate it for the whole of Calcasieu, not just Mossville -- all of Calcasieu.

(Applause.)

MS. SUBRA: Mr. Areno is in the audience. In his area it has got higher levels in the people's blood than in Mossville. So let's not just single out Mossville

with dioxin; it's all of Calcasieu Parish.

All of the facilities in the State of
Louisiana, since that is what you deal with, should be in
compliance not only with their permits but with air
quality standards. DEQ constantly gives variances for
meeting the air quality standard. Nothing less is
acceptable. They must meet air quality standards. If
they did, these citizens wouldn't be exposed to these
excess concentrations off the fence line.

You need to work to clean up ground water. At Lois' facility from the train derailment, in Mossville and at every industrial facility that has operated since the war, ground water is a real problem.

You need to reduce the accidental releases by recommendations from your Committee. You need to get these train switching yards out of African-American communities. There are seven, eight and nine train rails in these African-American communities.

(Applause.)

MS. SUBRA: And you also have to provide them with evacuation routes. The one they put in for Mossville is a joke. You will die while traveling down the many miles of that evacuation route if you have a car. And then there is a need --

(Applause.)

MS. SUBRA: -- a desperate need, for legal and technical representation. I know you heard yesterday about Tulane no longer being able to represent the community. The majority of what we do as technical representatives we do for free. We do it seven days a week, 20 hours a day.

No one is giving the citizens access to adequate technical information to deal with the thousands of permit applications and non-compliance and compliance orders and assistance to monitoring that goes on. And there's a real need for that.

And I would like to thank you for inviting me to participate in this process. And I'm sorry we didn't have the overhead so the community could hear. And I'll be glad to answer any questions.

MS. MADDEN: Thank you, Ms. Subra. I think you made your points very clearly.

Are there questions from the panel?

MS. BOURG: I have a couple.

MS. MADDEN: Ms. Bourg has questions, and we'll come back over here.

MS. BOURG: Thank you, Madam Chairman.

Ms. Subra, thank you for coming and giving us your quite extraordinary testimony indeed. I almost don't know where to begin. Let me just weigh in here. We heard

testimony from PPG earlier -- I guess it was yesterday, I believe -- that on February 28, 1999, there was an incident where EDC, I believe you call it, was released, almost a thousand pounds. And ethylene, almost 1500 pounds, was released.

And what was the disturbing part of the response by the company was that it took 45 minutes before there was a significant response. There seemed to have been a 20-minute with the local police, and he added it up, and he said it was 45 minutes.

What would have happened to people in a 45minute period if they had been right there? I mean I
don't know what time of the day this took place, but what
do these chemicals do to you?

MS. SUBRA: First of all, in the packet that was not the overheads is the detailed information on that incident. And PPG had a release that lasted two minutes, and the quantity of chemicals they released were half of what they reported to the federal government for fugitives in an entire year. So in two minutes, they released half of what they would have released for the entire year.

The citizens were equipped to do air sampling at that time and, in fact, did an air sample at that time. And then we went and got the accidental release reports and looked at what was going on and were able to put it

together. So the citizens were in medical distress, which triggered them to take the air sample. So they were in medical distress.

The citizens were verified in that they thought it was bad enough, because these samples are expensive. So they have to know that it's really bad when they take a sample. And then, in fact, no one ever notified the citizens. It took getting the results back and me going and getting the data and compiling it into a work shop format before the citizens of Mossville ever knew that anything had happened.

So they didn't communicate. These people could have been -- they were already in respiratory distress.

They could have actually gone to the hospital for emergency treatment or died. And they were not even notified.

So this is what I'm saying when I do the worst-case on vulnerable. The notification process is not working. So if you can't get the citizens notified and attended to, you've got to get them out of that zone.

MS. BOURG: We also heard testimony about contamination migrating vertically, that the clay line of those leaked and that the Chico Aquifer was compromised. Could you speak about that situation, please?

MS. SUBRA: Okay. I think, in your packet, I

had a page on the estuary. And in fact, if you look at your first map, you can see that the estuary extends from the salt water barrier much north of here all the way down through CAmeron and, for those of you who go to Holly Beach, to that area.

The entire estuary is contaminated with hexachlorobenzene and hexachlorabutadyine from PPG. It bio-accumulates in the fish and organisms. There are postings where the Health Department has said there are too much hexachlorobenzene and hexachlorobutadyine in the fish for people to eat. There's a limited number of consumption if you're pregnant or nursing.

And then, in fact, it was leaking from PPG, but it was also going downward. And they have a wonderful visual, and it would pay for you all to actually see it, because it doesn't go just straight down, but it goes where ever there are fractures or fissures. And then it might migrate this way and then go down a little further.

And so you're really chasing it. And it's down in the sand that's used by individual water wells; it's not down in the sand used by municipal. But the issue is: It's down that far, and they didn't find it before it migrated down that far. And we have to have a problem in place to clean up the ground water, and that was one of my recommendations.

MS. BOURG: I understand, also, that there -- an industry person testified that when the general funding was cut from DEQ's budget, about 75 percent now of DEQ's budget comes from industry --

MS. SUBRA: Permits and fees.

MS. BOURG: Well, also, donations --

MS. SUBRA: Right.

MS. BOURG: -- as I understand it.

MS. SUBRA: Right.

MS. BOURG: Could you comment on that? And do you think that's a recommendation -- do you have a recommendation to the Committee about that or about general funding for DEQ in the state? Or is this -- I guess my question to the DEQ person was: Does this have the appearance of a conflict of interest?

MS. SUBRA: Right. And in fact, any state agency that's almost totally dependent on industry for its resources is not going to be an aggressive enforcer. And that's what we're seeing in Louisiana right now. So the funding for the Agency -- the Agency should be totally independent of the industry.

So that could be a recommendation that would go a long way because what we're seeing here is that if an industry gets an inspection by one of the field staff -- and the field staff do really good jobs -- then it's sent

to Baton Rouge, and nothing happens. And my feeling is that nothing happens because they're that dependent on industry for the resources to operate the programs.

MS. BOURG: I have two more brief questions.

One is -- we've repeatedly had presentations by industry representatives to this Committee about the improved community relationship-building efforts and the improved communications with communities. In fact, I think one industry representative brought a recreational person and a teacher.

And there was some concern -- it seemed as though there was some concern from Committee members, as there were questions that came back about dollars coming from industry for soccer balls and library books and United Way donations.

And do you have any recommendation to industry or to this Committee, specifically, about how we should regard information where industries are placing a great deal of emphasis on public relations and/or communication efforts, yet -- I'm hearing -- your TRI from '97 to '98, as I understand it, is increasing?

MS. SUBRA: Let me just say that this was a map that was put together by a professor in Canada. And it was part of this NAFTA side-agreement. And we together picked one location in each of the countries, and

Calcasieu was picked as the city or location in the United States, and that's TRI. And Mexico doesn't have a TRI program in place; they agreed to do it as a part of NAFTA.

But here you will see that highly industrialized areas in Canada and Calcasieu, in the United States, have the same types of air emissions and ground water emissions and things like this. These same facilities that do the bad pollution and the increase in TRI are the ones that do like partisan education, where they adopt a school and put lots of money in.

A lot of their workers send their children to these schools. But if one of these children decides that they're going to write an essay that's detrimental, suddenly the industry that has adopted that school will say, Well, we don't really think you ought to do that. So what it does is it totally divides the community.

and I gave a presentation to the refinery national group, and I told them that like the workers here in Calcasieu and a lot of other places, but specifically here, have decided that they're going to sell their souls and work at these industrial facilities. They know it's killing them; they know it killed their mom and it killed their dad, but it gives them the amount of money that they can live. And none of them expect to live past 55 or 60.

So it's sort of like the workers and the

community have into it, as well. And they figure if the schools don't have enough money, the industry is there to give money. But nobody's balancing that by saying, But you ought to be putting that same kind of resources into addressing the environmental impacts.

MS. BOURG: I have a final question. And it will be my final one before my colleagues clobber me here since I'm hogging the mic. It's -- you've been doing this a long time?

MS. SUBRA: Very long.

MS. BOURG: And you've worked with a lot of citizens' groups in the African-American communities and poor communities. And the information you've provided is remarkable and troubling.

And what I've heard over the day or so when the citizens spoke was not only that they're being harmed and hurt and angered by industry practices that they're concerned about -- and perhaps even dying; that was some of their testimony -- but that they were most hurt and most frustrated that government isn't protecting them, that the folks whose jobs this is to do aren't doing it. What's happening here?

MS. SUBRA: The process is breaking down and has been broken down in Calcasieu especially for a very long time. Historically, when ever we go to Baton Rouge,

the people in the DEQ Agency say, Don't bother us; We have more problems in Baton Rouge than we can deal with; We don't have the money to tend to things going on out in the far ends of the State.

What you see, that data there, is the data that has been used to demonstrate to EPA, We need you in here; We need you to do these kinds of things. And you've been hearing a lot of that over the last day-and-a-half. EPA is the only thing that's working; the State Agency is not working, enforcement is not occurring. The industries are working however they choose. They are emitting as much chemicals as they like.

When the Tag-A-Truck was here and we got all those hits, the industry was behaving. That's the best of conditions, and we got that many hits. You can imagine what it's like when that little Tag-A-Truck drove on down the road.

There's a real need. And I saw that need in your '83 [sic]. Clearly, there's a need for the State Agencies to be able to be independent, do the enforcement necessary and have every one of these facilities in compliance.

MS. MADDEN: Thank you.

Are there other questions?

(Pause.)

1	MS. MADDEN: If not
2	Ms. Seicshnaydre?
3	MS. SEICSHNAYDRE: No.
4	MS. MADDEN: No?
5	All right. If not, we're going to move on to
6	the next speaker.
7	MS. SUBRA: Again, thank you for the
8	opportunity.
9	MS. MADDEN: Thank you, very much, Ms. Subra.
10	(Applause.)
11	MS. MADDEN: We need to make a slight shift in
12	the schedule. I'm sorry we got a little thrown off by the
13	late beginning after lunch. We would like to ask Mayor
14	Randy Roach from Lake Charles to step forward. I
15	understand he's going to talk about, Where do we go from
16	here?
17	Is the mayor with us?
18	(Pause.)
19	MS. MADDEN: All right. If not, then we will
20	, ask Diana Ortiz to come forward from the Office of Fair
21	Housing and Equal Opportunity.
22	(Pause.)
23	MS. MADDEN: Ms. Ortiz, would you identify
24	yourself and give your occupation for the record?
25	MS. ORTIZ: Good afternoon. Committee members.

I thank you for this invitation to come and speak before

you. My name is Diana Ortiz; I am Director of Enforcement
in the Office of Fair Housing in Washington, D.C.

My Office is responsible for providing national guidance and support to all our HUD offices in relationship to the enforcement of the civil rights laws that affect HUD. These are -- the main ones are, you know, Title Eight of the Civil Rights Act, which is the Fair Housing Act. I would say this is a very, very big part of our time and probably the priority act that we enforce.

We enforce several acts that involve disabled individuals and that deal with questions of handicap access and reasonable accommodations within housing. And those acts are; Section 504, the Rehabilitation Act, which deals with federally assisted housing, and; the Americans With Disabilities Act, which deals with housing that is not federally assisted.

In addition, we deal with Section 109 of the Housing and Community Development Act of 1974, which deals specifically -- it is similar to Title Six, but it deals specifically with community development block grant money and covers protected groups that are not covered under Title Six, including religion and sex.

Then we deal with Title Six. And within Title

Six, a sub-context of what we have begun to do is working on the environmental justice cases. Most of our Title Six cases do not involve environmental justice issues.

So this is quite a tall order for an Agency that feels, as so many Federal Agencies do, that they've been understaffed and their staff has been cut a great deal in the last few years. I would say that within the areas we work in, Title Six has been most hurt by the cuts we've suffered in staffing.

One of the things we've been trying to do -- I just started in this job this year. And one of the things I've been most interested in doing is seeing that we begin to develop and grow in our Title Six capability throughout the nation.

We did Title Six training in four regions throughout the country -- it was conducted largely by the Department of Justice this year -- so that we could see the capacity-building for Title Six cases across the nation.

MS. SEICSHNAYDRE: Could you talk directly into the mic?

MS. ORTIZ: I'm sorry. I'm not that good at doing this.

MS. MADDEN: Yes. Excuse me just a moment.

There's a side conversation going on in the

back of the room that's a little disruptive. Would you all mind stepping outside?

(Pause.)

MS. MADDEN: Thank you, very much.

MS. ORTIZ: Right now, much of the Title Six is complaint driven. We are not doing as much of the compliance reviews on the voluntary compliance agreements as we used to do.

That in part has to do with the fact that for the last two years, the priority in compliance reviews under Title Six was dealing with Beaumont, Texas' consent decree in which there was a requirement for a bi-weekly compliance review. And that took up a great deal of our resources.

And at this point, we're trying to get more involved in doing -- not just doing investigations on the complaints but, once you have a voluntary compliance agreement, to make sure that you are monitoring it adequately and seeing that it's working.

Now, in regard to environmental justice cases, I guess, since the executive order was promulgated in 1994, we have since '95 seen approximately 15 cases. They are being handled from headquarters.

This policy decision precedes me, and the decision was based on the view that this is something new

and complicated, plus it would require a lot of coordination with the Department of Justice, with EPA and with other entities in Washington, and it just didn't make a lot of sense to have them being handled out of field offices.

It's possible that at some point, this policy will begin to change gradually as we develop more Title Six capability within the field offices or -- and see that capability grow within the young investigators. But as of right now, we are handling these cases in house.

I -- there might be slightly more than that.

The first few cases that were dealt with did not result in any findings of a violation of Title Six. And since this precedes me a little bit, I've been told by my staff that there were two reasons, there were two patterns that you would see.

One is that several of the cases just did not meet our jurisdiction, because we really have to have HUD funding. If it's an environmental issue and it's housing-related, there has got to be HUD dollars there. Having an FHA mortgage guarantee will not count for assistance under Title Six.

So we're really looking at housing projects, assisted housing, community development block grant funds and things of that sort. So we have seen a number of --

some cases where the money -- you know, we can't find the flow, and we have no jurisdiction.

There were also a couple of cases that occurred that the allegations just couldn't be established; once investigated, they weren't there. Right now, we have eight active investigations. There are several other cases that are not closed, but they're either being reviewed by the Office of General Counsel or are in other stages and are not being actively investigated.

One of these cases involves Louisiana, as I believe probably all of you are aware. And we are planning to do a site review in November.

We had been hoping to do this sooner, but, as the end of -- towards the end of the fiscal year, the Federal fiscal year, we see our travel money deplete rapidly. And when you're talking about -- there's always money to send one person to this or that. But the way we are doing these environmental justice reviews is: We are doing a team approach; we are trying to make them labor intensive.

And what -- we will send out maybe ten people, or whatever is needed, for a week or so for the preliminary site visit to be -- so there will be plenty of time to interview the complainants, all the respondents, gather documents -- perhaps the other tenants if there's a

public housing involved, do -- you know, we will set it out in teams and work it out and have the whole plan to do.

And then we'll spend our evenings, after interviewing everybody, you know, compiling our documents and getting all the records together and getting it done. So that -- what we hope to do in -- it gets a little bit more complicated in environmental justice cases.

But generally, on Title Six cases, we are trying to do them in an expedited process so that, rather than take 18 months, as they once did, some of them are getting done in three or four months, because, rather than do a lengthy investigative report afterwards, as we are in the site reviews and getting all the documents together and compiling things together, we've got the bulk of the things that we can then go back and analyze in the Office and just pull it together for our report.

With environmental justice cases, this is -- we find that it's a little more complicated because, often, we are not the only or main Agency that the case is brought or being brought to. Our piece of it might be very, very small.

It may involve -- we have a case in Texas now which is largely -- which involves EPA, involves HHS and involves the Department of Defense. I would say our

portion of it is only five or ten percent. It's specifically about, some -- there are many contamination issues, but just about houses that were not given notice of contamination.

And when we went out in the field, we found that many of the houses had no HUD money. Many of them were older homes that had no HUD money, and there was really a very limited amount of houses that did have the HUD money. And in that particular case, we are still -- when we have several Agencies involved in the environmental cases, the Department of Justice is the coordinating Agency.

In this particular case that I'm talking about in Texas, where there are so many agencies involved, we have had quite a few meetings at the Department of Justice with EPA, with HHA and with all the other actors involved to try to coordinate the separate reports and try to coordinate what everybody is doing. And needless to say, this makes it a much more time-consuming process than the ordinary Title Six case.

Generally, what we will see are issues basically around contamination and that have to do with some housing, and we're looking at it from a couple of angles. One of them is the Title Six angle: Whether in fact there is disparate treatment, and if we can find the

harm. The harm thing is often creating the nexus. And seeing what -- the legal standard for that nexus, which I think is very, very challenging.

And to just how much -- you may see that something has happened to the complainants. And then you sort of say, Well, can we attribute it to the causes? Can we say there is harm that is caused by this? And that's often when we need EPA and we need HHS and we need some assessments to help us. We want some advice, and we have questions for them to do that nexus of harm.

And then we have to, of course, find that there is disparate treatment, that one of the protected classes has been mistreated by others. But another thing we look at is -- so often, we may have real concerns and, yet, not -- you know, that doesn't necessarily mean we'll be able to find a Title Six violation.

I say all this in a sort of preparatory manner because the cases that are under investigation now -- some of them are in the very, very initial stages, you know.

So I'm not passing any judgment as to what the likely results of any of these cases will be. But one of the things that we do as well as just say, "Has there been a Title Six investigation," is we really try to look it from a housing program point of view.

For instance, maybe Title Six wasn't violated,

but maybe the funding sources' regulations and program requirements were not met because they were supposed to do an environmental impact assessment, which was not done, or, if it was done and it wasn't correctly reviewed, it wasn't -- you know, it did not meet the standards that the HUD regulations require.

Or perhaps there was an assessment done, but the future tenants or home owners were not notified of that assessment and of what they were buying and moving into. And this would create, you know, obvious problems within the program areas. And we would in those instances talk to different areas in HUD in terms of those kinds of problems.

When we do our site reviews, we do them -- we try to do site reviews that are inter-office of HUD, not just civil rights people. We try to bring in environmental experts from the Office of Community Planning Division. We will sometimes bring in Public and Indian Housing people. If there's a public housing problem involved, we might bring in people from the Office of Housing.

And if at all possible, we will try to go with other Agencies with the Department of Justice. For the case I was referring to before in Texas, when we went for our site review, we had asked EPA to come with us since

there were so many technical issues that we felt they could help us on. And they, unfortunately, were not yet ready to go on site because they were still addressing jurisdictional components of their part of the complaint.

As I said previously, in the scope of things we are responsible for doing and the laws we are enforcing, the environmental justice cases within Title Six is a small -- quite a small fraction of the cases we're doing and what our responsibilities are. However, we are taking them with real, real seriousness. We are trying to involve as much staff as possible. We are trying to do inter-agency efforts on this.

And we -- I am sorry. I seem to be having a lot of trouble with this microphone.

And I think we are -- you know, we don't view it as something that we can just send an investigator out and leave them alone on. This is something that requires a lot of inter-disciplinary skills and different kinds of expertise, and we're trying to give it the kind of attention it deserves.

I'd be happy to answer any questions.

MS. MADDEN: Thank you.

Are there questions?

(Pause.)

MS. MADDEN: Ms. Seicshnaydre?

MS. SEICSHNAYDRE: Good afternoon. 1 MS. ORTIZ: Good afternoon. 2 MS. SEICSHNAYDRE: Thank you for being here. 3 I'm interested and concerned about plans that 4 HUD has for -- maybe -- perhaps it's local housing 5 authorities' plans, but HUD is funding them to build new 6 units of public housing on affected areas. And the two 7 areas that I'm at least aware of are the Ag. Street area 8 and, also, the Fisherville area. We've heard about plans 9 10 to construct 50-some-odd units of HUD-funded housing in Fisherville. 11 12 And what I'm wondering is: Are you aware of those two communities and what HUD is planning to do in 13 14 those communities? MS. ORTIZ: Those communities are located 15 where? 16 17 MS. SEICSHNAYDRE: I'm referring to the Ag. Street area, where the Desire Housing --18 MS. ORTIZ: Here in --19 20 MS. SEICSHNAYDRE: I'm sorry. In New Orleans. 21 MS. ORTIZ: In New Orleans? 22 MS. SEICSHNAYDRE: In New Orleans, HOPE Six 23 funds are being used to demolish the Desire Housing 24 development and rebuild a certain number of units. I'm 25 wondering if you have information about whether any of

those units are being proposed to be rebuilt on areas that 1 are Super Fund areas. And, also, in the Fisherville area, 2 there has been --3 MS. RICHARDSON: It's North Lake Charles. 4 MS. SEICSHNAYDRE: I'm sorry. 5 In North Lake Charles, they're proposing to 6 build 50-some-odd units in an area that they have real 7 concerns about. And I just wondered if you had 8 information about that. 9 MS. ORTIZ: The New Orleans, I don't. I 10 haven't -- we have no -- we haven't received any 11 12 complaints. And I wouldn't ordinarily be involved in the 13 process which is complaint driven, unfortunately. I would not be involved in the PH process. 14 Obviously, they have rules and regulations 15 about what kind of environmental impact assessments 16 they're supposed to get. I mean this is what -- you know, 17 it is something that they are supposed to be handling. 18 I'm not sure if the North Lake Charles one you 19 mean is part of the complaint --20 MS. ROBINSON: Yes. I think --21 MS. ORTIZ: -- that has it. There are several 22 23 neighborhoods that are, you know --MS. ROBINSON: I think --24 25 MS. ORTIZ: -- in Lake Charles that are --

MS. ROBINSON: Okay. It --1 MS. ORTIZ: -- in the complaint we have 2 received. 3 MS. ROBINSON: Okay. I think you referenced 4 it -- earlier in your presentation --5 MS. ORTIZ: Yes. 6 MS. ROBINSON: -- that you were getting ready 7 8 to conduct an on-site. MS. ORTIZ: Yes. 9 MS. ROBINSON: And it will be in --10 MS. ORTIZ: It will be --11 MS. ROBINSON: -- Lake Charles? 12 MS. ORTIZ: Yes. 13 MS. ROBINSON: Yes? And it's --14 MS. ORTIZ: Yes. I wasn't --15 MS. ROBINSON: -- regarding --16 MS. ORTIZ: Offhand, I didn't recollect the 17 names of the neighborhoods --18 MS. ROBINSON: The -- right. 19 MS. ORTIZ: -- in Lake Charles. 20 MS. ROBINSON: Right. 21 MS. ORTIZ: But we will be conducting a Lake --22 we have a complaint, and we will be conducting a site 23 24 review in November.

MS. SEICSHNAYDRE: Is there any way of assuring

25

that construction won't be initiated until your investigation is completed, or is there any connection between your investigation and construction?

MS. ORTIZ: Well, you know, the respondents area aware that we will be conducting this investigation, and they've been notified of the allegations. So I -- you know, we were going to come originally in September, until these budget problems. We're doing it -- I'd be very surprised if anybody would move on that pending a Federal investigation.

MS. SEICSHNAYDRE: Earlier, a member of the Office of Civil Rights, Ms. Goode, mentioned an MOU that was being developed between HUD and EPA. Has that been developed?

MS. ORTIZ: I don't think it has been completed as yet, but, let me tell you, I was very pleased to hear her say about how HUD was one of the Agencies that had most cooperated with them. We do spend -- excuse me for a second.

How am I turning? Should I turn down?

MS. MADDEN: Just speak right into the round circle part.

MS. ROBINSON: Is it on?

MS. RICHARDSON: It's on, but just almost --

MS. ROBINSON: It's not working.

(Pause.)

MS. ORTIZ: Okay.

MS. ROBINSON: That's good.

MS. ORTIZ: Is that better?

MS. ROBINSON: Yes, ma'am.

MS. ORTIZ: We have good relationships with EPA. And we -- my opinion is we can't really -- even though we have some environmental justice people, not in the Civil Rights Office but in other areas of HUD, and we count on their expertise, that -- I have yet to see one of these cases where I don't have -- either EPA doesn't have part or most of the case or, if they're not involved at all and if the case is just before us, that we don't have questions and things we want to get from them to help us with the case.

It just seems foolish for us to try to be reinventing the wheel when they are the experts. So in that
respect, I'd say that, probably more than most Agencies,
we are there working with EPA on these cases.

MS. SEICSHNAYDRE: Are you aware of when the MOU might be finalized? Or is that --

MS. ORTIZ: You know, I honestly don't know, but I don't see why it should be a -- I wouldn't see any reason for a delay. But I haven't been personally working on it.

MS. MADDEN: Mr. Morris? 1 (Pause.) 2 MS. MADDEN: Oh, you didn't have --3 MR. MORRIS: No. MS. MADDEN: Okay. 5 Ms. Bourg? 6 Sometime back, in another that I 7 MS. BOURG: wear, I was assisting a primarily African-American 8 community in looking at getting some self-help housing. 9 It's called -- I think it's called Mutual Help Housing. 10 And they basically had a HUD impediment that 11 said that you can't locate this HUD investment of dollars 12 anywhere -- and I don't know the distance, but it might 13 have been something like a half-mile from any known 14 environmentally impacted or contaminated site. And so the 15 whole community except one little piece of property on the 16 17 edge, or something like that, was pretty much unavailable for those HUD dollars because there were these dump sites 18 19 all over. And it just struck me that if you got dumped on 20 21 before, then you get -- kind of get dumped on again, 22 because then you're sort of excluded from the HUD dollars 23 investment. Do you know that such a thing exists? MS. ORTIZ: I don't know about the incident 24 25 you're referring to or the specifics of that program.

That would be in the Housing Office, and I couldn't answer 1 2 you. MS. BOURG: I see. 3 MS. ORTIZ: Obviously, they -- you know, there 4 are a lot of environmental rules that are supposed to be 5 followed and monitored. 6 MS. BOURG: It would seem that that would 7 certainly hamper the investment of the dollars. It would 8 also seem to, you know, be interesting in terms of the St. 9 Mary's Public Housing which, they're alleging, is built 1.0 right on top of a contaminated site. 11 So you wonder, "Was that grandfathered in 12 before this clause came about," or something or other. 13 14 Would you be able to provide the Committee that information about that particular regulation that was in 15 the Mutual Housing environmental assessment or review 16 papers before you could even submit your application for a 17 18 site? It was --19 MS. ORTIZ: Yes. MS. BOURG: -- involved in the siting of the 20 21 HUD dollars. MS. ORTIZ: I wouldn't be able to do that, no. 22 But I could provide you with that information. 23 24 MS. BOURG: Thank you, very much. MS. ORTIZ: Okay. 25

MS. BOURG: We -- the next question I had

was -- we've heard quite a bit of testimony from residents

in African-American and poor communities that there was

some concern that economic development was not occurring.

And the Office of HUD of Fair Housing and Equal

Opportunity would certainly seem to address, you know, How

are the investment dollars going in to the communities?

They also spoke about how the housing is in such shambles and the youth members are in prison. Now, granted, there -- you probably would need a CDC or a local community development corporation or -- since things have developed at the local government. But can you speak to the investment of HUD dollars --

MS. ORTIZ: Yes.

MS. BOURG: -- for economic and community --

MS. ORTIZ: Yes.

MS. BOURG: -- and re-building of those . communities that we're talking about?

MS. ORTIZ: Yes. Well, you wouldn't have to have a local CDC if you have Community Development Block Grant dollars. I don't know if Lake Charles is an entitlement community, but --

MS. ROBINSON: It is.

MS. ORTIZ: -- by the size, it must be an entitlement community. So it's getting money directly

from HUD as an entitlement community.

Many if not most communities use some of their CDBG dollars for economic development programs. So that -- we would be in a position as a civil rights office, if asked, to investigate, as I believe we are in this complaint, to look at how the funding is distributed and whether it has had a disparate effect --

MS. BOURG: Thank you.

MS. ORTIZ: -- for certain communities.

MS. BOURG: My final question before I give it up is: Are you aware of any time in the last five years under HUD's enforcement efforts any investigation into the operations of the New Orleans HUD Office?

MS. ORTIZ: Of the New Orleans, investigations by HUD?

MS. BOURG: No. Investigations by enforcement authorities, the FBI or Justice Department or perhaps your Division or any of those divisions, into the operations of the New Orleans HUD office within the last five years.

MS. ORTIZ: No, I'm not. I'm not aware.

MS. BOURG: Would you be able to find out if that was a case and provide that to the Committee?

MS. ORTIZ: I'll try.

MS. BOURG: Is that do-able for you?

MS. ORTIZ: You don't know who did the -- who

```
investigated it? But I'll look into it.
 1
                   MS. BOURG: It was maybe the Justice
 2
       Department, but I'm not really sure myself.
 3
                   MS. ORTIZ: Okay.
 4
 5
                   MS. BOURG: Thank you.
                   MS. ORTIZ: I will look into it.
 6
                  MS. MADDEN: Thank you.
 7
                  Do you have a question?
 8
 9
                   MR. LONGORIA: I may have missed it.
       the Louisiana case that's pending before you? You said
10
       there's only one Louisiana case. Right?
11
                  MS. ORTIZ: Lake Charles.
12
                  MR. LONGORIA: All right.
13
                  MS. ORTIZ: There's a complaint --
14
                  MR. LONGORIA: Fisherville, or --
15
16
                  MS. ORTIZ: There's a complaint --
                  MS. ROBINSON:
                                  In Lake Charles?
17
                  MS. ORTIZ: Yes. There's a complaint here in
18
19
       Lake Charles.
20
                  MS. ROBINSON: It's not Fisherville.
21
                  MR. LONGORIA: That's the only one?
                  MS. ORTIZ: Of -- we have of -- that's a Title
22
       Six environmental justice case.
23
                  MS. ROBINSON: You --
24
```

MS. ORTIZ: We have some Title Eight cases that

25

are not completely unrelated, but they are Title Eight 1 2 cases. MS. MADDEN: Are there questions down here? 3 (Pause.) 4 MS. MADDEN: All right. 5 If not, thank you, very much, Ms. Ortiz. 6 MS. ORTIZ: Thank you. 7 MS. RICHARDSON: Thank you, very much. 8 MS. MADDEN: All right. Is Nanette Jolivette 9 10 here. MS. JOLIVETTE: Yes. 11 MS. MADDEN: Thank you. Please come forward 12 and give us your name and occupation for the record. 13 MS. JOLIVETTE: My name is -- can you hear me? 1.4 (Pause.) 15 MS. JOLIVETTE: My name is Nanette Jolivette; 16 17 I'm an attorney. I have a master's in energy and 18 environmental law. I am a former clinical professor of the Tulane 19 Environmental Law Clinic, where I was involved with the --20 21 in the denial of the supplemental fuels permit in St. Gabriel. That was the first time environmental justice 22 was raised in the State of Louisiana. 23 I'm also the former director of the New Orleans 24 Department of Sanitation and Environmental Services, where 25

VOICE: Could you speak a little louder?

I started the first recycling program and was the first to issue a mandate on requiring landfills to comply with RCRA Sub-title D.

I'm also a former -- most recently, a former law professor at Southern University Law Center, where I taught courses on toxic tort and environmental justice.

Most recently, I joined the Milling, Benson, Woodward Firm in New Orleans, where I'm Special Counsel to energy and environmental law issues.

I think I was asked to come here today to speak about my experiences regarding the Shintech controversy in St. James Parish. And I welcome that invitation because of the some 12 years or so -- 12 or 15 years that I've been involved in environmental issues in Louisiana, I haven't found a time where we actually stopped to debrief, to look at what the issues were, to see if they were addressed properly and sort of look for come up with some comprehensive pans for the future.

In my career, I've repeatedly seen plants move from one location to the next. And it is highly predictable. I've spent a lot of my practice, also, as a defense lawyer. And in looking at it that way, I can assure you that it is very predictable: The strategies and policies that are put in place.

MS. JOLIVETTE: Talk louder? 1 Did they say, Talk louder? 2 MS. MADDEN: Yes. I think you need to talk 3 directly into it. Hold it right up in front. 4 MS. RICHARDSON: Exactly like that. 5 MS. JOLIVETTE: Like this? 6 7 MS. MADDEN: Yes. MS. RICHARDSON: Exactly like that. 8 MS. JOLIVETTE: Oh, okay. 9 MS. RICHARDSON: If you turn it this way, it 10 11 won't pick up --MS. JOLIVETTE: Do I have to start all over, or 12 13 no? MS. MADDEN: No. 14 MS. RICHARDSON: No. 15 MS. JOLIVETTE: Okay. 16 Anyway, I guess the main point that I want to 17 make sure that everyone heard is that I'm pleased and I'm 18 happy to have been invited here so that we can look at or 19 sort of take a comprehensive look at our history, the 20 history of environmental decision making, in the State of 21 22 Louisiana and sort of look forward to how those things can better be addressed. 23 I do have in mind a very basic, four-pronged 24 plan or, I guess, factors that need to be -- I think my 25

if you want.

But first, Government, industry and

environmental decision making. And I'll elaborate on that

experience leads me to believe should be considered in

environmental organizations must diversify, in my opinion, if we're to adequately address the needs of affected communities. I think it's extremely naive to think that we live in a perfect world and all these special-interest groups will directly involve and understand the needs of the individual communities.

I think, a lot of times, you know, we label something "environmental racism" or "environmental justice." We have to remember that we live in a country where we have "good, old American racism" that plagues a lot of institutions and a lot of governmental entities, and to pretend they don't exist is naive.

And what I have seen is different parties almost counting on our prejudices and depending on that to get the results that they want. I'm not necessarily saying that it is ill-spirited or mean-intentioned; we just have a lot of special interests involved in these decision makings, and the people who are most affected are often completely excluded from the process.

(Applause.)

MS. JOLIVETTE: The reason why is the reasons

المُتَّانِينِينَ

that make them the affected community: They're minority; by and large economically deprived; government doesn't listen to them; industry has no reason to listen to them, and; if it is beneficial to environmental organizations, they will listen to them. But in my ten to 12 years, I can tell you I am tired of sitting back and seeing these people exploited. There's no excuse.

(Applause.)

MS. JOLIVETTE: One of the reasons I got involved in the Shintech controversy is because when I walked into that community, you had the very same people that we went to, many of you in this room, in the early '60s, who said, Once we integrate, you will not be poor; You will be empowered. Okay?

We come to them ten years later, and we say,

You need the right to vote; Once you vote, you will not be

poor. How dare we come to them in the year 2000 and say,

If you get all these plants out of here, then you're not

going to be poor. To give the poor and disenfranchised

the unthinkable choices of either being poor or sick is

unexcusable in my opinion.

(Applause.)

MS. JOLIVETTE: There are more choices. We have organizations and, certainly, commissions like yours, .

I think, that should get involved and make sure that these

issues are addressed comprehensively; no one group or organization can address them. An environmental decision does not arise in a vacuum.

These people are already outside of the process. Whether the plant is located there or not, they are still left outside of the process. By and large, their lives are not made any better, no matter which way the environmental decision goes.

And if anything, I would like to ask and I would hope that you leave here today keeping that in mind. And let's not disappoint the people who have to live with these decisions, and, you know, take some responsibility for our decisions and be ready to be held accountable.

Second, I think there needs to be a distinction in environmental decision making between newly proposed plants and existing facilities. It is so easy, and it's certainly politically attractive, to get involved in preventing new facilities from locating.

And I'm certainly guilty of that myself, but, as I sat here and I heard Wilma Subra talk -- you know, I don't know. From her -- I met Wilma probably some ten years ago, when I was a teaching clinical professor at Tulane. But those communities have been victimized for a long time. And I don't want to -- I can talk about the organizations that have helped, because I've been a part

of them, and I'm trying take responsibility for that.

25.

Environmental Law Clinic was doing it -- when I was there, we had a minority desk. I had the minority desk. If there were issues affecting minority communities, if I

didn't do it, it didn't get done. And to me, that is

But even as stretched as the Tulane

inexcusable, and we can't turn the other way.

If we have learned anything from Brown versus the Board of Education, it's that separate is not equal under any circumstances. And we cannot tolerate it in any environment.

(Applause.)

MS. JOLIVETTE: Third, the interest of affected communities must be represented and recognized whether environmental organizations, industry or government want them to be or not. It's unrealistic to believe that their interests will be adequately represented by any of these special-interest factions or in our society.

I think that's sort of an elaboration of what I said before, but I think one of the most difficult things for me in being involved in the Shintech controversy was when the National -- the NEJAC conference was held in Baton Rouge -- the National Environmental Justice Advisory Council -- and I had members of the community that wanted to speak and they were told they couldn't speak because



they didn't have a constituency.

And I know a lot of people didn't want to know what they had to say. They didn't want to hear. I think environmental groups were afraid that they'd say, "We're pro business; We're pro this industry, and Shintech is a good thing," and, by the same token, what they didn't realize -- and I think it was bad lawyering, bad advising -- is that industry didn't want them to speak, either. And that should have been a red flag.

That is not what they wanted to say. They wanted to have their opinions. They wanted to say, Let's not let this happen to another community; There was a PVC plant that moved into -- was trying to move into St. John, and nobody talked about what happened, you know; It just sort of went away, and those people are still poor; And here, it tried to come to St. James Parish; It's moving; But you had better watch out for Ackerman, because we saw it coming; We saw it coming, and nobody wanted to listen, because everybody was so involved in their own selfish self-interests.

And I think that is something that has to stop.

If we're going to better our communities, we've got to

listen to what is difficult to hear, as well.

Fourth and, I think, what's probably maybe a little unrealistic but, certainly, what I think is

_

probably one of the best solutions, and that is: There really should be some sort of commission or board, similar to either the Public -- how the Public Service Commission operates or the Causeway Commission, that actually would cover a tax or certain dollars from the chemical industry, that supports support organizations.

with regard to the Public Service Commission -and I do practice in the area of energy law, as well -they -- the utility industry must fund their opposition.
They don't pick them, but there are funds made available
for community organizations, funds made available for
legal assistance to people who actually want to -- who
have discrepancies. And then, on top of that, there is a
board or commission that regulates them.

I can tell you that that is something that has been floating around a long time. Certainly, the chemical industry doesn't want it. And then, believe it or not, even other special-interest groups that you would think would want it don't want it, as well, for whatever reason.

But something has to be done, and these communities are not in a position to fund the type of legal representation they need. They certainly cannot fund the sort of scientific data they need. I think, you know, that there's only so much Wilma Subra can do. I don't know that she has, you know, any -- I don't know

_ 25

that there's any other scientist who volunteers their time and donates it and gives their time the way Wilma does.

And, again, there's no excuse for that. There are ways. There are creative things that we can do to help empower these communities. And I hope that, if nothing else, you leave from here today knowing that it's not a hopeless situation. You know, we just all need -- I think it's -- environmental decisions need to be made in a more comprehensive manner.

There are many resources; we're just not always coming together when we need to. And in the heat of battle, sometimes, it's not the opportune time. These things, I think, need to happen now.

MS. MADDEN: Thank you, Ms. Jolivette.

MS. JOLIVETTE: Thank you.

MS. MADDEN: Do we have questions?

MS. RICHARDSON: Yes.

MS. MADDEN: Ms. Richardson?

MS. RICHARDSON: Good afternoon.

MS. JOLIVETTE: Good afternoon.

MS. RICHARDSON: And I'm going to see if I can give this that Al Gore kiss, because that's what it takes, I think, to be heard with these microphones.

(Laughter.)

MS. RICHARDSON: I'm very concerned and I want

to ask more about some of the economic questions that have been raised, because they have such a disparate economic fall-out.

Yesterday, Mr. Morris, my colleague, who has stepped out for a minute, was asking me about something that he didn't understand, and he said, Ms. Rupert, what is the answer? And I said, "When ever the answer tries to evade you," I've told my children all of their lives, "the answer is money. Find out who wants to make money off of this." And in that regard, that's what I wanted to ask about.

You mentioned, and, I think, very

futuristically, that the long-range plan would be the

creation of a board on the level of a PSC or a dock board

and that kind of thing. Well, firstly, there's this

little thing called the Louisiana Constitution that is so

hard to amend. And as I appreciate it, entities of that

level with that kind of power are created there.

This is something, I think, that could be recommended to community groups to be worked long range, but my question of you is: How are we going to get around the monied things, the monied groups, who would not want to see that happen, firstly? And, secondly, how could we impact that whole legislative process, where the monied people have so much control, in order to get something

like this started? It's an interesting concept.

MS. JOLIVETTE: Well, you know, there were -first of all, I am, certainly, the ultimate optimist. And
there were certainly money interests that tried to prevent
integration and voting rights and a lot of other major
social issues we've had to address as a country. And we
do have a Louisiana constitutional provision that mandates
protection of our environments.

So it's not impossible to get the idea before them. But in the interim, there are things that the Department of Environmental Quality could clearly do. And we certainly suggested it, but there was not the, I think, political support or even the need at the time, because industry and the environment were fighting, and there we sere, in the middle.

There's nothing to prevent an additional requirement in the permitting process that these facilities do some real community development and community enhancement. And I think it was -- actually, it was in fact during the Shintech process that the state NAACP made those suggestions. And they have a plan.

And, of course, the reaction -- the public response or the public reaction was, Well, I don't really think we can do it. But the reality is they didn't have to do it. They didn't have to do it because industry and

environmental groups were the only two really before them.

Neither one -- certainly, industry wasn't interested in it, and to begin compromising -- and this is from a legal point of view, and understand I've represented environmental groups. To start compromising would have jeopardized their position.

So they weren't in a position to make those recommendations; they would have lost on their major issue, which was, you know, trying to get the permit denied. But, certainly, it would have been helpful if we had other organizations to come forth that do have political power.

The NAACP standing alone, I think, made a lot of progress. But I think if we had local chambers of commerce and other people who, collectively, have strong voting power and influence in the governor's office and in the legislation, I think that is -- to work with those people in educating them, and not waiting until the last minute.

I think if we have an ongoing educational process and plans that are ongoing, then we -- you know, we're not going to be swimming upstream when we have to make a decision. And this isn't the first time.

When people are elected, when they're courting votes, you know, I think other organizations have to get

in the business of making sure that these issues are addressed, and so we sort of get outside of our -- what people expect our special interests to be.

MS. RICHARDSON: That certainly sheds some light. I'm just thinking aloud that the community that . initiates this has to be then together itself.

And is it your -- have you worked at all in this community in order to know -- from the presentations, I have detected a lot of splintering. In your legal opinion, is this the right place, the right group, to try to start to make some long-range legislative plans in order that we might help to regulate ourselves?

MS. JOLIVETTE: I think that there is no better group, to be honest with you. You're a very comprehensive and diverse group in yourselves.

MS. RICHARDSON: Okay.

MS. JOLIVETTE: And this community is not unlike any other community where you're going to have differing opinions or interests, and I think we have to invite that and we have to encourage it. I think, by doing that, you become a stronger organization. And if these people can learn anything from that, it is, as well: Listen to people who have differing opinions, you know.

To shut people up, you know, and ignore their concerns, I think, is a big mistake. It is much better to

come together on it, because you are going to have common 1 interests and you know what they are, and do a little 2. compromising on those issues that people need compromising 3 I mean the goal is so much bigger than the smaller, 4 differing disputes. 5 6 MS. MADDEN: Okay. Thank you, very much. 7 MS. JOLIVETTE: Thank you. MS. MADDEN: Any questions down here? 8 (Pause.) 9 10 MS. MADDEN: If not, we appreciate your testimony, Ms. Jolivette. Thank you, very much. 11 12 MS. JOLIVETTE: Thank you. 13 (Applause.) 14 MS. MADDEN: Okay. I think we may have two 1.5 mayors in the room, Mayor Roach and Mayor Reed: Mayor 16 Reed from Sulphur, and Mayor Roach from Lake Charles. I 17 understand that Mayor Roach may have a prior commitment. 18 Would you come forward? 19 Is that all right? 20 (Pause.) 21 MS. MADDEN: This is Mayor Randy Roach. 22 Would you please give your name and occupation 23 for the record? 24 MAYOR ROACH: My name is -- can you hear? 25 this recording?

: 🚣

MS. MADDEN: Hold it right up like this. 1 MAYOR ROACH: Hold it very close? 2 MS. MADDEN: Hold it like that. 3 MAYOR ROACH: Okay. Just this one is the one --5 MS. MADDEN: That's the one. 6 MAYOR ROACH: I don't have to hold up both of 7 them? 8 No. Just that one. MS. MADDEN: 9 10 MAYOR ROACH: Okay. All right. Very good. My name is Randy Roach, and I am currently 11 mayor of the City of Lake Charles. And I am here to make 12 a brief presentation to you this afternoon and answer any 13 questions that you may have. 14 Before I do that, I would like to -- and I hope 15 that you'll bear with me because I'm very -- I don't want 16 to sound like I'm bragging or anything like that. I just 17 want to give you a background so that you'll understand 18 that I'm not new to the environmental movement. I, as a 19 20 mayor -- I am new to being a mayor, but I'm not new to the environmental movement. 21 I served for eight years in the Louisiana 22 Legislature, from 1988 to 1996. When I was --23 (Applause.) 24

MAYOR ROACH: When I was first elected, we did

25

not have an air quality law, and we did not have many of 1 the environmental regulations that we have right now. served on the Natural Resources Committee and, for a time,

was chairman of that committee. 4

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

That committee handled all of the legislation that was passed from 1988 through 1992, which is, I think, very significant legislation dealing with many of the issues that we're still talking about today. And I was very involved in the enactment of that legislation and in the process that led up to it. I also dealt with many issues relating to the issue of the opportunity of the public to participate in the permitting process.

And I know that we have regulations on the books right now which facilitate that process; however. having regulations on the books and having people able to actually take advantage of that process is another issue. And I think that Ms. Jolivette just touched on some of the problems that she has observed in that regard.

The topic that I would like to talk to you about this afternoon -- and then I'll be happy to answer any questions that you may have -- and I sort of designated myself is: Where do we go from here? to speak to you as a mayor and as someone who is very concerned about the future of southwest Louisiana, both from a social standpoint and an economic standpoint.

My concern is that there are groups and organizations that come through this area that deal in the environmental concerns and have their day in the sun and then move on. And they move on to another area, another location, and they deal with other problems. We who are left here have to deal with what transpires or the issues that they raise or the allegations that they make, and we try to pick up the pieces and put them back together.

I think that we need to as a community take advantage of the attention which has been focused here and to make a model for the rest of the country to follow as to how to deal with environmental issues, both from a social standpoint and an environmental standpoint.

I have talked with representatives of industry concerning some of these suggestions, and I've also talked to some of our members of our federal delegation. And I think that the time is right for us to begin the process of deciding, Where do we go from here?

I have attended many, many, many meetings and many, many, many hearings since 1988, and it's almost like deja vu: Here we are, again talking about the same issues, the same concerns, the same problems, and, still, we're not any further along in some respects than we were in 1988 from the standpoint of getting on with it, moving on from here and dealing with these issues in a

1 responsible manner.

The economy of southwest Louisiana is dependent upon the industrial community. We have to recognize that, and we have to deal with that and we have to accept that, and we have to do that in a responsible way.

And that's what I am suggesting to you: That as you go through this process, as you evaluate those who come before you and share information with you, don't just take the information and put it into a file somewhere; think about and make your suggestions as to how we can take the attention that has been focused on southwest Louisiana and make it into a model or -- enable us to take this energy and effort that has been focused here and make it into a model as to, What does the American industrial community do in the 21st century in order to co-exist with jobs and opportunities for its citizens and good reasonable, economic and environmental management?

That is the challenge that we face before us.

Now, how does the Department of Justice fit into this? I don't know, but you're hosting the hearing. You're hearing the information. You're receiving the information. You've heard a suggestion that was made to you -- it was the first time that I had heard the suggestion -- of a PSC-type concept being proposed as something that might work or something that might fit.

It's an interesting concept, and I'm sure that it would get plenty of attention and plenty of activity if that were the type of recommendation or a recommendation that were to come from this task force.

But I would like to suggest to you, Ms.

Richardson -- and I know that you asked the question -- I

do not believe that an amendment to the constitution would

be necessary to do that, however. The DEQ is not in the

constitution; DEQ was created by legislative act, as are

many of the other agencies that we operate under today,

that operate through the state, and other activities.

So I don't know that it would require -certainly, you could do it that way. I don't mean to
suggest that you cannot do it that way, but I would
suggest to you that I don't think that it would be a
requirement that it be done that way.

But I do want to say -- and I want to speak as a mayor of a community that is vitally interested in the issues that you are dealing with -- that we are concerned and that we will be living here after you are gone.

And we would like for you to consider as you make your recommendations, What can you suggest to us as a community; What can we do as a community; Both at the local level and at the state level, what can we do with our legislative delegation; What do you see as

6 .

opportunities for us to deal with these issues in a constructive, positive manner?.

For too long -- for too long -- I have seen the lines in the sand drawn and people lining up on either side almost as though it were even more than a football game -- but it's not a game; it's something more serious than that -- but almost with this vehement opposition and feelings towards one another. You can almost feel the tension in the room in some of these hearings.

It is too long. It's time that we get over that. It's time that we move from that, because people are suffering as a result of that. On both sides of the issue, people are suffering. Businesses are suffering. Communities are suffering. Individual families are suffering. And we've got to move on from this point, and we've got to deal with this in a constructive way.

I'll conclude by saying, once again -- I just composed a letter to the -- our federal delegation. And in that letter to the delegation, I have suggested to them that we do as I have suggested to you: That we take whatever information we have gathered through EPA and their sampling in the estuary and the process that is going on there and the information that you're gathering here and that we take this information and we decide, "What can we do, and what can we establish," and make

1.6

Calcasieu Parish a model for progress in environmental issues for the 21st century so that the rest of the country will no longer have to endure or have to go through these types of struggles and these types of issues, because, again, it is time that we move on from here.

I would say this, and if you want to -- if you're looking for an idea or a suggestion -- and this might not be the best example, but I can tell you that when I was in the legislature, one of the things that I did and that I sponsored long ago was the Calcasieu Estuary Task Force.

And the idea behind that task force was to provide a forum for parties on all sides-of the issue, as well as the governmental regulatory agencies, to come and to present evidence, to answer questions and to make suggestions and recommendations as to how we'd deal with the environmental issues that were facing us at the time.

That task force was disbanded. And then it was put back together recently or -- another version of it was put back together recently.

I don't know that these task forces have any real legislative authority, but, certainly, the concept behind those types of task forces and those types of committees existing and organizing for the purpose of

Section 15

(Applause.)

MS. RICHARDSON: But in a more serious vein, I was wondering -- now, they say, "Platforms are to run on; they're not to stand on or govern on, but to run on." As a part of your platform, did you set forth anything about an office of social justice or a position or something related to environmental concerns?

And if you did, has it been done? But if you did not, do you have any plans for some kind of a position that could better help the people of the Lake Charles community to meet their needs and address their concerns?

MAYOR ROACH: When I ran for office, one of the issues we dealt with at the time was dealing in general with the Calcasieu Estuary and the problems associated with that. Right before I ran is when they created the Calcasieu Estuary Task Force.

At the time I took office, there was no representation by the City of Lake Charles on that task force. One of the first things that I asked -- and it has since been done -- was that I be made a member of that task force so that I could participate in that process.

Beyond that, I have not taken any direct action as mayor in establishing an office or establishing a cabinet position, if you want to call it that, on environmental matters. I think that it is important from

the standpoint of the office of the Mayor that the mayor be directly involved in that issue because of the significance of that issue from an economic and social standpoint, not only to the community but to southwest Louisiana.

I am looking forward to my participation in that task force and, again, as I've indicated to you, in initiating as Mayor contact with our Federal delegation, as well as our State legislative delegation, to do and fulfill the promise that I think is present, and that is: To take the attention, as I said earlier, that has been focused on this area and try to create a model for the 21st century as to how we deal with these issues.

That is my commitment. That's what I have said before. That is what I am prepared to act upon as mayor.

MS. RICHARDSON: As a follow-up, Madam Chairman?

On the first day that we arrived, I noticed that your budget had been presented. So it may be too late in the process even to do something.

But could you give consideration to shifting something within your limited resources, even if it's a part of a position, to try to address social justice issues, particularly environmental issues, in light of the main source of income even for this area? Is there

anything you might be able to do?

MAYOR ROACH: That is something which I would be more than happy to consider, but, in response to your question, I don't want to leave you with the impression that we are not concerned about social justice issues --

MS. RICHARDSON: Nor did I have that impression.

MAYOR ROACH: Okay. -- or prepared to address that. We do have -- within the existing framework and make-up of the city, we do have a Planning Department and -- a Department of Planning and Urban Development, I guess, as you would call it or -- Economic Development -- I'm sorry -- Planning and Economic Development.

And in the area of Planning and Economic

Development is where we deal with many of the types of
issues that you're talking about. But you have to
understand, though, the role of local government in this
whole process. And the role of local government is
somewhat limited as to what we can do.

The Louisiana Constitution and the laws that are on the books right now make it very clear that there is virtually no authority at the local level when it comes to permitting or when it comes to environmental regulation. We are a -- not a disinterested observer. We are an interested observer.

And we certainly can be an advocate. And we certainly can take an active role, as we are trying to do through this estuary task force process, but, under the law and under our charter, there is a limited amount of work that we can do to directly influence or directly affect some of the issues that you are dealing with.

I think that what we are looking for is to be able to participate in the task force approach to these environmental issues and to become an active participant in that approach as a means or a catalyst of bringing together the different interests, both from an environmental standpoint as well as the industry standpoint, and bringing the parties to the table and forcing the issue in order to make sure that we adequately and fairly deal with the problems that are facing us.

MS. RICHARDSON: Well, I'm sorry, Madam Chairman, but --

MS. MADDEN: Yes, I know.

MS. RICHARDSON: -- I do wish to say that perhaps I didn't make my concern clear.

Recognizing full well that there's no regulatory authority there, what is in your office as I see it is an authority to be proactive --

MAYOR ROACH: Correct.

MS. RICHARDSON: -- to do whatever might make,

in your case, Lake Charles better. 1 MAYOR ROACH: That's correct. 2 MS. RICHARDSON: I certainly like some 3 positions you advocated: That Lake Charles could not 4 exist in a vacuum -- I guess I had better stop and say I 5 have grandchildren here. I have a mother here. I have 6 children here. I follow Lake Charles as closely as I do 7 Baton Rouge, where I live. 8 The question I had was -- there's still -- the 9 10 question I have is: Would you do things as that initial step that you made to get representation on the estuary 11 or -- am I saying that right? 12 MAYOR ROACH: Estuary. 13 MR. MORRIS: -- task force? Are there not 14 15 other things that you foresee that you can do even within your staff limitations to make Lake Charles a better 16 community? And that includes environmental. 17 MAYOR ROACH: And --18 MS. RICHARDSON: That is my question. 19 (Applause.) 20 MAYOR ROACH: And the answer to that question. 21 is an unequivocal yes. 22 23 MS. RICHARDSON: Thank you, sir. (Applause.) 24 MS. MADDEN: Mr. Morris? 25

MR. MORRIS: Mr. Mayor, I heard the concerns of citizens from Lake Charles yesterday, particularly North Lake Charles. And I'd like to know if you -- that same -- commitment for Lake Charles is the same as for North Lake Charles. And appreciate this: That I don't know the difference between Lake Charles and North Lake Charles. I have no appreciation for that.

All I need to know is that the same commitment that you're making for Lake Charles will be made for North Lake Charles and for all of Lake Charles, both black and white.

MAYOR ROACH: Mr. Morris, let me say this: I recognize that there is no -- if you went to the map, you would not find North Lake Charles on the map. North Lake Charles is a description of the northern part of our community, and that is where many of the minority people in our community live.

But my commitment is to the entire City of Lake Charles, both -- north, south, central, east and west.

And my hope as mayor of this city is to be able to pull our community together to where we no longer have a need to refer to ourselves by labels and we'll refer to ourselves as we should be referring to ourselves, and that is: The Community of Lake Charles, a community of citizens united together and with a resolve to deal with

these issues and deal with them in an aggressive, responsible way.

And I have more than ample commitment and resolve to deal with that and to work with the councilmen who represent that area. In fact, we had Mr. Sam Talbert, who is a councilman and who is representing a portion of the area that you're referring to. And I know that both -- he and Mr. Franklin and Mr. Guyan [phonetic] are also equally committed to working on these issues and working on them in a responsible way.

MR. MORRIS: As a follow-up to that -- I really appreciate hearing you say that. That's -- I think that's a relief for the people who expressed that yesterday.

Does that commitment reflect in your budget?

MAYOR ROACH: Well, when you ask me, "Does the commitment reflect in the budget" -- we just had to cut \$2 million out of the budget, which might not sound like a lot of money, but that was basically five percent of our budget. We are operating -- basically, as a city, we are operating at the same actual make-up and structure that we operated under before.

We don't have the luxury right now of implementing many new programs or many new initiatives from the standpoint of adding staff and doing things like that, but, from the standpoint of, "What are we doing with

our available resources," and, "Are our available resources committed to dealing with these problems," the answer is yes.

So to answer your question, we do have a budget of \$37-1/2 million. Seventy percent of that money is dedicated to public works, to fire and police. And the remainder goes to the other general services that we provide.

Yet, there is money within that budget to deal with and to aggressively work with the citizens to deal with the problems that they are expressing, but you have to understand -- you have to understand and -- I think it would be a mistake for us to allow our citizens to feel like the City of Lake Charles is equipped or empowered to deal with those problems. It is not.

advocate to make sure that the responsible agencies, who do have the authority and who do have the budgets to deal with these problems, are dealing with these problems. And that's why I think that the estuary task force is an important first step for who ever is the mayor of this community to become personally involved in the issues as they affect the citizens of our community.

That's the first step. The second step is: Where do we take the estuary task force; What do we do on

15[.]

the estuary task force; How do we marshal our resources within our city in order to deal with those? And we do have a -- we deal with other problems in the community very similarly.

As problems come up in the community, we have people in Planning, we have people in Public Works, we have people in different areas -- I have a Director of Community Services. I have a Director of Administration. I have a Director of Operations. And as those problems present themselves and as they fall into a particular area, we will work with citizens to deal with those problems.

MR. MORRIS: Thank you.

MS. MADDEN: I would like to ask a question,
Mayor. I come from Baton Rouge. And we have had
considerable success with the town meeting process --

MAYOR ROACH: Okay.

MS. MADDEN: -- which is a very low-cost thing to do. It's run by a group of citizens, and we raise our own money. Both Mr. Morris and I serve on that Town Meeting Committee.

And I was wondering: Have you given any thought to using a process like that in order to bring folks together? Because I think what we're really talking about here is leadership. I mean you don't have

enforcement powers, but you have leadership --

MAYOR ROACH: Yes.

MS. MADDEN: -- and you can be an advocate.

And that might be one way. Have you thought about doing that?

MAYOR ROACH: Well, that is the -- that was the impetus for forming the estuary task force. I think that perhaps the task force would be probably the best forum now that we have available to us to deal with those issues and do it in a public way.

And the task force, I think, is probably right now at this point sort of searching for an identity in a sense and searching for a role in how they can actively participate in this process more that just hosting a hearing and having the representatives of industry and the representatives of government come to make a presentation as an informational exchange of ideas.

I think what you're suggesting is that there should be a forum or a place where it becomes a little bit more proactive in trying to deal with these situations and deal with them in a responsible way. And --

MS. MADDEN: Interactive?

MAYOR ROACH: Interactive, yes, ma'am.

MS. MADDEN: Right.

MAYOR ROACH: But that's the whole concept

2

3

4

5

6

7

8

9

10

11

12

13

14 15

16

17

18

19

20

21

22

23

24

25

behind the idea of a -- of the estuary task force. And I think that perhaps the word "Estuary" has maybe limited the task force, and its focus has been primarily on the river system. Some of the problems that you have heard about are not necessarily estuary problems; there are more general environmental problems that need to be addressed.

And perhaps what we need to be doing -- I know that, you know, a rose is a rose, and I don't remember what Shakespeare said about that. But, anyway, perhaps what we should consider doing is changing the name of the task force and having the task force charged with the responsibility of dealing not only with estuary issues but environmental issues and, thereby, allowing for this town hall meeting-type concept to take place and to deal with the issues that you're talking about.

And I think it's very important because, on that task force, we do have representatives of both the industry and the environmental community who are represented there. And I think it's a good starting point, as I mentioned to you earlier, as far as dealing with these problems.

MS. MADDEN: Thank you, very much.

Anyone down on this end?

MS. PARKS: I had one.

MS. MADDEN: Okay. Go for it.

MS. PARKS: If I can just take a second? 1 MS. MADDEN: All right. 2 (Pause.) 3 MS. PARKS: I just wanted to take a second. 4 just answered my question on the estuary. 5 But I just want to congratulate you. I 6 remember you from the legislature. And we miss you in 7 Baton Rouge, but I'm glad to see you in this new role. 8 MAYOR ROACH: Thank you, ma'am. Thank you. 9 MS. MADDEN: And I'd like to say amen to that. 10 I remember you from the State Senate and that you were 11 quite a champion of environmental rights. And we 12 appreciate you being here today. 13 MAYOR ROACH: Thank you. All right. 14 15 MS. MADDEN: Any other questions? 16 MR. MORRIS: Yes, one more. 17 MS. MADDEN: Okay. Mr. Morris? 18 MR. MORRIS: Mr. Mayor could you talk a little 19 bit about the Lake -- the North Lake Charles Environmental 20 or Economic Board? 21 MAYOR ROACH: Economic Development Board? 22 MR. MORRIS: -- the Economic Development Board 23 and the input the citizens have on that Board? 24 MAYOR ROACH: Well, Mr. Morris, that board was 25 formed by legislative act. It was put together before I

became mayor. There have been some citizens who have been very critical of the process by which that board was put together. They have come to the City.

The City has two appointments on that board, one of which is appointed by the city council, and the other by the mayor. There are, I believe, 11 members on that. I could be mistaken, but -- so there are other appointing authorities that have positions on that board. That board was the idea of Representative Elcie Guillory.

Representative Guillory is one of the finest people, I guess, that I've ever had an opportunity to serve with in the Louisiana Legislature. I don't think that Representative Guillory ever intended in any way to slight anybody in his district in putting together this board; I am convinced that he had nothing but good intentions in forming this board and putting this board together.

Obviously, once he formed the board and gave appointing authority to different people, he couldn't control the appointment process. But I know that the board was put together with the sincere desire to help the people that it is intended to serve.

We have requested from the attorney general's office an outline as to what we do in the event that it is necessary to replace someone on that board. I know that

Representative Guillory is considering possible legislation to deal with those issues in the upcoming session.

As you are probably aware, one of the handicaps that we now have in Louisiana is a fiscal-only session that we do in even-numbered years, and then, in odd-numbered years, we deal with the rest of the issues facing the State.

I would like to suggest to you -- I don't know that -- you can't deal with this as a commission, but I think it's -- one of the worst things that we have ever done in recent history in terms of limiting the access of our citizens to our own legislature was to adopt that law.

And I have to say that I did everything that I could to encourage people to vote against that, but there was such a cynical attitude toward legislation that people didn't -- I mean they went ahead and voted for it.

But we cannot deal with that issue completely the session convenes in the 2001 April session. So that issue is going to be continued to be addressed.

I do not consider that to be in the same category as the environmental justice issues that you're dealing with here. I look at that as being a primarily local issue, and there are different local politics that enter into that issue which I don't think have a direct

Z

MS. MADDEN: Please come forward and identify yourself and tell us your occupation.

MAYOR REED: My name is Charles Reed. I'm a Christian, I'm a father, I'm a husband, I'm an American, and then I'm the Mayor of Sulphur; it comes in fourth.

And I -- all I can add to what Randy said? I'm proud of a couple of things. One: I've never served in the legislature.

(Laughter.)

MAYOR REED: Two: I'm not a lawyer. My daughter went to LSU law school. I did everything I could do, but she went and she graduated. But then, after a lot of pressure, she came to her senses and she's teaching young children English and government, and she's not practicing law. So we're very proud of that at our house. I hope none of you are lawyers, but if you are, well, you know, too bad.

(Laughter.)

MAYOR REED: But we -- I want to address something, if I might, that Mr. Morris asked, because I feel like I know Lake Charles as well as anybody knows Lake Charles because of athletics. And I don't think there's a better way to meet people and for kids to grow up and intertwine with each other than to play ball, be in bands or be cheerleaders, or whatever.

North Lake Charles is located all the way up to Interstate 210. Okay? It's not a Broad Street thing any more; it goes all the way up to Interstate 210.

The reason I can relate to North Lake Charles is that I'm from west Calcasieu Parish. Now, if you look on the map, it doesn't say that, but we are west Calcasieu, and we're very proud of that. We're reminded of that pretty regularly, but we don't mind that; I enjoy being from west Calcasieu, although I do try to work with my friends from east Calcasieu.

I probably don't look through the same rosecolored glasses that Mayor Roach looks through. I'm more
of a realist. I will take any of your questions, but, if
you ask me the question, I'm going to tell you what time
it is; I won't tell you how to build the watch. So go
ahead. I'm ready.

MS. MADDEN: All right. Thank you, Mayor.

Are there questions?

(Pause.)

MS. MADDEN: Okay.

MAYOR REED: Yes, sir?

MS. MADDEN: Mr. Morris?

MAYOR REED: I think I can hear him if you -- unless you -- well, they won't hear. Okay.

MS. MADDEN: But the people back there need to

hear.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MAYOR REED: Yes.

MR. MORRIS: Based on your acknowledgement of your information about Lake Charles, what's your take on the economic development board?

MAYOR REED: Well, all I can tell you is what I read in the paper. I will tell you this: I am an acquaintance or, I guess, you could even say a friend of Representative Guillory. We don't spend a lot of time together, and, when we do, it's usually on governmental issues.

I think the board has some problems, but that's the good news. It is a board, and the problems can be fixed. And I think they need to be fixed. But I think -and I might be wrong. Sam's in the back, I know, for sure. I didn't see A.B. or Rodney. I think the people from North Lake Charles should take great pride in being from North Lake Charles.

MS. MADDEN: That's right.

MAYOR REED: I don't think there's anything wrong with being from North Lake Charles, no more than there is from being from South Lake Charles. And I know you're from Baton Rouge. There's East Baton Rouge and West Baton Rouge. I mean it happens. We all get our little niche, and we stay there.

But my take on the board, real quickly, is:

I'm glad it's there; I think it needs to be there. I

think it needs a lot of tuning up.

(Applause.)

MS. MADDEN: Mayor, let me ask you a question.

Do you ever receive complaints or concerns about industrial pollution in your area?

MAYOR REED: We do occasionally. And we deal with them normally through DEQ. I live in the middle of Sulphur. Okay? We have Maplewood, Hollywood, Sulphur, Pecor [phonetic] Town, Poachie [phonetic] Town. We've got all those little places, too. And I came from the wrong side of the tracks; I came from Poachie Town and lived there when I got married. I can't afford to go back or I would.

But we -- I kind of have a spin on that. We don't have the resources or the team -- you heard Mayor Roach say that he has got a director of operations and he has got a director of that and he has got a director of that. You're looking at the director in Sulphur. I've got a Department of Public Works Director and a Finance Director.

But we do things a little more short-handed there. We're a lot smaller city. We're 22,000 people.

Our budget is about the same they equate. We're at about

a 20 percent budget of what they have, and we're about a fifth of their size -- or a fourth.

So do we as a city do anything directly? No.

What I do is -- I normally get with Representative Ronnie

Johns or Senator Willie Mount, and we get with DEQ or EPA,

or who ever the proper source will be. And we get with

them. I can tell you this: When the City of Sulphur has

a problem, those Agencies are very quick to contact us.

In fact, we're under an administrative order right now to spend \$25 million on a sewer plant that's a regional sewer plant. And we're in the process of doing that. So we feel like we're doing everything we can do.

And we're lucky in Sulphur; we do have good resources. Our budget wasn't \$2 million short. Our sales tax was actually about \$2-1/2 million over budget. So we're blessed that we do have some money to do some things with.

MS. MADDEN: Thank you.

Any other questions?

(Pause.)

MS. MADDEN: If not, thank you, very much,

Mayor.

MAYOR REED: Thank you.

MS. MADDEN: We appreciate it.

(Applause.)

MR. CARTER: Straight in front of me? Can you hear me?

MS. MADDEN: Yes.

MR. CARTER: All right.

The Louisiana Commission on Human Rights was established to address the issues of discrimination in employment and public accommodations, as well as banking and lending practices in the State of Louisiana. My responsibility involves handling charges of discrimination that are filed against various respondents in the State and making sure that there are cause or no-cause resolutions to these particular charges.

Principally, I want to bring greetings from the Governor's Office, as well as Ms. Lois Wright, the Executive Director of the Human Rights Commission, and Ms. Richardson, who's actually one of the Commissioners of the Human Rights Commission. I'm very happy to stand before you to answer questions relative to the Louisiana Commission on Human Rights.

Do I open up for questioning? How do -
MS. MADDEN: If you have a statement to make

first, that would be fine. If not, we can just go ahead

and ask you some questions.

MR. CARTER: Okay. You can go right and --

MS. MADDEN: Do you have a brief statement? Do

you want to do that?

MR. CARTER: We can go to a brief statement.

MS. MADDEN: Okay.

MR. CARTER: The Louisiana Commission on Human Rights' very existence is premised on the protection of citizens of Louisiana from unlawful discriminatory practices. The Commission was established in 1988 by an act in the 1988 regular session of the Louisiana Legislature and has been in existence since 1993 -- in operational existence since 1993.

The Louisiana Commission on Human Rights enforces Louisiana laws which prohibit various forms of discrimination related to employment, public accommodations and banking and lending practices.

Structured under the Governor's Office, the Louisiana Commission on Human Rights is the official arm of the State Government mandated to process charges of discrimination, investigate alleged discriminatory acts, mediate disputes and provide education and training related to discriminatory practices.

Relative to employment discrimination, the employment discrimination provisions of the State laws apply to employers of 20 or more employees and, in the case of pregnancy and related medical conditions, more than 25 employees, labor organizations, joint

por "- «ig

labor/management committees, employment and apprenticeship training programs and all Agencies, State and local.

Under its Anti-discrimination in Employment provisions, the Louisiana Commission on Human Rights handles complaints of discrimination based upon race, color, religion, sex, age, disability, national origin, Sickle Cell trait, pregnancy, childbirth and related medical conditions.

In public accommodation cases, it is unlawful -- it's an unlawful practice for a person to deny an individual the full and equal enjoyment of goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, resort or amusement.

Relative to lending and banking practices, it is an unlawful practice for a financial institution to discriminate against an individual in the granting, withholding, extending, modifying or renewing of rates, terms, conditions, privileges or other provisions of financial assistance or extension of services in connection therewith, to deny credit, increase charges or fees to restrict the amount or use of credit extended or impose different terms and conditions with respect to credit.

Our training opportunities are vast. The

б

Louisiana Commission on Human Rights provides training opportunities in the areas of: Louisiana employment discrimination laws; steps of the investigatory process; alternative dispute resolution; cultural competency in supervising a diverse work force; sexual harassment; employment law developments and recent court decisions; sex, age, gender and disability discrimination; personnel transactions; covering the Equal Employment Opportunity laws' guidelines for job notices and advertising; preemployment inquiries; hiring; evaluations; terminations and lay-offs, and; assessing organizational compliance.

The Commission can also design specialized training to meet particular organizational needs. As a result of our extensive training programs, an employer may garner an increased understanding of the impact of employment discrimination on morale, improved compliance, improved management's decision making and, last but not least, reduce employment liability and exposure.

Written on the facade of one of the courthouses in the great city of New Orleans, the time-proven statement was that, "The impartial administration of justice lies at the very foundation of liberty." Working together, we can ensure the unfettered pillars of life, liberty and the pursuit of happiness for all of our citizens. Thank you.

MS. MADDEN: Thank you, very much, Mr. Carter. 1 Are there questions. 2 MS. ROBINSON: I have a couple after you all 3 get through. 4 Okay. MS. MADDEN: 5 Any questions down here? 6 7 (Pause.) MS. ROBINSON: Well, then --8 MS. MADDEN: Okay. We'll turn it to Ms. 9 Robinson. 10 MS. RICHARDSON: I had one. 11 MS. MADDEN: Oh, okay. 12 MS. RICHARDSON: And good afternoon. And I'm 13 so happy that you could be here. And you're dressed for 14 success and making me proud. 15 MR. CARTER: Thank you, very much. 16 MS. RICHARDSON: And I have been with the 17 commission since its inception. However, I can't get a 18 fit in my head for what -- these people with these 19 environmental concerns what help -- I can't quite jump to 20 what help the commission might be able to give these 21 people from these communities. 22 I know there are health concerns. But as you 23 went over and summarized for us the jurisdiction of the 24 commission, I was not clear of how you could render help 25

to the people whose concerns we have heard for these two days.

MR. CARTER: Well, that's a very valid concern. While the Commission does not directly cover the jurisdiction relative to environmental concerns, at the same time, because of the broad scope in terms of discriminatory practices in general, the Commission tends to delve into issues outside of its jurisdiction in order to lend support to individuals in situations that may or may not be in the best interest of the citizens.

So the direct answer is: The Commission does not cover environmental concerns directly, but, in terms of the scope of discriminatory practices and as it relates to human rights, the Commission is certainly interested in those types of concerns.

MS. RICHARDSON: So these citizens' groups may want to approach the commission to see if there is a, quote/unquote, "Fit," for their concerns?

MR. CARTER: Yes, ma'am.

MS. RICHARDSON: Thank you, sir.

MS. ROBINSON: I'd like to give some background on this particular session. I guess we didn't go into that enough.

During the course of our review of environmental issues in the Calcasieu Parish, there were

ongoing concerns raised about where to turn for civil rights assistance because, more often than not, these communities that suffer environmental impacts to some extent have underlying issues to address, which relates to housing, which relates to employment and which relates to education.

And we wanted to take a look at, Where can citizens of this state turn for civil rights assistance, effective civil rights assistance? So that's the reason -- why Mr. Carter and the Louisiana Human Rights Commission, as well as the other Agencies that have responsibility for enforcing civil rights laws in the State were asked to come today.

Along those same lines, I'd like to ask you some questions, Mr. Carter. The commission has been established since 1988. Is that correct?

MR. CARTER: Yes, ma'am.

MS. ROBINSON: Okay.

MR. CARTER: But -- excuse me. In operational existence since 1993.

MS. ROBINSON: Okay.

MR. CARTER: Okay.

MS. ROBINSON: And your authority and your investigative powers go to banking and lending, employment and public accommodations. Correct?

2

3 4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. CARTER: As well as employment discrimination.

MS. ROBINSON: Okay. Could you share with us a little bit about how you process your complaints? How do you receive them? Do you only receive written complaints? Do you accept walk-in complaints? Could you share with us the process, please?

MR. CARTER: Yes, ma'am. We review written complaints and walk-in complaints, as well as telephoneoriented complaints. Individuals come in, and we have a form -- a complaint form where citizens will fill out as we -- where we request specific information.

We determine, based upon information that's presented or given to us, whether or not there's a prima facie case established that covers one of our jurisdictional bases. Those jurisdictional bases include, again, employment discrimination -- and in banking and lending practices, as well as public accommodations. From that particular point on, we go on to our investigatory process, where we determine whether or not there's a for cause or not for cause finding.

By virtue of -- the standard we use to determine whether or not there's a cause or non-cause finding is: Whether or not there's a disparate impact or disparate treatment, meaning where an individual may

_

purposefully discriminate or a substantial segment of a particular protected group is discriminated against in one of those three broad areas.

MS. ROBINSON: How many people are staffed in your Agency to do investigations?

MR. CARTER: We have approximately three individuals in the total staff of the -- we have a very small staff, and we are very -- but our resolve is strong -- three full-time staff members. And we have one part-time investigator. There are two individuals that are absolutely and specifically designated cases at the commission.

MS. ROBINSON: Do you make referrals to the Equal Employment Opportunity Commission? Are you partially funded by that Agency?

MR. CARTER: We are partially funded by the EEOC out of New Orleans. And we involved ourselves in what's called a work-sharing agreement, where we share the case load relative to employment discrimination cases, not banking and lending, as well as public accommodations.

MS. ROBINSON: Okay. How do you let the general public know about your services?

MR. CARTER: We do a variety of things. We -mostly, we involve ourselves in community activities, such
as these types of forums, as well as forums in partnership

MS. ROBINSON: What kind of backlog?

25

1.	MR. CARTER: (No response.)
2	MS. ROBINSON: Do you have a backlog
3	MR. CARTER: Are you
4	MS. ROBINSON: outstanding cases that have
5	not been investigated?
6	MR. CARTER: Well, we constantly have cases
7	that are behind in terms of investigation due to the lack
8	of staff. But at the same time, we're involved with the
9	work-sharing agreement with the EEOC to sort of alleviate
10	our backlog.
11	MS. ROBINSON: What would you say how many
12	cases during the course of a year does your Office accept
13	for investigation?
14	MR. CARTER: I would say we accept somewhere
15	around a hundred cases or so.
16	MS. ROBINSON: And you complete those
17	investigations yourself?
18	MR. CARTER: Yes. We complete the
19	investigations ourselves.
20	MS. ROBINSON: Okay.
21	MS. MADDEN: Are there any other questions for
22	Mr. Carter?
23	(Pause.)
24	MS. MADDEN: If not, thank you, very much. We
25	appreciate you being here.

MR. CARTER: Well, thank you. 1 MS. MADDEN: All right. I don't think the 2 Attorney General has come in yet. Is Ernest Johnson here 3 from the NAACP? I haven't seen him. 4 (Pause.) 5 MS. MADDEN: Okay. We may be ready to take a 6 little break then, but we'll go on and call the other 7 8 names. Is Bernadette Tyus from the New Orleans Program 9 Center for Fair Housing -- is she here? She was not to 10 come until after dinner. And we can maybe speed this up a 11 12 little bit if some of these other folks are here: Tydell Nealy, Tim Blanchard --13 MS. PARKS: Here's Tydell. 14 MS. MADDEN: Okay. Tydell Nealy, please come 15 forward. 16 (Pause.) 17 MS. MADDEN: We appreciate you coming in a 18 19 little bit ahead of schedule. Would you please identify yourself and your occupation for the record? 20 MS. NEALY: My name is Tydell Nealy, and I'm 21 22 Program Analyst with the New Orleans District Office of the U. S. Equal Employment Opportunity Commission. 23 The U. S. Equal Employment Opportunity 24 Commission's mission is to promote equal opportunity in 25

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

employment through administrative and judicial enforcement of the Federal civil rights laws and through education and technical assistance. The Commission was established by Title Seven of the Civil Rights Act of 1964 and began operating on July 2, 1965, which -- we're in our 35th anniversary this year.

The EEOC enforces the principal Federal statutes prohibiting employment discrimination, including: Title Seven of the Civil Rights Act of 1964 as amended, which prohibits employment discrimination based on race, color, religion, sex or national origin; the Age Discrimination in Employment Act of 1967 as amended, which prohibits employment discrimination against individuals 40 years of age and older; the Equal Pay Act of 1963, which prohibits discrimination on the bases of gender in compensation for substantially similar work under similar conditions, as well as; Title One of the Americans with Disabilities Act of 1990, which prohibits employment discrimination based on disability in both the public and private sectors, excluding the Federal Government; the Civil Rights Act of 1991, which includes provisions for monetary damages in cases of intentional discrimination and clarifies provisions regarding disparate impact actions, and then; Section 501 of the Rehabilitation Act of 1974 as amended, which prohibits employment

.

discrimination against Federal employees with disabilities.

okay. On filing a charge in which -- where we would be able to give assistance to the public: If a person believes that he or she has been discriminated against by an employer, labor union or an employment agency when applying for a job or while on the job because of race, color, sex, religion, national origin, age or disability or believe that they have been discriminated against because of opposing these prohibited practices or participating in an Equal Employment Opportunity matter, that person can file a charge of discrimination with the EEOC, the U. S. Equal Employment Opportunity Commission.

These charges can be filed in person, they may be filed by mail or via telephone. They only have to contact our Office, which is located in New Orleans and is the Office that covers the entire State of Louisiana.

There are strict time frames, though, in which these charges of employment discrimination must be filed. And to preserve the ability of EEOC to act on the person's behalf and to protect their right to file a private lawsuit if, ultimately, that is needed, persons must adhere to the guidelines.

Where there is a belief that Title Seven of the Civil Rights Act has been violated, the person must file

with EEOC within 180 days of the alleged discriminatory act. However, in states or localities -- and here we have the Louisiana Commission on Human Rights. The person can file with that Agency, as was stated by Mr. Carter, and, if there is such jurisdiction, then the person can file a charge within 300 days with our Office in New Orleans.

As with the Americans with Disabilities Act and the Age Discrimination in Employment Act, we also must adhere to strict guidelines. And those will apply, just as with Title Seven, with 180 or 300 days.

With the Equal Pay Act, a person is not required to file with out office in order to file a private law suit, but, sometimes, there are also violations related to Title Seven. And so we request that the person would file with our Office, as well.

In listening over the last day to the comments related to the environment, I see where the EEOC would look at disability-related types of violations, because we know the environmental will and can affect the health of individuals. So I see where our Office would look into cases related to disability where a person may believe that they are being discriminated against because of some type of condition that has been acquired.

Any questions that I may answer for you?

MS. MADDEN: Thank you, Ms. Nealy.

Any questions? 1 MS. RICHARDSON: Oh, yes, ma'am. 2 MS. MADDEN: Okay. Ms. Richardson? 3 MS. RICHARDSON: Good afternoon, Ms. Nealy, and 4 welcome. 5 MS. NEALY: Thank you. 6 MS. RICHARDSON: I have a question concerning 7 your staffing and backlog. At one time, during a 8 particular time frame, it seemed to me that you were so 9 backlogged that people felt discouraged about even filing 10 a complaint. I understand there has been some improvement 11 in staffing patterns. 12 Will you explain, please, to this Committee 13 where you stand now from the -- I'm asking like -- from-14 the time something is filed? Within which time frame is 15 it assigned and an investigation started? And is the 16 EEOC, once again, really a ray of hope for the people in 17 Louisiana? 18 MS. NEALY: Okay. When someone believes that 19 he or she has been discriminated against, we conduct an 20 interview with that person. And if we find that there is 21 a possible violation, within one week, that case is 22 assigned to an investigator. We have approximately 24 23 investigators on our staff, but we receive over 900 24

25

charges in a year's time.

Right now, our Chairwoman, Eda Castro, at headquarters in Washington, D.C. has prescribed 180 days for us to try to investigate cases. But when there is a violation, that investigation may take longer.

So there is in a sense still a backlog because of the number of cases that we receive and, in trying to do a thorough investigation of those cases, when you need to give employers time to provide information to us for us to travel to and investigate, do on-site investigations, for those cases.

So that backlog is there. But we are working right now, with an average of 265 days, in coming to some type of resolution or finding that there is not cause for a particular complaint.

MS. RICHARDSON: Thank you.

MS. NEALY: Did I answer that okay?

MS. RICHARDSON: Uh-huh.

MS. ROBINSON: I have a question.

MS. MADDEN: Okay.

MS. ROBINSON: Ms. Nealy, I have a concern about how a person -- how easy it is to get access to your Office. I know that there's a 1-800 number, but you get a recording on that. How does one contact your Office and get a live voice or body?

In those instances when people need further

clarification, they may be calling from a small rural of the State, and they get this recording that will not serve their needs. How do they contact your Office to speak to someone to get help?

MS. NEALY: Okay. The -- and we know that there is a problem with the recorder, and we are trying to solve that. But with the recording, you can always leave a message.

And the person must be sure that the name is indicated, the spelling of the name is good -- and a telephone number or an address where we can get in touch because, sometimes, we find that we don't clearly understand -- through, you know, technology, sometimes, things are not clear, and we need to really understand the numbers that are given to us.

The person can write to our Office. And we will follow up through that, through just the contact saying, I would like to reach you. So it is possible to do it that way.

So via telephone or mail, we can then follow up with the person. Then if someone knows a direct line, even when you receive a recording -- I conduct outreach.

And I always give out my telephone number. Through the 1-800 number, I still can be accessed by dialing my extension in order to get -- for the person to get in

contact with me.

MS. ROBINSON: Okay. I'm talking about persons who may not know you, and this may be their first, initial contact with your Agency. They get the 1-800 number, and they get a recording. They need more information. They know they need more assistance. And then, when you dial a particular extension that's needed, the person that is supposed to have answered the phone -- their mail-box is full, so you can't leave a message.

As a matter of fact that's what happened to me when I contacted your Agency regarding this meeting. So I ended up having to call Washington, D.C. And I consider myself a very good person at getting in touch with people, and I said, Well, this is a problem.

I know that -- if I have a problem, I know that people in your State that -- may not have the -- know about the procedures and how things are handled and could make the appropriate contact.

MS. NEALY: Okay. Like I said earlier, we know that that is a situation that we need to resolve. And we are working, trying to do that. But you can leave a message. Now, that 800 number should have a message, as well as -- the capability of leaving a message, as well as -- if there is a direct line that is known.

We are on the internet, so -- if someone is

capable of doing that. But using the mail system 1 that's -- that would be another way of doing it. I know 2 that is a situation -- we've had people to tell us about 3 that. And we are working -- because we work with the 4 General Services Administration with our telephone system, 5 like with any Agency, you have to go through a series of 6 things in order to get the change. 7 That system was put into place approximately 8 two years ago. And so we're still working out the 9 difficulties that we have with that system. 10 MS. ROBINSON: Anyone else? 11 (Pause.) 12 MS. MADDEN: All right. If no one else has any 13 questions, thank you, very much, Ms. Nealy. 14 15 MS. NEALY: Thank you. MS. MADDEN: I'm not sure that we have any of 16 our other presenters with us right now. We're for some 17 reason running a little bit ahead of schedule. 18 MS. RICHARDSON: Well, that's a good sign. 19 MS. MADDEN: Yes. 20 And what I would like to do is call for about a 2.1 five-minute break. And then we'll be right back. 22 (Whereupon, a short recess was taken.) 23 24 MS. BOURG: We're now ready to begin this session again. I'd like to have your attention, please. 25

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

(Pause.)

MS. BOURG: Thank you.

We had -- we're now going to have some open session time. And there were three persons last night who were marvelously patient, and so I would like to see if any of them are still here because we wish to give them time.

Let me tell you how we'll do this. We'll -- I told my colleague who asked me to chair this -- I said, Yes, you give me the privilege of chairing the citizens' open area, but it's -- also, the thing that I have to cut you off, that's the part I don't like.

(Laughter.)

MS. BOURG: So I'll ask for your patience and indulgence with me. You get five minutes -- okay -- to say whatever you want, each of you. And when you're 30 minutes [sic] before, I'll give you a 30-minute warning, something like this maybe, or I'll hum into the microphone, so that you'll know that it's getting close, because we want to give everyone a chance.

And Ms. Margie Garland, I believe?

VOICE: She's not here.

MS. BOURG: She's not here? I do believe that she's going to submit or has submitted something in writing.

1	finish time for this session. And then, I think there
2	will be an eyening break. And
3	MS. ROBINSON: Yes. ~
4	MS. BOURG: then we'll come back and see who
5	else may have gathered. I think that's the plan I'm
6	hearing from you.
7	MS. ROBINSON: Yes. We have a further agenda
8	to complete.
9	MS. BOURG: We have a further agenda to
10	complete. So is Ms. Vallery Montgomery here?
11	MS. ROBINSON: Mr.
12	MS. BOURG: Mr.? I'm sorry. I beg your
13	pardon.
14	Is Mr. Vallery Montgomery here?
15	(Pause.)
16	MS. BOURG: Would you come forward, please?
17	(Pause.)
18	MS. BOURG: Well, if someone will, get him.
19	But, meanwhile, is Mr. Charles Atherton here?
20	(Pause.)
21	MS. BOURG: Mr. Atherton?
22	MR. ATHERTON: Yes, ma'am.
23	MS. BOURG: You have five minutes.
23 24	MS. BOURG: You have five minutes. MR. ATHERTON: Yes.

please?

MR. ATHERTON: My name is Charlie Atherton,
A-T-H-E-R-T-O-N. I live at 122 Vine Street, Sulphur,
Louisiana. What I would like to --

MS. BOURG: Mr. Atherton, before you start, because there are some people who are sitting all the way at the back -- do you see how I'm using this microphone here? It doesn't pick up when you talk like this. You have to really do it just like that and get ready to be about a half-inch from it. And then I think everybody will be able to hear you. Would you do that for us?

MR. ATHERTON: I'll certainly try.

MS. BOURG: That other one is not a --

MR. ATHERTON: It's just this one right here?

MS. BOURG: Just that --

MR. ATHERTON: So this one --

MS. BOURG: Excellent. Thank you.

MR. ATHERTON: This one now works. What I would like to do is provide some additional information to what I've heard going on in the last couple of days.

The U. S. Commission for Environmental

Cooperation, the CEC, was created by a side-agreement of

NAFTA, and it's located in Montreal, Canada. The CEC

funded the Canadian Institute for Environmental Law and

Policy, who has compared toxic release inventory-type

data, TRI, from one city of each of the three countries of Canada, the U.S. and Mexico.

Lake Charles, Louisiana, was selected as the city to represent the TRI data for the United States. It is significant that Lake Charles was chosen as an example, as this demonstrates the magnitude of the air quality problems in Calcasieu Parish.

This information was presented at the Toxic

Release Inventory Conference held in Denver in 1999 that

it was sponsored by EPA and the National Environmental

Health Association. The mapping of Calcasieu Parish

demonstrates the intense concentration of industrial

facilities in close proximity to concentrated residential

areas and sensitive aquatic eco-systems, and that's the

map that you saw earlier with Wilma Subra.

And I'll enter that into the record. I want to take the opportunity to clarify this information.

I also wanted to mention that I am a past member of the governor's old estuary task force that Governor Foster sought to trash because they thought -- because that was the only environmental forum, they thought they could kill it and do away with it. I'm also a member of the new governor's environmental task force.

I've served on some local government, like the buffer zone committee. I'm -- also, I represent the

environmental community on the LEPC, emergency planning, for Calcasieu Parish. So I'm pretty much an all-around meddler and have for 36 years been meddling and involved in all types of public issues, especially in the environmental arena.

And I think it's important for -- the additional information I want to give you. And one is: When you spoke to the parish people yesterday. And this was published in <u>The American Press</u> in '97. And, basically, it says that the local police jury is in the economic development business; they are not in the environmental business.

So, hopefully, that will give you some idea as to their thoughts and their position. I'll turn that into the record, also.

The -- as far as additional information, when we try to strengthen the rules to improve the health and the environment through the DEQ, they say, Well, we're following the EPA standards. And then the EPA comes back and tells us, Well, we've delegated those programs to the State.

And when we give and turn in comments to DEQ on how to strengthen the rules to make the permitting process work to help improve the environment and to take care of the people, then they say, No, we're not changing it,

because we've done what EPA says. And then, when you go to EPA to try to get their incompetency in their rules changed, the process is so long that it's never going to happen.

Like Jerry Clifford told you yesterday, there are no ambient air standards for toxic chemicals in the air. So I mean that's just one short example. And then, every time the agencies have to do their jobs, they basically have to compromise with industry because they know that industry controls the political process that elects officials and these officials control the agency funding.

So it's -- we believe very strongly that the Louisiana DEQ ought to be funded separately and that they should not be -- their budget should not be tied to the regulated community.

Yesterday, they spoke briefly about industrial districts. Well, industrial districts that were carved out 40 years ago is just like the island of Cuba; I mean they are sacred ground that nobody can touch. And in these particular districts, they're -- they can build plants right on the fence line. And some of these districts are right across the street from residential areas.

The key point is that in recent years, two of

2.5

these industrial districts have been expanded into the residential communities. One of them was the town of Mossville -- the community of Mossville.

In fact, I was the only person that went to that plant, in a zoning meeting, that hung that process up, because they were putting like a horse-shoe around that community. And I'm the one that began the process that ultimately led to the environmental group -- me and some other citizens. So we're very concerned about industrial districts and the lack of control over it.

The -- as I said, I'm a member of the new governor's Estuary -- I mean the Calcasieu Parish Estuary Task Force. We are -- being that it's a new group, we're struggling to make this thing function a little better.

One of the deficiencies that it has right now is -- this group has not format -- no official format for public input to the meeting. So the public shows up, and they can -- I mean the meeting's open to the public, but there's not a method or mechanism for citizens to speak. They usually, at the end -- if there's enough time at the end, they usually let a couple of people get up and whine, but they don't drag it out too far.

And the USDS came in here awhile back. They have to be invited in. They did some ground water studies, but the plan was for them to do a contamination

study. But they were uninvited when it got down to time 1 to do to the contamination studies. 2 The -- I served on the Calcasieu Parish Buffer 3 Zone Committee. And --4 Am I out of time? 5 MS. BOURG: You need -- can you make just one 6 7 or two more sentences? MR. ATHERTON: No. Like the lady said --8 MS. BOURG: Because you've got about less than 9 30 seconds. 10 MR. ATHERTON: Yes. Well, like the lady said, 11 12 this is our lives, and we live here. And I've been 13 heavily involved for 36 years. I really don't know any other way to do it than to like tell it to get it into the 14 15 record. So I --MS. BOURG: Do you have something, Mr. 16 Atherton, also written that the Committee could have from 17 18 you? 19 MR. ATHERTON: I have this particular information here, but --20 MS. BOURG: We'd like that. 21 MR. ATHERTON: -- the comments that I'm 22 23 coming -- because I'm responding from yesterday's comments and today's. But I can prepare them and submit them if 24 25 that would be appropriate for the Committee.

MS. ROBINSON: Basically, we have -- you have 1 three options. You can mail in the information. 2 MR. ATHERTON: Okay. 3 MS. ROBINSON: The record will be open through 4 October 13. You can leave your materials here. But we 5 would like for you to summarize, you know, very briefly, 6 in five minutes, what the major points are --7 MR. ATHERTON: Okay. 8 MS. ROBINSON: -- because we have a long list 9 10 of people. . MR. ATHERTON: But I've already used the five 11 12 minutes? MS. BOURG: Yes. 13 14 MR. ATHERTON: Okay. So I just need to mail it in? That would be the preference of the Committee? 15 MS. BOURG: We would really like to have the 16 17 information. 18 MR. ATHERTON: Okay. 19 MS. BOURG: So we would appreciate it if you would. Do you know where to mail it? 20 21 MR. ATHERTON: No, ma'am. MS. BOURG: It's --22 MR. ATHERTON: You're reading me good. 23 MS. BOURG: It's -- okay. 24 25 Is it -- nobody --

1	MR. ATHERTON: Is it on one of the is it on
2	the piece of paper in the lobby?
3	MS. ROBINSON: Yes, it is.
4	MR. ATHERTON: Okay. Well, then I'll get it
5 .	from the lady that's
6	MS. ROBINSON: Okay. Mr. Hernandez
7	MR. ATHERTON: Okay.
8	MS. ROBINSON: Ascension
9	MR. ATHERTON: Right.
10	MS. ROBINSON: Hernandez has that
11	information.
12	MR. ATHERTON: Okay.
13	MS. BOURG: Do you see him in the back?
14	MR. ATHERTON: Yes, ma'am. I spoke with him
15	yesterday. I'll do that then.
16	MS. ROBINSON: Okay.
17	MR. ATHERTON: Thank you.
18	MS. BOURG: Does everyone know Mr. Hernandez in
19	the back? If you need to know where to send in your
20	information, that's the gentleman you can get the address
21	from. And send it in.
22	Thank you, so much, sir.
23	Is Montgomery in Vallery Montgomery?
24	VOICE: No, ma'am.
25	MS. BOURG: Okay. Mary Lou Morris?

(Pause.)

MS. MORRIS: I think I have it live. Right?

Can you hear me?

MS. BOURG: That's wonderful.

MS. MORRIS: Okay. Great.

My name is Mary Morris. I live at 2345 C Street, and I am a citizen of North Lake Charles.

Some of the issues that I would like to talk about is three issues on civil rights that just -- it represents the economic development in this area based on education and, also, housing. And one of the things that we have in the area which is economically deprived is education. Okay?

When we talk about the education in our area, we are looking at our school systems that, when we look at the grading and the performance of our children, they are making very low in ACT, all the scoring. And it's in predominantly minority and economically deprived areas.

When we look at the beginning, when children are sent to schools, our school system for the younger children -- and that's where you get your development in -- is only based on -- the enhancement that's given for the children is based on maybe more like baby-sitting that teaching. And so when our children grow up, they're not able to participate with the rest of the children because

3

4 5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

they don't have that foundation.

And that's where it starts. It starts with the foundation, and then you move up. And then the children do not fall out of school or quit because they can't read or they don't know math. And so when they do that, then they're on the street and able to get into trouble, and they're put into jails. And our system is full of that.

The other one is housing. The housing system in the economically deprived area is mostly projects, Section 8. What we're saying is: For citizens to have a good, sound, solid citizen community enhancement, it has to be houses, houses for the people, not just put in Section 8. All the money that we spend they could be put for that, and not necessarily for government projects or housing or Section 8.

Thirdly, when we look at our area -- and we did talk about North Lake Charles -- it is divided. I don't care what anyone comes up here to say, whether it be -- it is money that empowers and divides us. Money divides us: The south is with money, and the north is economically deprived.

When you go into our areas, even in this area, you weren't able to find an eating establishment, and you weren't able to find a large store. Why is that so? There's no development for our area. The money is moved

to where the power is. Money is power, and it speaks.

And it moves to South Lake Charles.

We do not have the necessary things that we need in this area for us to be viable. In order for that to happen, our city officials, whatever group that becomes -- and I know that, you know, we're glad to see you here. But when a group such as HUD or any other Agency looks at a program, they only look at certain things: What might be the problems. They don't look at all the issues.

You cannot look at one thing and not see everything that enhances a child's education. Not just one thing. And so when the city does not strategically plan for the growth of an area, then you have total -- well, isolation. And that's where we are. We're segregated, and we will always be segregated because there isn't any economic impact for our area.

The other thing that I would like to say is that we can all sit here and say, "We want to do the right thing," but if the officials don't step up to the plate and say that we all are equal, maybe not equal in education, but we are equal in people, the one thing I've learned is that my people -- in the Bible, it says, "My people perish for lack of knowledge."

And we do perish for lack of knowledge in

2

3

4

5

6

7

8

9

everything. We're not about service. We need technology back here. We need the same things as anyone else. So that's exactly what I wanted to say.

And I'm not going anywhere, and I'm staying here. I live here. I am 55 years old. I've lived here all my life, and I see this every day. And I can assure you that these same people behind me see the same things. Thank you.

MS. ROBINSON: Thank you.

MS. BOURG: Thank you, very much, for your comments. Did you have anything else that you wanted to submit to the Committee in writing?

MS. MORRIS: No, ma'am. Not at this time. But I will take the address. I've already sent some things about the one thing I -- one more thing. Can I say one more thing?

MS. BOURG: Well --

MS. MORRIS: One more thing.

MS. BOURG: That wasn't an invitation to give you five more minutes.

MS. MORRIS: I know it. I understand. sorry. I was so -- you know, when we come up here and we have five minutes, you've got to put all of this in one thought.

MS. BOURG: Isn't it awful?

25

24

MS. MORRIS: Okay. 1 MS. BOURG: It's just awful. 2 MS. MORRIS: One of the things that we have 3 been fighting against is the North Lake Charles Economic 4 Board. We did speak of that. And the thing is that we 5 6 have gone to all the agencies to help us as citizens. When you don't have money, when you are a minority and 7 economically deprived, you have no power. We have gone to 8 all these entities, and no one will help us to find the 9 rights for the people. 10 MS. BOURG: So will you submit something in 11 12 writing for us? MS. MORRIS: Yes. I --13 MS. BOURG: Thank you, so much. 14 MS. MORRIS: I've already done that. 15 MS. BOURG: Thank you for your comments. 16 17 MS. MORRIS: Thank you. MS. BOURG: Ms. Lois Adams? 18 19 (Pause.) MS. BOURG: Ms. Adams, would you come forward, 20 21 please? 22 MS. ADAMS: Hello, everyone. 23 MS. BOURG: Have I said, Loyce, or Lois? 24 MS. ADAMS: Lois Adams. 25 MS. BOURG: I'm sorry.

MS. ADAMS: L-O-I-S.

2

MS. BOURG: It's Lois Adams?

3

get over here for nine years, and I sure do thank you all

MS. ADAMS: Yes, ma'am. I've been trying to

MS. ADAMS: While I read this -- because it

Good evening, every one. My name is Lois Ann

Our -- to our -- we passed by it one day. The

5

4

for coming down.

6

(Applause.)

7

8

the panel members look at these photos? This is inside my

will only take five minutes, I want to read this -- will

9 10

home. And our local officials did not one time put on

11

their report that we were living in a disastrous area and

12

couldn't breathe, and everything. So I'm going to read,

13

you know, a little bit of this briefly for you all, what

Esclavon [phonetic] -- married, Adams. My husband's name

veteran. We bought a house on 1423 East Burg Street in

Sulphur, Louisiana, better known as the Old Spanish Trail.

is Joseph Lee Adams, who is a 100-percent disabled

we went through. 14

15

16

17

18

19

20

21

22

23

24

Okay?

25

questioned the realtor agent, Who would close with a toxic clean-up present so closely, across the street from us?

foundation was already laid, which -- we wondered why. We

Then I learned the owner paid for sewage work

to take place, and I wondered why, also. We were a very sick family from the start. So a different dominion for us began. We were very -- all walking around like zombies trapped in a toxic contaminant seeping through our floor. We called our health agency, who came by the first time. Then he told me to call the Department of Environmental Quality, known as DEQ.

Very ill because the house -- this stuff was seeping through the floor. And we were sick. Okay? We had a series of shakes, bruises, body aches, chest pains, liver splashes, seizures, black tongue and females having female problems. We had just everything -- bad nerves. I mean we -- it was impossible.

We were three or four cars going to doctors.

And finally, one of them gave us a prescription to move.

Once we moved out, it looked like everything turned

backwards with is. They went to the extent so far as that

my daddy had became blind while living there from the

toxic chemicals, as you can see, blowing on that thing.

It would get in our noses, mouths, ears and everywhere.

We stayed in the house for three years after we built it. We could not enjoy nothing. My father -- eventually, he became very ill, which everyone else was, also. When I moved, my husband -- he couldn't even move

Lucian

with us. He was hospitalized in Sulphur -- okay -- with a high fever and shakes and stuff. And he almost died.

Okay?

That's when we had to move upstairs. I was pressed by these people to bring my father upstairs. The only time he would come outside was to go to the doctor, which was a routine thing. As you also look over those pictures -- then I buried my daughter, also, last week.

They try to put it one thing, but you don't gain 300 pounds in no time. They mailed a prescription of cancer medication through the mail, and I don't know where it came from. But we're asking for help, please, because, I mean, we just -- I don't know where to turn any more. I mean it took a long time to get here. So we don't --

MS. BOURG: I'm sorry. And we wish to express our condolences for the loss of your daughter last week.

MS. ADAMS: Oh, yes, ma'am. I meant last month.

MS. BOURG: We appreciate you being here.

MS. ADAMS: Oh, yes. I mean I'm on -- I mean we have a mission here to do, because these people are not respecting us. We are not here to point a finger at just one person, because we also have to look at the fact that these people are hiring other people to get rid of their waste.

And where I live, they have -- I mean the trucks come from all over the nation. I've looked at Texas, Idaho and all kind of stuff coming through there.

And we don't know what it was.

One time, they had a place where the plant was going to blow up. I think sulfuric acid had -- they had done something. They came right by my house and washed out the truck with the stuff leaking out of it. That was DSI Transport Company in Sulphur, Louisiana.

And, also, the reason my house flooded? The main city line was not cleaned from them doing that wash, and it backed up into our home and caused us a major disaster. I'm through.

MS. BOURG: Thank you.

MS. ROBINSON: I would just like to comment on Ms. Adams' statement. I did meet with Ms. Adams while I was here in Lake Charles several months ago. And apparently, she purchased -- her family purchased some land that was contaminated, and her house was constructed on it. And I think the house was financed through Veterans Administration.

MS. ADAMS: It was.

MS. ROBINSON: Was this in the '70s, or '80s?

MS. ADAMS: In 1984.

MS. ROBINSON: Okay.

I believe that the Mayor of Sulphur, Reed, did 1 take a look at the situation. 2 3 MS. ADAMS: Yes, ma'am. He sure did. MS. ROBINSON: Right. 4 5 I did try to make some contacts on that but was unsuccessful. But it is unfortunate that she purchased 6 7 land that was contaminated. And, of course, the pictures 8 show that it affected the whole house and then the persons 9 living inside of it. MS. BOURG: Thank you, for your comments. 10 Did you wish to leave anything with the Committee? 11 MS. ADAMS: I think she has some already. 12 13 MS. ROBINSON: I have information. 14 MS. ADAMS: Yes, she has the information. 15 Thank you. 16 MS. BOURG: Thank you. 17 (Applause.) MS: BOURG: Evy Monroe [phonetic], Jr.? 18 19 (Pause.) 20 MS. BOURG: James Gatewood [phonetic]? 21 (Pause.) 22 MS. BOURG: Paul Greary? 23 MR. GEARY: That's Geary. 24 MS. BOURG: Say that again for me, please. 25 MR. GEARY: Geary.

1	MS. BOURG: Gary?
2	MR. GEARY: Geary
3	MS. BOURG: Mr. Paul Geary.
4	THE REPORTER: Is that G-E-A-R-Y?
5	MR. GEARY: G-E-A-R-Y, Geary.
6	THE REPORTER: Thank you.
7	MR. GEARY: Hello, Madam Chairman. Which one?
8	Hello? Yes.
9	MS. BOURG: That's exactly right.
10	MR. GEARY: Well, have you all been officially
11	welcomed to Lake Charles?
12	MS. BOURG: We'll accept your welcome.
13	MR. GEARY: Well, I'd like to say it for the
14	second time even if you all did get it the first time. We
15	appreciate it.
16	MS. RICHARDSON: Thank you.
17	MR. GEARY: By the way, I'm here today my
18	name's Paul Geary, again, first of all. I reside at 2205
19	Highway 14.
20	MR. MORRIS: Where is that?
21	MR. GEARY: I've got an article published back
22	in the
23	MS. BOURG: What city do you live in, sir?
24	MR. GEARY: Lake Charles. I'm sorry.
25	MS. BOURG: Lake Charles?

MR. GEARY: Lake Charles

MS. BOURG: Thank you.

MR. GEARY: But, anyway, I've got an article

from The American Press dated Monday, October 19, 1998.

And it's in, "The Public Speaks," and is talking about how

the parish needs to address the buffer zone issue.

And it states, just for the record, "On

Tuesday, October 13, I attended a Calcasieu Parish Local

Emergency Planning Committee meeting. At this meeting,

the local industries presented their risk management

plans. The Clean Air Act of 1990 mandated that the worst-

case scenario of each facility would be included in this

3 plan.

"It took me only 15 minutes to realize that I was a witness to an industry public relations circus similar to what we had seen the other day. So I left the meeting.

"Out of all the theatrics at the LEPC meeting and the meetings in Sulphur and Westlake, the buffer zone issue came to the forefront again. The buffer zone issue was one that the police jury addressed in 1996 by creating a Buffer Zone Task Force that did a study and made recommendations on a buffer zone.

"And then, in 1997, newly-elected Police Jury
President Francis Andrepont made a foot-in-the-mouth

4 ^

•

statement by saying he opposed buffer zone orders because the police jury is not in the environmental business and is in the economic development business."

Excuse me, you all. It's kind of rough holding this paper.

"And it wasn't very long before that statement was changed to a middle-of-the-road statement when Andrepont said, 'We want to be fair to everybody; We have to be fair with industry because'" -- well, I can hardly read it. Excuse me.

(Pause.)

MR. GEARY: "'We want to be fair with everyone; We have to be fair with industry because we are a petrochemical parish; On the other hand, we have to protect the citizens that live in Calcasieu Parish.'"

"Now we have Mayor Dudley Dixon of Westlake making a foot-in-mouth statement about buffer zones when he says, 'You can't go into a residential area and build a long fence line and establish a buffer zone.'"

"Where would a buffer zone come from, the City side or the industry side? The answer is: Louisiana law requires parishes that zone to base orders and decisions on plans with promote health, safety and the welfare of their residents, Louisiana Statute RS-33107.

"This law requires that local governments have

۰ 20

the first responsibility for protecting the health and environment of their residents. This means that the Calcasieu Parish Police Jury is charged with making the ultimate decision on buffer zones."

And it goes on to say, "If we believe the recent statement released to the press by the Calcasieu Parish Department head, that the police jury wanted nothing more to do with the buffer zone issue, then it is unbelievable that the police jury would have such a lackadaisical attitude toward providing ordinances and decisions that promote health, safety and the welfare of the residents.

"Just maybe our parish police jury could send a committee to St. Charles Parish to study their 2,000-foot buffer zone. Or just maybe some enthusiastic attorney could become a champion environmentalist and tell the concerned citizens where our public officials are violating the law by not promoting health, safety and welfare of the residents under Louisiana RS-38107."

Jack Bailey was the one who wrote this commentary.

MS. BOURG: What was the date of that article, please?

MR. GEARY: 19 -- October 19, '98.

MS. BOURG: 19 --

MR. GEARY: '98. It was wrote on the 19th. 1 MS. BOURG: -- 98? 2 MR. GEARY: Yes. That's the date it came out: 3 Monday, October 19, 1998. 4 MS. BOURG: And is that an opinion, or a --5 MR. GEARY: Yes, an opinion. 6 MS. BOURG: Okay. 7 MR. GEARY: "The Public Speaks." It was put in 8 9 the paper. MS. BOURG: Are you submitting that to the 10 Committee? 11 MR. GEARY: Yes, ma'am, and something else. I 12 had another issue. In our communities, you know, 13 14 especially where HUD money is involved --MS. BOURG: You have just about one minute. 15 MR. GEARY: Oh, that's good. That's long 16 17 enough. Briefly, I wanted to mention how it was by no 18 minority general contract, because, when this HUD money 19 was coming out, we got -- in North Lake Charles loans, we ' 20 21 could build another city with the work force they've got, from craftsmen to laborers. But, yet, you don't see 22 nothing but certain kinds of general contracts. And I 23 think that's another issue you all need to look into, 24

also.

25

And that's all I have to say. Thank you. 1 MS. ROBINSON: Okay. 2 MS. BOURG: Would you give us that then, 3 please? 4 MR. GEARY: Yes, sure. 5 MS. BOURG: Thank you. 6 (Applause.) 7 MS. BOURG: Mr. Robert C. Rideaux? 8 MR. RIDEAUX: Yes, ma'am. 9 10 MS. BOURG: Have I said that correctly? MR. RIDEAUX: Yes, ma'am. 11 MS. BOURG: Mr. Rideaux? 12 MR. RIDEAUX: My name is Robert Rideaux. I'm a 13 graduate of Southern University in business economics. 14 First of all, I would like to address the --15 MS. BOURG: Mr. Rideaux, I'm sorry to interrupt 16 you, but --17 MR. RIDEAUX: Yes, ma'am. 18 MS. BOURG: -- I really need you to get close 19 20 to yours as I am right here to this mic. MR. RIDEAUX: Okay. I would like to apologize 21 because -- I've been sick lately. And this is one of the 22 issues I wanted to address. 23 THE REPORTER: Will you state your name again, 24 25 please?

MR. RIDEAUX: My name is Robert Charles

Rideaux. I'm a citizen of Lake Charles, Louisiana. First

of all, I would like to reiterate the statement made by

Ms. Lois Adams.

And, first of all, I would like to apologize to you, Ms. Adams, because I was a part of this, these chemicals that have been released in that house. I worked at the plants. I was young then, and I didn't realize what I was doing. I was a board operator, the top board operator, and a union representative.

At night, we would emit gases into the air, but our crew would have to clean it up without the EPA or anybody knowing about it, not realizing what we was doing. And here, 15 years later, I come up with two different kinds of cancer from the plants.

But them plants come here addressing you all, telling you all they're doing this and doing that. I worked at them plants. I worked on graveyard shifts. I worked on shifts where the emissions was let out into the atmosphere, when the public was not aware of it. But we had to work to clean it up overnight.

But now I'm suffering from it. My throat is -you all can see. My voice is distorted. Now I've got
this asbestos stuff because they had me working in
asbestos without my knowledge of what I was -- the

chemicals I was working with.

But, yet, instead, the plants want to come here and won't address it to you all about this. I worked there.

And yes, Ms. Adams, I was a part of what they done to you all out there. And I didn't know what we was doing. I was unaware of what we was doing. I was young then; I didn't know what we was doing. They weren't addressing you all.

Another issue I want to say -- I know it was stated to you all that, You all look at the map, and it says, Lake Charles. But, yet still our dignitaries and the city representatives and organizations, that's called North Lake Charles Economic Development. How can you represent two? And they're telling you all they're calling it one.

MS. ROBINSON: Did -- okay. Would you restate that? You said that the North Lake Charles Economic --

MR. RIDEAUX: Development Board.

MS. ROBINSON: So --

MR. RIDEAUX: But yet and still, the statement was made that on the map, it says, "Lake Charles."

MS. ROBINSON: Oh, I hear you.

MR. RIDEAUX: But yet and still, there's --

MS. ROBINSON: They have a set --

2,5

addressed it, I might be well now. So now I'm trying to

save these people. I might be too late for myself, but you all might be able to help those that's coming now.

MS. ROBINSON: When was your complaint filed?

MR. RIDEAUX: Back in 1979 and 1980. If they
would have addressed it then, I might not be fighting what
I'm fighting now.

And, again, Ms. Adams, I apologize to you and your family because I was a part of what happened. But I didn't know what I was doing.

MS. BOURG: Mr. Rideaux, I'd like to ask you a question. Would you be able to put that into -- and I don't know if I'm out of order -- an affidavit, where you would sit in front of someone and sign and have them witness your statement?

MR. RIDEAUX: Yes, ma'am, I would. And back during 1979 and 1980, I took and I stole the board charts that -- where I was making the emissions. And I gave it to the EEOC, and they kept them charts. Now, again, I was too young to remember what I had. But I knew what I was getting, because I was educated enough to know what I was doing.

But they kept them papers. I took the charts to show them where the emissions was being made at night.

Any time there was an emission made, whereas the EPA would fine them millions of dollars, they had us cleaning it up.

But I was young then, and I didn't realize what I was 1 doing. But I had the knowledge of knowing how to correct 2 it. But now, 20 years later, I'm suffering for it, for 3 what I done. MS. BOURG: Well, we're not -- thank you. 5 MR. RIDEAUX: Okay. That's all I had to say. 6 And thank you, all. 7 MS. ROBINSON: Thank you. 8 9 (Applause.) MS. BOURG: Mr. Leroy Julian? 10 (Pause.) 11 MS. BOURG: Mr. Julian. 12 MR. JULIAN: Hello. My name is Leroy Julian, 1:3 and I'm from Lake Charles. I'm here today to let you all know that three years ago, I lost a step-son through EDC. 15 And it was exposed at one of the plants. And my question 16 is --17 MS. ROBINSON: EDC? What is that? 18 VOICE: Dichloroethane. 19 20 MS. ROBINSON: Oh, okay. I --21 22 MR. JULIAN: Yes. MS. ROBINSON: What --23 MR. JULIAN: And we had to postpone his funeral 24 to have an autopsy done for a week. And that was -- you 25

.23

know, it was a lot of burden on my wife and such.

So what I'm saying is this -- here is that I think the Federal Government itself has failed us, because, if you're going to let companies bring in hazardous materials to run and make products with and, once it becomes waste that you cannot use any more, we -- they should also provide a system where it can be contained or either reburned or recycled. And it's nothing being done about that.

And I think it's just putting a patch on it continuously. And I think if the Federal Government would act, instead of letting other, I would say, like the other people that investigate these things -- you know, they could easily be bought by politics. And it's politics that's being played. That's the main thing right now: Politics is being played into this here.

And so all I can say is that the Federal government needs to do a better job. Thank you.

MS. ROBINSON: Okay. Thank you.

MS. BOURG: Do you have anything you wish to submit in writing, Mr. Julian?

(Applause.)

MS. BOURG: If you have anything you wish to submit in writing to the Committee, please get the address and do so.

MR. JULIAN: Okay. 1 MS. BOURG: We thank you. 2 Pat Hartman? 3 (Pause.) MS. BOURG: Do we call you Patricia, or Pat? 5 MS. HARTMAN: Pat Valerie Hartman. 6 MS. BOURG: Pat Valerie Hartman? 7 MS. HARTMAN: Yes. 8 I spoke to you guys last night. I listened 9 I don't know if you guys know we are a little town 10 west of Lake Charles. We've been contaminated with 11 everything there is, some of the most toxic chemicals 12 known in the nation. Where I'm getting my information 13 I'm betting my information from reports that the 14 governor and everybody else have put out. 15 Industry has moved in our town and contaminated 16 our water, land and air. They have destroyed us without 17 regard to conscientiousness for our health, lives and 18 environment: Mistakes that are continuing to destroy our 19 community in the name of politics and profit. 20 Women and children in our community are 21 suffering from incurable diseases and illness, where there 22 is no clinic, nowhere, on this planet that can help us. 23 This is what Dr. Peter Arns said: That there is no one in 24 this country that can help us. 25

In July of 1999, ATSDR contracted the Association of Occupational and Environmental Medical Clinics to provide a physician expert, Dr. Peter Arns. He said no one can help us.

April 1994, a news release: Governor Foster said there was going to be a task force to address the issues of Mossville. Where is the Governor?

They had a human exposure: The 28 people that participated in the exposure investigation conducted by the ATSDR and OPH. Of those tested, 12 were found to have levels of dioxin and like compounds over 58 percent; four out of the people had levels over a hundred of compounds found in their blood. One is already dead. We saw that last night.

Mr. Montgomery's son? He's so sick -- he was in the hospital -- I called DHH and asked them, Where can this guy find help? They told me, Call Lake Charles. I called Lake Charles, and they said they didn't have anybody. We want to know: Is there anywhere anybody in this world that can come help the Mossville people?

In 1999, Dr. James Guidry said they needed more testing because the blood that they tested us with -- there wasn't enough. They said they was coming in and giving us some help.

What happened, Dr. Guidry?

Dr. -- I mean J. D. -- Dale Givens, Secretary of DEQ, said, The Agency is ready to work with Mossville. That was also in April of 1999. That was 16 months ago.

What happened?

In 1984, Condea Vista and Conoco submitted and said they did damage our community. But what was done?

Nothing. The Sheraton Hotel? They had a Safe Water

Drinking Act notification. They were on the same water that Mossville is on; they were closed down because of the water contaminated. They got paid millions. What happened to Mossville?

Also, in 1994 -- Debra submitted it last night -- were two men who stood -- they worked outside of the contaminated area. They and their families -- their families don't even know where Mossville is. They got millions and millions of dollars. What happened to Mossville? We live in the contaminated area.

Our Judge, Al Gray, came out to Mossville and said we were not sick. He gave us \$5 for aspirins.

That's all he said we wanted -- we needed, because we were not sick. I mean this is what he told us.

And we want to know. We want help. Please help us, somebody.

What should have been done back in the '60s when the Verdon family died -- their -- all their animals

died right there where Condea Vista is? When all their animals died, they should have came in, in the early '60s, and did something then. Now everybody, the whole family, is now dead.

Is this what Conoco and Condea Vista and all, everybody else, is waiting for, for everybody in the families of our community to die before they come in and help us? We need help now.

(Applause.)

MS. BOURG: Thank you. You have about 15 seconds left.

MS. HARTMAN: Okay.

MS. BOURG: Is there anything else you'd like to submit to this Committee in writing? Do you have anything?

MS. HARTMAN: I will submit the whole package in writing. And --

MS. BOURG: Thank you, so much.

MS. HARTMAN: -- I've got the address.

MS. BOURG: Thank you, very much.

MS. HARTMAN: I just wanted to let you guys know what I was talking about last night when I said we wanted relocation, medical and compensation. And we do have a plan for that, and I will give you my plan, also.

MS. BOURG: Thank you, Ms. Hartman.

1	MS. HARTMAN: Thank you.
2	(Applause.)
3	MS. BOURG: We have Ms. Debra Ramirez.
4	(Pause.)
5	MS. BOURG: Ms. Debra Ramirez?
6	MS. RAMIREZ: Yes.
7	MS. BOURG: We're going to give you a minute to
8	put your camera down.
9	MS. BOURG: Have any of the names that I've
10	previously called and those persons who were not here,
11	have the come into the room? Does anybody know?
12	(Pause.)
13	MS. RAMIREZ: Madam Chair, people, thank you.
14	I go all over the world speaking, and I only get three to
15	five minutes at home. It happens to me all the time.
16	MS. BOURG: You have this Committee's apology.
17	We do
18	MS. RAMIREZ: Is this the one?
19	MS. BOURG: appreciate you being here.
20	That's the mic you need to speak into.
21	Ms. RAMIREZ: Okay.
22	MS. BOURG: And do speak really close to it.
23	MS. RAMIREZ: Okay.
24	MS. BOURG: Thank you. Say who you are, and
25 .	spell your name, please.

MS. RAMIREZ: Okay.

My name is Debra Ramirez. That's D-E-B-R-A; R-A-M-I-R-E-Z. And I am the founder of MEAN, Mossville Environmental Action Now, which is resting in the hands of folks who have it now, the president, vice president and so forth. I moved on.

I also founded before that, a committee called Mossville Steering Committee back in 1986, when I got -- became very vocally and actively involved with the environmental movement. I also formed a committee called Citizens Against Contamination. I am a member of MEAN, I am a member of Concerned Citizens and I am a member of North Lake Charles Environmental Action Now.

And I can go on and on and on, but, to get where I need to be, I just want to start off by saying this: The deceit on the community of Mossville and other surrounding communities went on for 40 to 50 years or more, years and years and years of contamination.

The way I've seen it, the most part of the discrimination part was, Number One, that Mossville had a school called Mossville High School because -- it was K through 12. But, unfortunately, that school does not exist because there were some plans, I guess, a long time ago to get rid of that school. That's my opinion.

And the reason I say that is: Because they

divided a road by the name of Prater Road into two parts; the east side was to go to school in the Westlake area, and the west side was to go to school in the Sulphur/Maplewood area. I was one of the first set of children that was involved in the integration and desegregation; all my life, I had to fight my way though.

I had to fight my way through getting an education and putting myself to belong in a school where I was not wanted. And of course, what happened to that is that we were sent through danger of the industry every single day of our lives. And they really put is at danger.

And when I say, "They," I mean Calcasieu

Parish, the school board: They should have had info on

all, information concerning surrounding areas, of

industries. And they should have did a better route for

us because, no matter what direction we went in, we would

have run into some type of plant.

So now we have our minds being disturbed from previous, past contamination, as well as now and in the future, because our children are still having to go that same route. They are being exposed on school buses going to school and then, once at school, on the playground and in the classrooms.

And we have all these emissions, which I call a

·5

toxic soup, going on because -- a lot of the chemicals being emitted and released in the air and water and in the ground, I should tell you, they don't know what they cause. But I do know it causes death because -- death has knocked on our doors many a day in Mossville and surrounding communities, areas.

Pollution control let us down. The Toxic

Substances Control Act let us down. The regulations for solid waste let us down. The Pesticides Control Act let us down. The Noise Act let us down. Federal Water

Pollution Control Act let us down. Clean Air Act, of 1970 and 1977, let us down. Environmental Protection let us down. National Environmental Policy Act let us down.

Common law tort theories even let us down. You know, the LUCES [phonetic], the Trespass and, also -- they have let us down. There's another one that goes with that, but I'm pressed for time and trying to move on.

SIP for chemicals? That exists. You could ask any kid that rode a bicycle down in my area of Mossville, "What was shelter in place?" And they will tell you, "That's when you run inside, close all doors and windows and turn off the air or heating; And then you stay in place until the okay is given, and then you can go back out or proceed on with your life."

And I'm here to tell you that was the answers

. 8

that they had for my community and surrounding communities in Calcasieu Parish and the State of Louisiana. That is very unfair to us.

I do realize that the Government cannot control all emissions in the air. That's just unethical for anybody to even believe that. But then there are guidelines that you all -- I say, "You all," meaning Government officials -- have set for us -- for industry, rather, to, of course -- I'm sorry.

They set guidelines for them in order for them to follow these laws. And they just didn't do it because -- that's where the biggest deceit came on the community, when they hid everything from us from the get-go.

And I feel like what should have happened was -- when people in the community were there living throughout Mossville, life was good there. That's the only place we had to go.

Don't forget, we come out of the '60s, when we didn't have a place too far to go. But we banded together, and we made it home. And it might not have been a lavish two-story or three-story or 3,100-square-foot home, but it was our home, we was pleased with it, and it was paid for.

And to see so many community people in

Mossville have to move out of their homes right as I speak makes me sick because those who did get an opportunity to, so to speak, get out on this class-action abuse that they did on this community -- I'm here to tell you some of those people are owing notes and still in debt, out of homes that they called home that was theirs in Mossville that was paid for.

And they didn't have to worry about anybody putting them out of doors or if they was going to have a monthly payment to make every month or could even make the rent because -- some of them are even in rental properties here in Lake Charles because the class-action said that you had to sign this and sign that before you could get a check, and so forth. You had to move out before you could receive a check.

A lot of things went wrong here in Calcasieu

Parish, and if I had to sum it all up, I would have to

involve all governmental entities -- local, State,

National and Regional -- because these folks --

(Applause.)

MS. RAMIREZ: -- knew what was happening to us. When EDC and PVC and vinyl-chloride monitors and -- when all these came into effect, they knew what was happening, a long time ago. The documents are there. All it takes is to do a little research and come clean, because they're

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

there.

These attorneys had too many cases. They've done asbestos cases and all of this. And these plants had to turn over these files. And when they turned them over, thank God some of the citizens here got an opportunity to have a glance at that, like the case of the lady who turned to stone from vinyl-chloride, Vinchlorodermia, which is vinyl-chloride disease.

A lot of my population suffer from things that they don't even know about right now because -- they think it's just a common thing that's supposed to happen to them and they'll get sick and die. And that's not the way it's supposed to be.

God said when He created everything on this Earth, He created it good. He told man to take care of it, and man neglected that. Now we're having problems all over the world; not just here in the United States, but all over. Now the air is no good, and the water is no good.

And I want to leave this with you, too: law -- if you can't trust in the law, then what good is it to me?

(Applause.)

MS. BOURG: Thank you, Ms. Ramirez.

MS. ROBINSON: Thank you.

23

24

MS. BOURG: Thank you, for your time.

Does any Committee member wish to make a brief response?

(Pause.)

MS. BOURG: We have taken -- there's not much we can say after such powerful comments and statements. I want to thank all of you for coming and thank you for your statements.

(Pause.)

MS. BOURG: The Committee would like to give a total of ten minutes, which would be two minutes extra, for those who may have spoken last evening and were only given three minutes if they wish to do that at this moment. And I'd like to know who they are. We have one person --

MS. RICHARDSON: That's who I've got.

(Pause.)

MS. BOURG: After this gentleman speaks for two minutes, then that will be the end of the public piece.

And we will have Mr. Tim Blanchard of the Office of Civil Rights, and he will follow this gentleman.

MR. SHERMAN: It's me again. My name is Lee Sherman, S-H-E-R-M-A-N. And last night when I was so unjustly interrupted, I was trying to talk about a work group with ATSDR that I did on behalf of Mossville as a

volunteer from Mossville and as a representative from Mossville.

These projects that I worked on? I went around with group interest and created a map that showed what was typically Mossville. I -- another program that I did was for ATSDR was -- I took pictures of the houses that were destroyed and being cut up and put in the haul-off dumpsters.

(Applause.)

MR. SHERMAN: These were real, live homes. I did another project with ATSDR. And then, all of a sudden, everything came to a screeching halt.

At that time, I learned of one particular
house -- I believe it was on Second Street -- that was
about 1,600 or 1,800-square feet where -- the folks that
lived in this house -- they had a chlorine or -- they had
a vinyl-chloride cloud coming down their street. When
they left their house, they went out the back door, they
cut through a fence and went into the area where a power
line was at. And they never went back to the house.

When I took a picture of the house, the pictures -- two years later, the pictures were still on the wall, their clothes were still in the house, and their furniture was still in the house.

MS. BOURG: You have 30 seconds.

MR. SHERMAN: In 30 seconds? 1 Representing Clean and Restore, we request that 2 every chemical plant have a fence-line monitor on all four 3 sides that is hooked into a system to where I can call in 4 and telephone and get the results at any time. And then 5 we'll tell you who the culprit is that has been killing 6 not only in Mossville, but Sulphur and Westlake -- and I 7 could go on and on. 8 MS. BOURG: Thank you, very much. 9 (Applause.) 10 MS. BOURG: Thank you. 11 Mr. Tim Blanchard of the Office for Civil 12 Rights, United States Department of Education? 13 14 (Pause.) 15 MS. BOURG: Is that person present? (Pause.) 16 17 MS. ROBINSON: I'll get him. MS. BOURG: I believe he is here. And I think 18 they're going to tell him that we're ready for him now. 19 20 (Pause.) 21 MS. BOURG: Okay. We heard that there was some 22 trouble on the interstate, an accident or a tie-up. And 23 that may be why a couple of people are not here.

MR. BLANCHARD: I apologize. I had to run and

(Pause.)

```
get my stuff because I thought I was speaking this
 1
       evening. So --
 2
                  MS. BOURG: Well -- and you were.
 3
                  MS. ROBINSON: That's right.
 4
                  MS. BOURG: That's when you were supposed to
 5
       be.
 6
                  MS. ROBINSON: You were.
 7
                  MS. BOURG: We are a little ahead of schedule
 8
       at this point. And we'll appreciate it if you're able to
 9
       do it now. Is that possible?
10
                  MR. BLANCHARD: Sure.
11
                  MS. BOURG: Thank you.
12
                  MR. BLANCHARD: That's fine.
13
                 MS. BOURG: Please have a seat.
14
                  MR. BLANCHARD: Okay. Am I speaking to the
15
       Commission, or to the public?
16
                  MS. BOURG: You're speaking to the Commission,
17
       but --
18
                  MS. ROBINSON: To the Committee.
19
                  MS. BOURG: -- in order for everyone -- you're
20
       speaking to the Committee --
21
                  MR. BLANCHARD: Okay.
22
                  MS. BOURG: -- which the Commission will read
23
       the statements of --
24
```

MR. BLANCHARD: Okay.

_ 25

MS. BOURG: -- eventually. And there are -there is one mic that's in the center that is a live mic.

And, Mr. Blanchard, you need to speak into it exactly like
this or it won't pick it up and the people behind you will
not be able to hear you.

MR. BLANCHARD: Okay.

MS. BOURG: We would like to be able to have an opportunity for questions at the end of your statement.

So, if you would, keep that in mind and, in your presentation, be as succinct as possible.

MR. BLANCHARD: Okay.

MS. BOURG: We appreciate it.

MR. BLANCHARD: Sure.

MS. BOURG: Thank you.

MR. BLANCHARD: My name is Tim Blanchard; I am an attorney and team leader with the U. S. Department of Education, Office for Civil Rights. I'm -- my Office is located in Dallas, Texas, and we cover a five-state area, including Louisiana.

We are charged with enforcing several civil rights regulations. Those include: Title Six to the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin; Title Nine of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; Section 504 of the

Rehabilitation Act of 1973 and Title Two of the Americans
With Disabilities Act of 1990, both of which prohibit
discrimination on the basis of disability, and; the Age
Discrimination Act of 1975, which prohibits discrimination
on the basis of age.

I was asked to come here this evening to speak with the public and, particularly with those here from Calcasieu Parish about the Office for Civil Rights, what we do, the statutes we enforce and how they might file complaints with our Office if they so desire.

Our Office covers educational institutions. So it's not -- the regulations that we enforce don't necessarily have to do with environmental issues, but we do enforce the regulations in school systems. Those include elementary school systems, secondary school systems, colleges and universities, vocational/technical institutions and some public libraries under the ADA.

Under Title Six, what we -- our Office investigates complaints, and we also have proactive activities -- what we call proactive activities. The complaints that we investigate come from the general public. Generally, this year -- this past year, we had about 800 complaints come into our Office from the fivestate area.

We have approximately 45 investigator in our

Office, and approximately 12 attorneys. So we are very overloaded. And we have very few resources. We do the best we can with the resources that we have.

So, in addition to that, even though we have limited resources, we do try to do what we call proactive enforcement activities. And that is where we try to go into the community and identify issues that are important -- discrimination issues that are important to the community that involve school systems and target individual school systems or universities to conduct discrimination investigations in those school systems.

I believe, in 1994, we were in Calcasieu Parish to conduct a proactive review of their Gifted and Talented Program, due to the under-representation of minority students in gifted and talented programs in Calcasieu Parish, and have since obtained a commitment from Calcasieu Parish to take some actions to address that problem. I do not know the specifics of the outcome of that commitment since that is another team that's involved with that.

In the State of Louisiana, we also have conducted other proactive enforcement activities. We've looked at the issue of over-representation of minority students in special education programs and conducted reviews in Lafayette Parish, in Bosier Parish and in St.

_

1,3

Charles Parish and are currently working with those three parishes to reduce the over-representation of minority students in special education, and have also since then been working with the State Department of Education to address the issue of over-representation of minorities in special education programs.

As a result, the State has funded some pilot programs, particularly in the New Orleans area, to help teachers understand cultural differences, help teachers deal with differences in the classroom -- they're not special education-related differences but were reasons why students were getting referred to special education -- helping those teachers to deal with those problems in the classroom effectively and, in many cases, helping to train the teachers, too, so they can learn how to deal with students in a different way.

It's not really the student's problem; it's more the teacher's problem. Those pilot programs have been implemented in parishes around the New Orleans area and have significantly reduced over-referral of minority students to special education. And we will be approaching the State Department of Education in the near future to talk with them about expanding those programs to other parishes in the State.

We also will be conducting a conference in New

20 .

Orleans next week, beginning on Wednesday, at the Hilton, at which time school officials from the schools in our five-state area and, also, through our sister Office's in the Atlanta area and our Washington, D.C., Office's schools all the way up into Washington, D.C., will come and present model programs for dealing with issues of discrimination in school systems, including how to address the issues of over-representation of minorities in special ed. and under-representation in gifted and talented programs and, also, issues of -- dealing with English -- limited-English-proficient students, and those types of things. And that will be next week in New Orleans.

I brought literature about what OCR does and how to file a complaint with OCR. If you so desire, that literature is up here, and anyone is welcome to come and take that. If there's not enough, if we run out, I will certainly make sure that who ever wants some of that literature can have a copy of it.

MS. BOURG: Would you submit one copy of each to the Committee, please?

MS. ROBINSON: Yes, for our record.

MR. BLANCHARD: Certainly.

MS. BOURG: And then we invite people who would like to have these pieces of information to come forward and take and make use of that.

```
We're now going to see if there are members of
 1
       the Committee that have questions.
 2
                  MS. RICHARDSON: I have one, Madam Chairman.
 3
                  MS. ROBINSON: I do, too. I'll let you go
 4
       first.
 5
                  (Pause.)
 6
                  MS. RICHARDSON: Madam Chairman, maybe I need
 7
       to wait until the free sample of business goes out.
 8
                  MS. BOURG: Well, that was well wanted, wasn't
 9
       it?
10
                  MS. RICHARDSON: I'm telling you --
11
                  MS. BOURG: This is good.
12
                  MS. RICHARDSON: -- when someone says, "Free,
13
       take one, " we take one.
14
                  MS. BOURG: That's good. This is good. That's
15
       the point: To get the information out. Right?
16
                  MS. ROBINSON: Yes, that's right.
17
                  MS. BOURG: We don't want them to be shy.
18
                  MS. ROBINSON: That's right.
19
                  Tim, don't you feel really needed?
20
                  (Pause.)
21
                  MR. BLANCHARD: So are we going to be finished
22
23
       after this? Or --
                  MS. ROBINSON: No. We have some questions for
24
25
       you.
```

Is Mr. Monte Eeds in the room?

MS. ROBINSON: It's Ms. Monte Eeds. 1 MS. BOURG: Is Ms. Monte Eeds in the room? 2 (Pause.) 3 MS. ROBINSON: She's not here. 4 (Pause.) 5 MS. ROBINSON: Okay. Let's go back to this. 6 MS. BOURG: We're going to go into our 7 questions, and then we'll make a decision after that. 8 Thank you. 9 MS. RICHARDSON: Thank you, Madam Chairman. 10 And welcome, sir. 11 MR. BLANCHARD: Thank you. 12 MS. RICHARDSON: You young sir, I have a 13 concern here that I think you can walk me through. 14 MR. BLANCHARD: Okay. 15 MS. RICHARDSON: And I'm sincerely seeking 16 information. If a group of parents were to file a 17 complaint -- or community people, for that matter --18 saying that their school is located in a place that is 19 hazardous to the health of those children or -- I heard 20 reference to a bus route that went through an area, in 21 taking children to school, that was contaminated. 22 If someone were to file that kind of a 23 complaint, could you help? And if so, how? 24 . MR. BLANCHARD: Okay. Yes. I actually wrote 25

that information down when that lady was speaking.

Yes, you can, but remember that our Office enforces civil rights statutes. So the complaint would have to be based on discrimination. It would have to be an allegation of discrimination.

In other words, if the school system is busing only black students through this particular area or if the majority of students attending school in this contaminated area are black students or minority students, then yes, I think that is something that we could investigate.

MS. RICHARDSON: Thank you, sir.

MS. ROBINSON: Thank you for coming, Tim.

MR. BLANCHARD: Sure.

MS. ROBINSON: I used to work for your Agency years ago. I'd like to get more information about your investigations here in the Calcasieu Parish. You've indicated that you did a review of over-representation of minority students in special education. Did you find cause in that case?

MR. BLANCHARD: Actually, that case was not here in Calcasieu Parish.

MS. ROBINSON: It wasn't?

MR. BLANCHARD: The review we did in Calcasieu

Parish was under-representation in gifted and talented

programs.

مائد مائات

MS. ROBINSON: Gifted and talented?

MR. BLANCHARD: And, actually, that was another team in our Office. I do not know the specifics of that, but I can tell you, generally, in the State of Louisiana -- because they went into Caddo Parish and, as well, Orleans Parish to conduct these reviews.

And generally, what they found was that the minority parents were not being made aware of the gifted and talented programs, Number One. So the information wasn't getting to them about how to get their children into gifted and talented programs. And in the New Orleans area, it also had to deal with language. The information getting out wasn't necessarily in the parents' native language.

Then the other problems had to do with -really with testing and the ability in some parishes for
the affluent to get private testers, to be able to pay for
private evaluations and then present those evaluations to
the school system.

And the school system was able to put those kids in gifted and talented programs, whereas those parents who were not as affluent had to wait for the school district to conduct the testing. And sometimes, that would be delayed for a year or more, and so their child may not get into gifted and talented programs as

1 quickly.

.20

Also, it had to do with the criteria for placement into the program. In a lot of instances, that criteria was based on a test score, perhaps an IQ test score.

And I know that in some instances -- it may not have been in Calcasieu Parish. Again, I don't know the specifics of this case, but in some instances, that IQ test score was one that had already been determined to be biased against minorities. And the use of that one particular test in making placement decisions we found to be discriminatory.

And we tried to -- and we have asked in those instances that the criteria for placement in gifted and talented programs be expanded to include other criteria, such as recommendations from teachers or portfolios or other information that might indicated giftedness.

MS. ROBINSON: Was that a part of the corrective action plan --

MR. BLANCHARD: Correct.

MS. ROBINSON: -- as well?

MR. BLANCHARD: Yes.

MS. ROBINSON: Now, could you tell me a little bit more about the pilot project that you indicated was a program that you requested the schools to conduct to help

teachers understand other students, that they may not be familiar with their culture, language and that kind of thing?

MR. BLANCHARD: Well, this program was actually developed by the special education personnel in St.

Charles Parish after we conducted our review there. As a result of our review, they developed this program where -- I guess, as a background to understand what they did: The people in the parishes that do the testing, the appraisal people -- they're usually in the administrative offices in a central location.

They get involved at the point only when a teacher has already determined that a student has a problem and has referred the student for special education testing. Maybe that student has gone through some screening committee and the screening committee has tried to intervene and done some intervention to see if maybe the child could be successful any way in the class room.

And then this might be a six-month process.

And then, after six months, that student gets referred to the tester. And the tester really only knows what information is provided to them, and does the testing and makes a recommendation about special education placement.

In St. Charles Parish, what they had decided to do was to use their personnel -- appraisal personnel in a

different way. And instead of having them in a central administrative office, they have them directly in the classroom when ever a teacher identifies a problem.

And they go in and do an immediate, quick test in the classroom to determine if this student that's identified with a problem really has a problem or if it's one that a number of students have in the classroom and maybe these other students haven't been referred or if it's really a teacher problem -- the way that the teacher has been teaching; maybe the teacher doesn't know how to teach in different methods -- because people -- students learn different ways.

And this program -- once they implemented it, what they found was that in some instances where perhaps a minority student was referred by a teacher, when they went into the classroom and did quick testing, there were other students in the classroom that had the same kinds of problems, yet, they weren't referred. So when asking the teacher, Why do you refer this student," in many cases, they weren't able to say --

MS. ROBINSON: I see.

MR. BLANCHARD: -- you know, why they decided to refer the student.

And in many other instances, they were able to . identify teachers that needed training in how to teach in

MS. BOURG: Just that one right there.

got to stay real close to it or they can't hear you.

MR. MONTGOMERY: Yes, ma'am.

MS. BOURG: Would you tell her your name so she can -- the lady over here, so she can get your name for

MR. MONTGOMERY: Okay.

My name is Vallery Montgomery. I live in Mossville at 313 Prater Road, and my telephone number is 882-1513. I live about seven miles past Lake Charles.

I came here to represent my son; he's my stepson, Alan LeBlanc. I left several papers.

MS. ROBINSON: Yes, the cards.

MR. MONTGOMERY: And he has 95 percent of that -- 94 percent, the doctor said, of that dioxide, or whatever they call it, that pollution. And he can't hardly get out of bed. That's why he couldn't -- I couldn't bring him with me. So we really appreciate it.

And they just gave him \$2,000-some in that big settlement that Conoco and Vista paid around almost \$200 million. But they just gave him a little over \$2,000. That don't pay for his medicine, even. So I would appreciate it very much if you all could do something to

And I have those vacuum trucks and hydroblasting. I'm the only black contractor in the State

of Louisiana that has this kind of equipment, and these trucks sell for almost 100,000 a piece. And they've got 31 plants in Lake Charles, and they don't want to give a minority no work. And they've got work around the project, the kind of work I do.

We have -- I've got a law suit against Chemical and Waste right now. They were paying me \$116 an hour for some of my equipment. And some of the trucks, those 18-wheelers that's -- they just drove me clean out of business. I've got all my equipment parked at the house there now, and with that high insurance we're paying, and they've got work around the clock.

I've got a lawyer out of Baton Rouge that has got my case there. They let me go there for no reason, because of racism. And they took -- they canceled their contract, and they're violating my rights. So out of -- you all is the only people that would -- could take action on them, Chemical Waste in Corliss.

MS. ROBINSON: Can I ask you a question? Could you tell us a little bit more about what happened to your son, who he worked for and why he received \$2,000? We need more information on that.

MR. MONTGOMERY: Well, he had worked for Conoco in the plant of Conoco. But he lives right near Conoco, about mile-and-something. And I guess all that pollution

1	he at one time, he fell in that coke plant over there,
2	too. And he might have gotten a lot of that stuff, too,
3	you know, into his inhaled all that stuff, I imagine.
4	MS. ROBINSON: Did they settle with any other
5	employees?
6	MR. MONTGOMERY: Yes, ma'am. They a lot of
7	them got 60- or \$50,000. But he's only they gave him
8	\$2,000-and-some.
9	MR. LONGORIA: Who's, They?
10	MR. MONTGOMERY: My step-son, Alan LeBlanc.
11	MR. LONGORIA: It went to trial and a jury
12	awarded him 2,000, or he settled for 2,000?
13	MR. MONTGOMERY: No. That's what they gave
14	him, the they had some lawyers, but I don't know
15	whether the lawyer kept all the money or what. They said
16	the lawyers got well over 100,000, almost I mean over
17	100 million, I heard.
18	MR. LONGORIA: So that there was a trial?
19	VOICE: Yes.
20	MR. MONTGOMERY: I imagine this was a trial.
21	That's all they sent him in the mail.
22	MR. LONGORIA: There was a trial?
23	MR. MONTGOMERY: 2,000-and-some
24	MR. LONGORIA: Was it a class action, or was he
25	the only Plaintiff?

```
was the judge presiding and when was the judgment. All
 1
       that information will help us a lot in terms of doing
 2
       something about it possibly and making recommendations.
 . 3
                  MR. MONTGOMERY: Well, for my son you're
 4
       talking?
 5
                  MR. LONGORIA: Yes, sir.
 6
                  MR. MONTGOMERY: Okay. Now, how about my case
 7
 8
       for those --
                  MR. LONGORIA: That, too.
 9
                  MR. MONTGOMERY: -- that plant?
10
                  MR. LONGORIA: That, too.
11
                  MR. MONTGOMERY: That, too?
12
                  MS. BOURG: Anything you wish to submit to this
13
       Committee in writing, just do that.
14
                  MR. MONTGOMERY: Okay.
15
                  MS. BOURG: And be as --
16
                  MR. MONTGOMERY: Because that --
17
                  MS. BOURG: -- as succinct as you can.
18
19
                  MR. MONTGOMERY: Okay. I'm going to. I really
       appreciate it, a million, what you all are doing for us.
20
       Are you all through with me now?
21
22
                  MS. ROBINSON: Yes.
                  MS. RICHARDSON: Yes.
23
                  MS. BOURG: Are there any other questions?
24
                  MR. MONTGOMERY: Thank you, a lot.
25
```

MS. BOURG: No, there are no other questions. 1 MR. MONTGOMERY: I appreciate it. 2 MS. BOURG: Thank you, so much, Mr. Montgomery. 3 MR. MONTGOMERY: Thank you, ma'am. 4 (Applause.) 5 MS. BOURG: I understand we'll have two more 6 testimonies after we return from our evening break. 7 MS. ROBINSON: We'll return at 6:30. 8 MS. BOURG: And we will return at 6:30. 9 (Whereupon, at 5:40 p.m., this Committee 10 11 Meeting was recessed, to reconvene at 6:30 p.m. this same day, Wednesday, September 13, 2000.) 12

MS. RICHARDSON: Yes? Okay.

And you have to hold it really close, and then

25

24

should not stand --1 MS. TYUS: Okay. 2 MS. RICHARDSON: -- because that's the official 3 recording device. MS. TYUS: Oh, okay. 5 MS. RICHARDSON: Now give us a little test 6 here. Let's see. 7 MS. TYUS: Testing. 8 MS. RICHARDSON: Closer. 9 10 MS. TYUS: Testing. MS. ROBINSON: That's it. 11 MS. RICHARDSON: Yes, ma'am. 12 MS. TYUS: Okay. 13 MS. RICHARDSON: Please proceed. 14 MS. TYUS: All right. 15 My name is Bernadette Tyus, and I am with the 16 17 Department of Housing and Urban Development, in the New Orleans Office. I'm here to give you -- and thank you for 18 inviting me to provide this information to the citizens of 19 Lake Charles. 20 I am a part of the Southwest Hub, which is 21 22 located in Fort Worth, Texas. The hub covers the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. 23 Our Office is in New Orleans, and we are located at 501 24 Magazine Street, New Orleans, Louisiana, on the ninth 25

floor. Our phone number is (504) 589-7219.

And the New Orleans Office is staffed with an enforcement branch which consists of three specialists and a supervisor. When you call the Office, you will in fact get a live person with whom you can speak.

What exactly does the Fair Housing Act provide for? The Fair Housing Act declares that it is national policy to provide fair housing throughout the United States, and prohibits specific kinds of discriminatory acts regarding housing: If the discrimination is based on race, color, religion, sex, handicap or familial status and national origin.

When we talk about familial status, we mean those families with children under the age of 18 or who are expecting a child.

There are certain things that it is illegal for someone to do to you as a citizen if you are a member of a protected class. For example, someone cannot refuse to sell or rent or otherwise deal with you because you're in one of the protected classes. They cannot tell you that housing is unavailable when, in fact, it is available.

And they cannot discriminate in financing; this includes banks and savings and loans association.

You cannot be harassed, coerced, intimidated or interfered with while exercising your civil rights or in

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19 20

21

22

23

24

25

the process of helping someone else who's pursuing their civil rights:

What should you do if you feel that you as a citizen have had your rights violated? You may file complaints no later than one year after an alleged discriminatory housing practice has occurred, either in person or by mail, with HUD or with a substantially equivalent State or local agency, again, in person or by mail.

And when we talk about substantially equivalent, we mean one of those agencies which has been certified by the Department of Housing and Urban Development according to certain portions of the Act. Complaints filed with a substantially equivalent agency will be considered to be dual-filed with that agency, as well as with the Department of Housing and Urban Development.

As I said before, you do have one year in which to file a complaint. But you should do so as soon as possible.

What should you tell us? We need: Your name and address; the name and address of the person that the complaint is filed against or, as we affectionately call the, the Respondent; the address or other identification of the housing involved; a short description of the

alleged violation, and; the dates of the alleged violation. Your complaint must be signed.

If the complaint is made by telephone, it will be reduced to writing on the prescribed complaint form.

We usually use what we call Form 903, but there is now a claim form on the web, and you can reach us at HUD.gov -- www.HUD.gov. You can also call on the telephone, as I said, and we will reduce it to writing.

The Southwest Hub, as I indicated, is located in Fort Worth, Texas. They're at 801 Cherry Street in Fort Worth. The telephone number is (817) 978-5868, and the toll-free number is 1-800-669-9777. The TTY number is 1-800-927-9275.

What happens when you file a complaint with us?

All complaints that are for the Southwest Hub, which is

the five-state area, go to the Fort Worth Office, which is

where the intake function is located.

What does the intake staff do? They screen and do initial processing of your complaints, that is: They ensure that the complaints are accurately reflective of all Complainants and Respondents; they counsel and refer persons with non-housing or non-HUD program discrimination concerns to other sources of help; they capture and accurately record necessary information concerning a discrimination complaint, and; they ensure that statutory

and regulatory requirements of referral, service and notification are effected.

They also attempt to get the telephone number and address of a person who would always know how to reach the Complainant. Even though you may move or change telephone numbers, there is always someone that we try to have handy so that we can contact you.

As I indicated, there are substantially agencies which HUD refers complaints to. In the State of Louisiana, we do have a substantially equivalent agency, and that is the Louisiana Department of Justice, which is located on Baton Rouge, Louisiana. And they can be reached at (225) 342-7900.

Department of Justice, you will be notified by HUD that the complaint has been referred. And then the Department of Justice will contact the Complainant in order to conduct the investigation.

What do we do when a complaint is received?

HUD will notify the Complainant that your complaint has been received; we will also notify the Respondents and attorneys, if there are any. We permit that person to submit an answer -- normally, within ten days. And then we proceed with the investigation.

As a matter of -- during the investigation, we

#

obtain information concerning the events or transactions which relate to the alleged discriminatory housing practice, we document policies or practices of the Respondent involved in the alleged discriminatory housing practice, and we develop factual data necessary for the General Counsel to make a determination as to whether reasonable or no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.

As mandated by the law, we are supposed to complete our investigations within 100 days of receiving the complaint. If that is not possible, we notify all parties of the reasons for the delay.

During this investigatory process, from the beginning, or the filing of a complaint, up to the ending, with the filing of the charge or dismissal of the complaint by the General Counsel, we will to the extent feasible try to reach an agreement with the persons against whom the complaint's filed. A conciliation agreement, which is what we call this process, must protect both the Complainant and the public interest.

If an agreement is signed, then HUD will take no further action on the complaint unless there is reasonable cause to believe that the conciliation agreement is breached, in which case, then HUD will

8.

recommend that the attorney general file a suit.

If our investigation indicates that there is reasonable cause to believe that an unlawful discriminatory housing practice has occurred, the Department, according to law, must issue a charge. If no reasonable cause is decided, then the complaint is dismissed.

However, if there is a finding of reasonable cause, all parties have the right to, within 30 days, choose whether to have the case heard by an Administrative Law Judge or referred for trial in the appropriate U. S. District Court.

HUD has now begun what for us is a relatively new process, and that is: The mediation of Fair Housing cases by HUD's Administrative Law Judges. The Administrative Law Judges have agreed to accept Fair Housing cases for mediation before a determination of reasonable cause or no reasonable cause is made in the case.

As is true in anything, some cases are particularly suitable for mediation by the Administrative Law Judges, but, as a general matter, before referring a case to the Administrative Law Judge for mediation, it's important for us that the investigation be far enough along so that the Administrative Law Judge and all the

parties have an understanding of the facts that the parties agree upon and, also, those that they may not agree upon.

There must also be sufficient information to evaluate the relief or other terms that might be acceptable to the parties and why.

And as I indicated, this is a relatively new process. So we're still kind of working out the kinks, as -- if you will, in the system.

But those cases that satisfy the criteria that will be or are in the process of being put together may be referred to the Chief Administrative Law Judge in Washington, D.C. Anything -- any information that's referred to an Administrative Law Judge will be kept confidential unless the parties mutually agree to make it public.

I mentioned earlier that Louisiana has a Fair Housing Assistance Program Agency or, as we call it, the FHAP Agency, which is a substantially equivalent agency. That is the agency that also conducts investigations in the state, and, as I said, they are located in Baton Rouge.

Additionally, we have two Fair Housing

Initiative Program Agencies or, as we call them, FHIP

Agencies. Both are located in New Orleans. One is the

Louisiana Fair Housing Organization, and the second one is Greater New Orleans Fair Housing Action Center. They do work in concert with us and handle Fair Housing complaints.

The Louisiana Fair Housing Organization
operates primarily in the New Orleans area, but it also
does work in other parts of the State and has done some
things at Baton Rouge, Lake Charles and Lafayette areas.

It has filed 100-plus Fair Housing complaints with HUD and
29 law suits in Federal court.

The Fair Housing Action Center is a fullservice, private Fair Housing organization that seeks to
promote open neighborhoods and equal access to housing
opportunities, primarily, again, throughout the greater
New Orleans area, but, also, other parts of the State
through it's education, investigation and enforcement
activities.

And the Fair Housing Action Center was established, I believe, in 1995. And they're currently a grantee under HUD's Fair Housing Initiatives Program, as is Louisiana Fair Housing Organization.

The Fair Housing Organization has also filed law suits in State and Federal court, assisted in following up administrative complaints with HUD, and, under their investigative program, they have conducted

over a thousand of tests of rentals, sales, lending and insurance markets, and have formed a variety of community groups to ensure that their members have access to full Fair Housing services and provide Fair Housing training for first-time home-buyers.

As evidenced by this information, the citizens of the State of Louisiana have an avenue to turn to as it relates to civil rights assistance. And with the Louisiana Department of Justice, the Louisiana Fair Housing organization and Fair Housing Action Center also helping us in the process as it relates to handling Fair Housing complaints, we believe that we are on the right track as far as working with the citizens of Louisiana and helping them with their Fair Housing and their civil rights.

MS. RICHARDSON: Thank you, so much, Ms. Tyus. Questions from the panel?

MS. BOURG: Thank you, Ms. Tyus, for coming. A number of community residents have felt that HUD has not protected them. Among a number of things that they've said over the two days that we've heard is that government regulators and offices that they felt were supposed to protect them haven't done that.

And they brought up before the Committee a particular set of housing developments that either are

proposed to be or have already been built on contaminated sites, and they feel that it has made people sick. Can you address or are you familiar with any of that in the Lake Charles area or any of those complaints at all?

MS. TYUS: To be honest with you, I have just come in on the tail-end of it and have become, I guess, half-familiar with it. Over the last few months, I've had some contact with some of the residents in the City of Lake Charles who have called in. And I have just kind of come on the tail-end, so I'm not really familiar with a whole lot of it.

MS. BOURG: And if they've filed complaints with your Agency, on the average, how long would it take to process that complaint. When people file complaints, about how long does it take?

MS. TYUS: Well, it depends. As I indicated, you know, according to law, we are supposed do it within 100 days. There are many factors that come into play as to whether we can or cannot. So it can vary from -- it can be a very short period of time, and it could even be, I'd say, probably up to 200 days.

But at the 100-day period or just before, we do notify all the parties of the reason for the delay. It could be that, you know, we need to conduct more of an investigation or we need to get witnesses. Or it could be

just a number of things.

MS. BOURG: What's the -- if you had to give them advice, I mean, what's the best evidence that they could have to present and support a claim that they would present to your office?

MS. TYUS: Okay. If you have records of anything that may have happened to you, let's say, if you -- let's give an example.

If you went to purchase a home and the bank refused, if you have any document that the bank gives to you, then you need to keep those and bring them to us so that we can see that it was -- either they said, "You can't do it because of," whatever. But we need more not circumstantial -- we just -- oh, I'm sorry. We need any documents that you may have to prove that it did not or -- it did or did not happen because of such.

In the instance of someone who may go to attempt to rent a home and you go to the apartment complex and apply and the person may say, "Well, we don't have anything right now, okay," and so you say, "Okay," and you go back and you may pass by again and see the sign is still up -- if, in fact, there was a sign up -- so you go back over there and you say, "Do you have anything," and they say, "No," and you may call on the phone and they may say, "Okay," because they're not certain who you are?

Well, I'm not certain how much evidence you can give us there but -- except to say, This is what I did.

And if you have dates that you went there, that would be beneficial to us.

So if you went on a particular day and a particular time and you note that, you can say to us, On this day, I went and I spoke with. And be certain that you get the person's name that you spoke with to get the information.

MS. RICHARDSON: Ms. Robinson?

MS. ROBINSON: Okay. Ms. Tyus, I have three questions for you. One relates to the complaint process. What are the possible outcomes or resolutions that a Complainant can expect or anticipate might occur when you file a complaint in terms of -- once they file a complete complaint and it is accepted by your Agency, what are some of the possible outcomes that will result from filing that complaint?

MS. TYUS: Okay. There are a number of things that can happen. One: If it is accepted -- oh, when it is accepted by the Agency, either one? If there is jurisdiction once the intake has gone through this whole process -- so you're going to go from that point, once it's totally --

MS. ROBINSON: If it's a complete complaint --

23

24

25

MS. ROBINSON: Okay. So those are all the possible outcomes for a Complainant with your Agency?

MS. TYUS: Conciliation, reasonable cause or no

reasonable cause. And, as I said; with reasonable cause, then they have the right -- the parties have the right to go to court --

MS. ROBINSON: Right.

MS. TYUS: -- or --

MS. ROBINSON: Exactly. That's what --

MS. TYUS: -- have an Administrative Law Judge to hear it.

MS. ROBINSON: Right. That's --

MS. TYUS: And --

MS. ROBINSON: I think that's what I was trying --

MS. TYUS: Okay.

MS. ROBINSON: -- to get more information on.

MS. TYUS: You can have an Administrative Law

Judge to hear it. Or -- as I said, we have begun this new

process of mediation which, in sense, I guess, is similar

to the conciliation process except that the investigation
is not complete, but there's enough information there that

the parties know what they're agreeing to and they know

what's in dispute.

And it's relatively new to us, like I said, and we're still working out the kinks. But that is also another process that we have put into place.

MS. ROBINSON: Okay. Along those same lines in terms of the process, once a person has the right to sue and they request information on legal assistance, do you provide that information to them of possible attorneys that they could utilize to represent their interests?

MS. TYUS: I think -- and I'm thinking here because -- see, we don't -- once we get to that point, then General Counsel is usually the ones who would do this --

MS. ROBINSON: I see.

MS. TYUS: -- who would carry on with the process. Once the reasonable cause and the attorney thing gets into place, General Counsel is the one. And at that point, the investigator is kind of out of the process.

MS. ROBINSON: Okay. So your Agency does not offer or possibly make available, you know, for a Complainant that has the right to sue, if they ask you, "Well, where can I get further assistance or representation," or that kind of thing -- I'm not -- I believe, in Arkansas, we did a review on civil rights issues. And that Arkansas office, in Little rock, had a listing of attorneys that they made available to

Complainants who requested to assistance. 1 MS. TYUS: Was this the Fair Housing Office, or 2 the Attorney's Office? Because I believe the Attorney's 3 may have that, but we don't do it in Fair Housing. 4 MS. ROBINSON: You don't? 5 MS. TYUS: Not in Louisiana, anyway. 6 MS. ROBINSON: Okay. My next question -- and 7 this is my final question: In what areas of the State do 8 you have Fair Housing Agencies or grantees that 9 investigate housing complaints in the State of Louisiana? 10 MS. TYUS: We have in New Orleans, of course, 11 HUD. We have the Department of Justice in Baton Rouge. 12 And we have two FHIP agencies, who are grantees, in New 13 Orleans. 14 MS. ROBINSON: Do you have one in Shreveport? 15 MS. TYUS: No. 16 MS. ROBINSON: So that's all you have? We just 17 wanted to get a listing of your --18 MS. TYUS: Right. 19 MS. ROBINSON: -- grantees. 20 MS. TYUS: It's, like I said, two in New 21 Orleans -- the FHIP agencies -- and then the FHAP Agency, 22 which is in Baton Rouge, and HUD in New Orleans. 23 MS. ROBINSON: Okay. 24 MS. TYUS: In fact, there is not even -- HUD 25

1	doesn't have a Fair Housing Office in Shreveport. The
2	MS. ROBINSON: Oh, okay.
3	MS. TYUS: New Orleans Office covers the
4	entire state.
5	MS. ROBINSON: Okay. I think I'm thinking of a
6	human relations group or a human commission group. Okay.
7	Thank you, very much.
8	MS. RICHARDSON: Further questions from the
9	Committee?
10	DR. FORD: I have one.
11	MS. RICHARDSON: Dr. Ford, welcome back.
12	DR. FORD: Thank you.
13	MS. RICHARDSON: It shows unusual dedication
14	that someone would go back to their place of employment
15	and then return to their duties here. We might honor your
16	expense vouchers.
17	(Laughter.)
18	DR. FORD: Ms. Tyus? Is that correct?
19	MS. TYUS: Yes.
20	DR. FORD: You can see that we're quite a
21	family here. Agriculture Street since this panel has
22	been interested in this issue of environmental justice,
23	there have been a lot of discussions and interest in the
24	Agriculture Street housing development and the fact that
25	it was built on top of an old dump. I'm not sure if it

MS. ROBINSON: It's a mix. It has residential

25

housing, it has public housing, and it has a school there, and a recreational center and that kind of thing. But -- it is Garden Plaza, but it's identified as Agriculture Street, and it involves a landfill.

DR. FORD: At least, the homes were HUD financed, in general. That I do know.

MS. TYUS: Okay. Well, I don't believe that we have anything to do with it, to my knowledge. It's my understanding that EPA had come in --

MS. RICHARDSON: Please, ma'am, speak right into it.

MS. TYUS: Oh, I'm --

MS. RICHARDSON: You've done well.

MS. TYUS: It's my understanding that EPA was doing something on it, but I'm not certain that HUD was really involved in that process.

DR. FORD: What might have happened had a citizen elected to approach your Agency to request assistance?

MS. TYUS: If they had approached the Agency and filed a complaint? Or --

DR. FORD: Maybe a complaint against their landlord in that they later discovered that where they had lived for some years was impacting their health.

MS. TYUS: If they had filed a complaint and it

hands. Our next speaker is here. She is in the -- on the

25

```
credentials into the record and proceed, if you would.
 1
                   MS. EEDS: Okay. First of all, I'd like to
 2
       thank you for inviting me to speak here tonight; I do
 3
       appreciate that. My name is Monte --
 4
                  MS. RICHARDSON: No, ma'am, that's not going to
 5
       work.
 6
                  MS. EEDS: My name is Monte Eeds.
 7
                  MS. RICHARDSON: It's just going to work better
 8
 9
       if you hold it really close.
                  MS. EEDS: Okay.
10
                  MS. BOURG: If you squeeze the thing in the
11
       front there, the little holder --
12
                  MS. EEDS: Here?
13
                  MR. MORRIS: No. On the --
14
                  MS. BOURG: -- the holder opens up --
15
                  MR. MORRIS: On the stand.
16
                  MS. BOURG: -- the stand.
17
                  MS. EEDS: Oh.
18
                  MS. BOURG: That will give you a little more
19
20
       freedom.
                  MS. EEDS: Okay.
21
                  MS. BOURG: There you go.
22
23
                  MS. EEDS: Now can everyone hear me?
                  MS. RICHARDSON: They say, Still a little
24
25
       louder.
```

MS. EEDS: Louder still? Okay. 1 MS. SEICSHNAYDRE: There you go. 2 MS. RICHARDSON: Thank you. 3 MS. EEDS: I'm speaking to them back there? MS. RICHARDSON: Yes. 5 MS. EEDS: Okay. My name is Monte Eeds. I'm 6 7 Regional Director of the departmental Office for Civil 8 Rights in the U. S. Department of Transportation. My Office is located in Fort Worth, Texas. Basically, the 9 primary function of my Office is to --10 11 MS. RICHARDSON: That's it. Keep it there. 12 MS. EEDS: -- process complaints filed by DOT 13 employees. 14 We are a law-enforcement Agency. 15 Department of Transportation has taken a rather radical 16 departure from most of the Federal civil rights internal 17 Federal organizations in that before -- the Department of 18 Transportation is made up of 11 modal administrations, as we call them, and that includes the FAA, the FRA, the FTA, 19 20 Highways and all of these acronyms, as well as the U.S. 21 Coast Guard. 22 Now, I had it here. If you all will, give me 23 just a second. 24 (Pause.)

MS. EEDS: Okay. Our Office is located in the

25

=

Office of the Secretary of Transportation, rather than being in the modal administrations, for example, the Federal -- the FAA, Federal Aviation Administration.

Before our organization in 1995, the complaints filed by DOT employees were processed by the modal administration themselves. In '95, our Office was organized outside of those modal administrations, in the Office of the Secretary of Transportation.

We've done a remarkable job nation wide in that I think we're the only Federal Agency that is current with their complaint load. And we have worked at this very hard. It has not been easy, but we have been able to eliminate the backlog, which has -- which is just tremendous.

The Fort Worth Office is one of six. We cover, Arkansas, Colorado, Louisiana, Montana, Oklahoma, Texas, Utah and Wyoming. Our statutory authority is Title Seven of the Civil Rights Act, the Age Discrimination in Employment Act and the Equal Pay Act and the Rehabilitation Act.

Our regulatory authority comes from the EEOC.

And I don't know if the EEOC has spoken before and given you their web site, but it is an excellent highway of information. And their web site is www.eeoc.gov. And in this, you find a wealth of information regarding the

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

regulations which govern all of the Federal employee civil rights investigations, and that's 29 C.F.R, Part 1614.

We cover race, color, national origin, sex, age, disability, religion and reprisal. And I'm very proud to say, also, that the U. S. Department of Transportation has included in this sexual orientation; I know that this is one of the first Federal agencies to do this.

We process these complaints in the same manner that we process the Title Seven complaints, except that they do not have the option of going to the EEOC for a hearing. But what we do guarantee is a thorough, complete, impartial and timely investigation. So we have made great strides in the five years that we have been organized.

I don't know. Let me ask you if you're -- are you interested in the Federal sector employment processing? Because it's the same for all Federal Agencies.

DR. FORD: Not particularly.

MS. SEICSHNAYDRE: Not really.

MS. RICHARDSON: Ms. Robinson, what were you asking of her by way of presentation?

MS. ROBINSON: Okay. Ms. Eeds, we were asking you in terms of your Agency's responsibility for

_

investigating complaints of discrimination under Title Six and your -- the nature and extent of the types of complaints that you receive.

Whether it's related to rails -- the railroad, whether it's related to the waterways and whether it's related to the highways and if you're an OCR -- that's civil rights -- in Title Six is the issue that we're interested in.

MS. EEDS: Okay. I work mostly with Title
Seven. The regional offices don't handle Title Six cases,
but I have a long experience with Title Six. Basically,
at this point, all of the Title Six complaints are going
to Washington. And I have brought you some materials here
about who to file a complaint with.

MS. ROBINSON: Okay.

MS. EEDS: We have found that most of the compensations have been in the transit system. These complaints should be sent -- and I will hand this out. If it's an internal complaint or if it's what we call an external complaint, which would be a Title Six complaint wherein they're following the money.

MS. ROBINSON: Okay. In our letter to your Office, we specifically asked for information regarding your involvement with Title Six issues, Number One, and then your involvement with the environmental working group

that works with other Federal Agencies on environmental 1 justice issues. 2 MS. EEDS: Okay. 3 MS. ROBINSON: That's the letter that we 4 sent --5 MS. EEDS: Okay. 6 7 MS. ROBINSON: -- to you. MS. EEDS: The environmental justice issues I 8 am not as familiar with. I do know that we have received 9 a large number of complaints, what we call external 10 complaints, from citizens complaining about services. 11 MS. ROBINSON: Do you have investigators in 12 13 your Agency? MS. EEDS: Yes, we do. But in the external 14 complaint system, we have not brought that up to speed 15 quite in the manner that we have the internal complaint 16 17 process. MS. ROBINSON: Okay. Well, if you could, share 18 any information that you might have related to Title Six 19 20 and transportation issues --21 MS. EEDS: Okay. MS. ROBINSON: -- in the State of Louisiana. 22 MS. EEDS: Okay. The external complaints also 23 involve many of the same statutes: Title Six of the Civil 24 Rights Act of 1964; Section 504 of the ADA, Americans with 25

_

Disabilities Act. All of these are complaints that are taken in at headquarters. They are processed and they are investigated, but there is a backlog of these complaints.

Most of these complaints -- well, when we came into the office five years ago, there were boxes and boxes and boxes of complaints. Those have now been sorted out, and they're in the process of contracting out a lot of those investigations. But we are still receiving complaints. And, as I said, most of the complaints that we do receive are disability complaints dealing with the transit system.

In order to file a complaint -- an external complaint, I will give you a hand-out here for who to file it with. What needs to be in the complaint is generally what anyone would submit in a complaint: A description of the discrimination, the basis of the discrimination, the dates -- the basic, Who, What, Where and When.

At that point, Mr. Joe Austin, who's Chief or our External Policy Program Development Division, will do intake on the complaint and assign it to an investigator or contract investigator. And we have used quite a few contract investigators to address the external complaints.

Plus, each one of the modal administrations, which includes several that would be here in Louisiana -- Federal Highways, Federal Transit Authority, Federal

Railroad Authority, the U. S. Coast Guard -- we process --1 we also have jurisdiction over those complaints -- and the 2 National Highway Traffic Safety Administration, the 3 Research and Special Programs Administration and the 4 Maritime Administration. 5 So we have jurisdiction over all of those 6 particular entities, and we refer to them as modal 7 administrations. Complaints filed -- you must identify in 8 your complaint the Agency that you believe has 9 discriminated against you and the basis. That --10 11 Is there a question? MS. SEICSHNAYDRE: Yes. I thought maybe it 12 might be more productive if we asked questions. 13 14 MS. RICHARDSON: I think so. MS. BOURG: May I ask you some questions? And 15 that might be -- we'll just talk to each other --16 MS. EEDS: Okay. That will be fine. 17 18 MS. BOURG: -- if that will be all right. You've come a long way, and you know a lot of stuff. And 19 20 I'd like to know what you know. MS. EEDS: And I would like to impart it. 21 MS. BOURG: Thank you, very much. 22 MS. EEDS: This has been a most strange and 23 24 unusual journey.

MS. BOURG: Well -- and on top of that, you're

coming in with two days of testimony having been given before you. So if I might couch a couple of my questions, it might be helpful.

We've heard for several days of -- numerous citizen complaints, many of them couched around the idea that, "Gee, government doesn't do anything for us; They don't really listen to our complaints; As a matter of fact, we're as oppressed and victimized by the regulators not doing their jobs as we are by the industries in some way because not only have we not had our complaints" -- what they're saying -- "taken seriously and we've been made ill and, in some cases, perhaps died as a result of it," as they say, "but, additionally, with the people that we have elected, our hope in America has really been dashed."

And someone said earlier on in the testimony,
There's nothing left for us to do but to pray; Then God
maybe will help us. And so I wondered if, as a regulator
in civil rights in the Department of Transportation, you
might respond to that hope.

And some of it revolves around the issues of:

"Are there buses and transit running in African-American
neighborhoods to get us, once we're made sick, to go to
places where we can get well," or, "Are there Department
of Transportation dollars in poor and in black

communities?" You know, I think that a lot of things revolve around those kinds of concerns. Can you just talk about that a little bit?

MS. EEDS: Yes, I can. I can't speak specifically to the amounts of money. But there is one concern which you have expressed which I find to be quite common, and that is that the Government is not responsive, that there are too many regulations and the regulations are not understood and, in the regulatory morass, you can easily get lost.

I've been in civil rights for 25 years, in law enforcement. I have seen this. I have seen this when I myself have tried to call other Federal Agencies to obtain information. It is difficult, you know, where you spend 45 minutes on the phone. And I'm a bureaucrat; I know how the system works, but what it's like for an individual just calling, I can't imagine.

What we have done at the Department of Transportation is to really try to be customer oriented. We have -- we are making many, many efforts to reach out to the people to let them know that we're here. We try with each and every complainant to make it clear to them that we value them as people and we value them as complainants.

I've been investigating complaints for 25

years. You never know. You can read a complaint, and you never know. Some things I have read have been so horrendous, I have said that they could never happen and then found that they did.

I would have hoped that we would have been much further along at this point, but I must say that we are in there. I know that there are many people who work for the Federal Government that I have worked with personally who are very committed to civil rights. And I think that this is going to make a difference.

Now, it is difficult to understand the regulations, to understand how to file a complaint and to not get discouraged because, even under our process, which, I think, is relatively quick -- we have 180 days to investigate a complaint -- that's a long time for a person to wait.

MS. ROBINSON: Waiting for relief.

MS. EEDS: Yes. I understand the complainants and the fact that I have seen people mortgage their homes to pay attorneys fees to represent them in these civil rights cases.

And I know, also, in just working through the Federal system that it's not a level playing field. You have a Complainant versus an Agency, an Agency that has unlimited resources -- well, I won't say unlimited, but,

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

compared to the Complainant, unlimited, with a staff of attorneys already on board and ready to defend any action of that Agency. And that's their job.

What I am seeing is -- for example, the 1614 regulations were revised in November. And I am seeing a great effort in there to balance and level the playing field a bit. So I think that Government is trying to become more responsive.

I can speak to our efforts in the Department of Transportation. I know that in each of the modal administrations, they have a person who works directly with Title Six and the funding program with -- they monitor that program. The problem is that they're woefully understaffed.

I'm sure you've heard from EEOC, and I'm sure you've heard from OCR in Education. I know that all of these Agencies are -- we're all in the same boat. You know, we're trying to do more with less.

MS. BOURG: Would -- you may not know it now, but would that be something that you could send to the Committee, the dollars that have come into Louisiana on the -- is it the Interim Local Transportation Act?

MS. EEDS: Yes.

MS. BOURG: Maybe you call it ISTEA or something, also?

Dr. Ford?

1.9

DR. FORD: Yes. I'd like to ask a question. Who am I talking to? (Perusing document.)

Ms. Eeds, how are you? I was really interested in the last couple of statements you made about making Government more accessible. And that -- it makes me think about the fact that now that we have computers and telecommunications, I wonder if your Agency is making any efforts to narrow the digital divide so that the processes can be more efficient.

If people -- in communities like those she named, Fisherville and North Lake Charles, if people had some access to communications mechanisms and training so that they could use them effectively, then the time it takes to process complaints could clearly be shortened.

And maybe within your Agency, the efficiency with which bureaucrats could carry out their processes could also be shortened.

I mean I've been a fan of Rodney Slater, and I do know that his Agency has made some strides generally in that area. But I just wonder if your Agency's sensitive to communities and the advent now of the technologies that could in fact improve processes, that could make their lives a little easier, in terms of dealing with complaints

MS. EEDS: I know that they are working towards that end. Of course, we now have electronic mail and the

Ford?

internet. And, of course, we're -- we are on the internet, and the information is available there, although I think we could do a better job.

I think that many people, especially in the smaller communities don't get enough information about where to go to get help. And I know that it's very interesting in my office, because we for some reason got listed in the San Antonio phone book as a civil rights office, and we get all the calls from the Huntsville prison and the Bexar County Jail.

But with each one of those complaints, I give them some place to go, I don't let them -- unless they just want a driver's license. But if they have a complaint, I and my office -- we do our very best to route that complaint to the right person.

And that can be very difficult for the average person. For example, for the people from the Bexar County Jail, they need to be talking to people at the Department of Justice. So all of those complaints -- we do whatever is within our power to refer them to the correct party. But, as I said, I do think that we can always do a better job in getting the information out there, and especially to the smaller communities.

MS. RICHARDSON: Does that answer you, Dr.

DR. FORD: Yes.

2

MS. RICHARDSON: Ms. Bourg?

3

MS. RICHARDSON. MS. Bodig:

4

could lead to a civil rights question. Does the

5

Department of Transportation have any jurisdiction over

6

rails?

7

MS. EEDS: Yes. The -- we have jurisdiction

MS. BOURG: I have a technical question that

8

over the Federal Railroad Administration.

more affluent. Could you address that?

9

MS. BOURG: Well, you know, there's an awful

10

lot of folks that have given testimony about they're being upset that they consider the storage tanks that are parked.

11

apper that the complain the propagation that the parties

12

near their schools and their hospitals and their homes to

13

be just sort of unregulated toxic storage tanks on wheels.

those, "Toxic storage tanks on wheels," quote/unquote,

from them, are really parked more in their neighborhoods

than in some other neighborhoods that are more white and

degree of specificity that you are looking for. However,

questions that you have asked. And I will make sure that

I would like to -- will make a note of some of these

And there is some concern on their part that

MS. EEDS: Unfortunately, I cannot with any

14

15

16

17

18

19

20

21

22

23

24

25

4 |

I do get you answers.

MS. BOURG: Would you mind repeating once again, so that some community members are aware, if you



have a way of contacting you? And perhaps if they have --1 MS. EEDS: Yes. 2 MS. BOURG: -- complaints specifically to file 3 on that basis, they might be able to do that with those 4 pieces of paper you have there. 5 MS. EEDS: Yes. 6 MS. BOURG: And maybe they could -- you could 7 give some to the Committee, and they could get some --8 MS. EEDS: Yes. 9 MS. BOURG: -- if they would come forward and 10 get those. 11 12 MS. EEDS: Okay. MS. RICHARDSON: Are there further questions 13 from the Committee? 14 15 (Pause.) 16 MS. RICHARDSON: Did somebody say yes? (Pause.) 17 MS. EEDS: I do want to apologize for being 18 late. My flight was cancelled. And then, as I was coming 19 20 on the plane, I had to stop and file a complaint with the airlines because --21 (Laughter.) 22 23 MS. EEDS: -- there was a woman who was sitting 24 next to me who was using a cane, and they took her down the stairs. So I'm sorry, but I did have to stop and take 25

(Laughter.)



1	MS. RICHARDSON: And if you would, limit your
2	remarks to five minutes, with anything else that you might
3	have being left for our record, because, when you
4	understand our process, you'll know that anything you wish
5	us to have will get into the record.
6	MS. LANDRY: Yes, ma'am.
7	MS. RICHARDSON: Five minutes, please, ma'am.
8	MS. LANDRY: Okay.
9	MS. RICHARDSON: And who's going to keep time
10	for me?
11	MS. LANDRY: Okay.
12	MS. RICHARDSON: Oh, we have a really sick
13	system here.
14	MS. LANDRY: Oh, okay.
15	MS. RICHARDSON: So if you would hold it, I
16	think you would get a little better result.
17	(Pause.)
18	MS. RICHARDSON: Yes. And hold it as close as
19	I'm holding this one.
20	MS. LANDRY: Okay. How's that? Is that
21	MS. RICHARDSON: A little
22	MS. LANDRY: okay?
23	MS. RICHARDSON: A little more toward you.
24	MS. LANDRY: Like that?
25	MS. RICHARDSON: Yes, ma'am.

(side

this.

MS. LANDRY: You can tell I'm really used to

MS. RICHARDSON: Oh, no. This is not an up-to-date system. Go ahead.

MS. LANDRY: Okay. My name is Cathy Landry.

I'm a life-long resident of this community. I live in the Sulphur/Corliss area, and I personally am aware of the fact that the people in this community and -- really, throughout the State of Louisiana, civil rights are totally ignored by the Department of Environmental Quality's process.

I believe in my heart that the rules that are put in place are not being used as they were intended; I believe the process protects the company or the industry before the rights of the citizens. I can attest to this because I'm living 500 feet from an ethylene facility.

I have found out that companies were bringing eight facilities in our community and that, of course, the local police jury knew about it before anybody else did.

And they were locating these facilities virtually on top of us.

We found out that these facilities were moving into our area when they were doing dirt work. And we were told, Yes, they're building a plant in your front yard. When I found out they were bringing in eight more, I got

real involved. I found out they were going to build some more facilities south of us.

An ethylene facility, which is the same type of facility that Mossville has had to deal with, was going to be built a half-a-mile from a school, an elementary school, and in an area where there were over a hundred residences with only one way out, which would be to go through these facilities.

We went to the Regional Office of the

Department of Environmental Quality at the time and

requested a hearing because we were very much concerned

about the safety of the people of that community. We were

told that we were not going to get the hearing.

And I told them, In the permitting process, it states that if there are citizens who are concerned issues, they have a right to a hearing. I was told again that, You are not going to get one. The following Monday, they got their permit.

This is the kind of thing that people in this community are dealing with every time you turn around. There is not a permit that the Department of Environmental Quality feels is bad for a community; if it's good for industry and money, then they feel it's good for the community. And this is simply not true.

There are hundreds of residents throughout our

area who are less than a half-a-mile from these facilities, over 50 chemical facilities. We have predominantly southeast and south winds. Westlake and Mossville get a tremendous amount -- and Maplewood, which is a middle-income, white neighborhood with hundreds of people less than half-a-mile from PPG, Olin and all these companies.

South, north, east or west, we are all dealing with the same thing: When it comes to residents' rights, they are totally ignored. We filed suit against the company 500 feet in front of us when they came in. Well, actually, they -- the first plant they built was a quarter-mile away. Then they came in with an ethylene facility 500 feet in front of us.

We lived through virtual hell for over a year. This company was in upset day after day, week after week. I have tons of videos showing these upsets, which we gave to the Department of Environmental Quality. And violations have been set against this company. But the problem is that at every level of government, the citizens' rights are totally ignored.

Our industrial districts were set into place when they did rezoning, and they were supposed to zone these areas according to their use. What they did was -- they zoned them, in my opinion, according to what industry

owned them. You now find community after community with plants, I mean, everywhere. And they're not stopping.

We now have citizens in the -- in a community that are fighting an electrical facility that they want to build in their back yard. And you'll hear this throughout this community: It's in our back yard; It's in our face.

We had 100-decibel noise levels and flares that were so bad that it would light up your whole yard. You could feel the heat from the flare on your face. My child had to run through the yard with her -- I'd have to put her hands over her nose because the chemicals were so bad.

We did air sampling ourselves. Benzene? 200 times higher than what's allowed. We took the air sample. Citizens are having to fund their own air sampling while we have a DEQ Regional Office here in Lake Charles.

On Father's Day, my daughter walked out into a chlorine cloud. She said, Mama, it smells like chlorine. I said -- and I walked out, and I got so angry. And I looked in the field, and the whole area was a vapor. I got really ticked. I called the Regional Office --

MS. RICHARDSON: Thirty seconds remain, Ms. Landry.

MS. LANDRY: Okay.

I called the Regional Office of the DEQ, and

they didn't get out there for two hours. The fire department came, and they followed the cloud. I still haven't gotten a report back on what that was about.

And then I found out from my neighbor in Bayou Din [phonetic], another community that has been shown to have high levels of dioxin, that the cloud went from his home to my home. And the way the winds were blowing, it was evident, and we could pretty much pinpoint it.

But we have more knowledge than our local DEQ.

I mean this is happening to every community, and it's unconscionable and it's not right. And we want something done about it. Are we going to have to fund local groups so that we can do our own air sampling? The permitting process is not protecting citizens, and neither is the local government.

And I want to tell you we appreciate so much you being here. The fact of the matter is: In my opinion, as a person with children who lived through hell and is still living 500 feet from now four facilities, the noise issue is a very real issue. It is a health impact. You can't even talk in your front yard.

There are laws to protect us. We filed suit against the company in front of us. It's yet to go to court.

MS. RICHARDSON: Will you please close, Ms.

MS. LANDRY: Yes. What I'm going to do is -I've got a video here. I wish that you all could see a
little bit of it. I know it's probably not possible now.
But it shows, you know, exactly what these people in these
communities are dealing with: Chemicals -- not just
one -- chemicals, several chemicals -- we don't know how
much -- dioxin.

Something has to be done about it. And it's -what you're doing is so very important, and I want you to
know how much we appreciate you being here.

MS. RICHARDSON: Thank you. Is that a video that can be left with us for the record --

MS. LANDRY: Yes. I'll leave this --

MS. RICHARDSON: -- or --

MS. LANDRY: -- with you for the record. It's just -- a little short, but it kind of gives you an idea of exactly what I've been talking about.

DR. FORD: We need the documentation to go with it so we'll know what it is when its viewed.

MS. LANDRY: It's kind of self-explanatory, but I'd be glad to provide you with any information you might need.

MS. BOURG: Would you consider making an affidavit with a witness and, you know, making an

. 8

Office.

Our hope and intent immediately? Once we have the transcript from this meeting, we will review that transcript, and it will be sent for review and comment to all those persons who participated in this meeting and provided comments to the Committee -- and presentations.

We do that as a way of receiving additional information so that we can add to the body that we already have.

We have certain legal procedures that we have to go through with the transcript, the Fain [phonetic] and the Gray Procedures. We intend to do that as rapidly as possible so that we can have a copy of the transcript to the participants. Once we have it in hand in house, we hope to have it out for review and comment within three weeks after we receive the transcript from the court reporter.

Many persons want to know, What's the process after that? Well, one of the things that we will probably do, which is something that we would ordinarily do, is to review that transcript for any complaints and take those complaints, glean them from the transcript and send them to the respective Agencies for action.

Whether or not there will be action depends upon the Agency and what type of information we receive. From some of the comments that we received from the open

مناهم

e anesigni

session, there may be some things that we want to follow up on from a staff level.

Many persons want to know about the final product, a written report. But that's the last step, a written report. There are many things that we can do in the interim with the transcript. And once you have a transcript, that's information, that's knowledge and that's power.

The community can use that transcript for its own good. And it's a public document, so any person who wants a copy of that transcript will simply write to the Kansas City Office or see Ms. Robinson after the meeting to give your name and address to. And we will see that you receive a copy of this document.

We will review that and have a written report to the general public as soon as possible. I do not want to say within two months, three weeks, or whatever, but we will do it as rapidly as possible. But mind you, there will be a transcript which you can utilize for your own benefit.

Because that information is a public document, use it to the fullest degree. And some of the complaints we will be able to follow up on. Those are the things that we will do from the staff level.

Again, I want to thank the Committee because

you have an awesome responsibility now. You have to

(Applause.)

review each and every document that we have.

MR. JENKINS: You have to review that report. That report will be a report from the Louisiana Advisory Committee; it will not be a report from a bureaucrat in Kansas City, because your names will go on that report. So, therefore, you will be accountable to the general community.

We as staff will do what we can to accommodate the community in Lake Charles and the surrounding area concerning environmental justice. That is our commitment. And you are committed as Advisory Committee members to work with the staff, to keep our feet to the fire, but, also, be sensitive to the fact that we do have nine other states to deal with as we go along in this process.

MS. RICHARDSON: With your limited staff.

MR. JENKINS: So those are my general comments, and I do want to express on behalf of the staff and the Advisory Committee our thanks to the community and all of those who participated in this very important meeting. Although there are times that we were wondering where we were going with the type of information, as they used to say on "The A Team," it finally came all together.

So I want to thank you on behalf of the staff,

11.

meeting was concluded.)

CERTIFICATE

2

IN RE: 3

Louisiana Advisory Committee to

4

the U.S. Commission on Civil Rights

LOCATION: 5

Lake Charles, Louisiana

DATE: 6

September 13, 2000

7

I do hereby certify that the foregoing pages,

8

numbers 410 through 796, inclusive, are the true, accurate,

9

and complete transcript prepared from the verbal recording

10

made by electronic recording.

(Transcriber)

(Date)